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POLICY BRIEF

The Profile of Mixed Migration
Flows in North Africa and
Policies on their Admission
and Protection

The Profile of Mixed Migration Flows in North Africa and Policies on their Admission and Protection

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1. Introduction

This paper provides a general overview of the profile of mixed migration flows and migrants in North Africa and examines the migrants' admission and protection policies adopted by the countries of the sub-region. The paper starts by giving a brief overview of the concept of mixed migration and the significance of its introduction and use. It further explores and presents an overview of the profile of current mixed migration flows in the six countries of the region and highlights migration stocks, categories and characteristics of migrants and the admission and protection policies and practices adopted in response to these flows. The paper concludes by offering some suggestions for advancing disaggregated data on mixed migration and for improving migrants' admission and protection policies and practices in the region.

2. The Concept of Mixed Migration

International migration has always been mixed in terms of the background, source area, profile and demographic characteristics of migrants, their migratory routes, vulnerabilities and legal rights and what motivates them to move. In recent years, the mixed nature of migration, such as the one within, between and through North Africa, has become widely recognised among both migration scholars and policy makers at national, regional and international levels. Yet, what mixed migration is and what are the implications of acknowledging the mixed nature of contemporary migration remains as a contentious issue with varying and often conflicting views, policies and practices¹. Nevertheless, the advancement and adoption of the mixed migration concept and the discourses around it have a number of positive impacts. For example, the concept raised the visibility and the profile of irregular migrants around the world including in North Africa and drew attention to the vulnerabilities of the migrants trapped in this ambiguous category and stranded in major migration hubs such as those in North African countries. Advocates of the concept of mixed migration often call for the protection and assistance of all mixed migrants regardless of their legal status. They argue that international law offers protection to all categories of migrants; adding that rigid categories can be misleading as growing body of evidence in migration literature clearly demonstrates that migrants often have different motivating factors, and that their motivations often change over time and place (on transit, on move and

¹ Gamal Eldin, 2021, The concept of mixed migration and its manifestations, and its legal impact on North Africa, Policy Brief Paper

even after arrival in the final destination). For them, the main focus should be on the actual situation in which these migrants find themselves and the vulnerability and exploitation and risks that they face and the protection that they need and are entitled to ².

3. Mixed Migration in North Africa

Mixed population mobilities across international borders have been globally on the rise in recent decades. According to the United Nations Department of Economic and Social Affairs (UNDESA), although most of recent international irregular migrants and refugees originates in the Global South, the overwhelming majority of them (83% according to 2017 figures) still remain within the South. Within the South, international migration grew more rapidly in Northern Africa, Western Asia and Africa south of the Sahara and a significant number of the migrants and refugees (46%) are hosted by a few states in North Africa and Western Asia; with North Africa region acting as a major hub, a main transit to Europe as well as a host for millions of mixed migrants³.

In North Africa region, mixed and often undocumented and irregular international migration that takes place outside regularised migratory means and channels has been on the rise for nearly three decades. The region is experiencing migration patterns that arguably embody all known patterns of mixed migration and their associated management challenges. The motives for these migratory flows that take place within as well as across this sub-region are often complex and mixed, and the people involved in them often do not fit neatly into the category of either ‘refugee’ or ‘voluntary, economic migrant’. A bundle of mixed, complex, interrelated and intersecting factors that include environment, conflict, political oppression, poverty, unemployment and international injustices often contribute to both the creation and the sustenance of these flows⁴.

Almost all the countries in the region are now becoming major migration hubs for various migrants who remain on transit for many years (e.g. Libya, Sudan, Tunisia, Egypt and Morocco). The region is also a main destination for various migrants and a source of all forms of migrants including asylum seekers and refugees. All these factors and the proximity of the region to Europe make North Africa one of the most important migration hubs in the world. The years since 2015 witnessed significant increase in mixed migration flows from and within North Africa to Europe through the Central Mediterranean Sea⁵. These follows raised alarms all over Europe and promoted a broad debate among policymakers and scholars on mixed migration flows, its implications and policy responses.

Different organisations, government institutions and officials provide very different estimates of the numbers, categories and backgrounds of international migrants in North Africa; and given the

² See Ibid for for detailed discussion.

³ UN DESA, 2021.

⁴ Alexander Betts, “Towards a ‘Soft Law’ Framework for the Protection of Vulnerable Irregular Migrants,” *International Journal of Refugee Law* 22, no. 2 (July 1, 2010): 209–36; de Haas, H, Castles, S and Miller, M (2014) *The Age of Migration: International Population Movements in the Modern World*; Christina Oelgemöller, “Mixed Migration and the Vagaries of Doctrine Formation since 2015,” *Interventions* 23, no. 2 (February 17, 2021): 250–72; Annick Pijnenburg and Conny Rijken, “Moving beyond Refugees and Migrants: Reconceptualising the Rights of People on the Move,” *Interventions* 23, no. 2 (February 17, 2021): 273–93.

⁵ Hammond, Timothy G. “The Mediterranean migration crisis.” *Foreign Policy Journal* 19.5 (2015): 1-12; Liska Wittenberg, “Managing Mixed Migration: The Central Mediterranean Route to Europe,” New York: International Peace Institute, April 2017.

irregular nature of the mobility, the fluidity of the flow and the government attitude towards the people involved, the real numbers and characteristics are impossible to ascertain.

According to the UN DESA data, by mid-2020, the total number of all categories of migrants in the regions is roughly 3.2 million. As shown in Table 1 below, the majority of international migrants are in Sudan (44%) followed by Libya (26%) and Egypt (17%). With just 2% of the total number of migrant stock, Tunisia has the smallest share followed by Morocco and Algeria with 3% and 8% respectively.

Table 1: International Migrants stock s in North Africa Mid 2020

Country	Number of Migrants	% of total
Algeria	250,000	8%
Egypt	543,900	17%
Libya	826,500	26%
Morocco	102,400	3%
Sudan	1,400,000	44%
Tunisia	60,100	2%
Total	3,182,900	

Source: Extracted and calculated from UN DESA, Migration Data Portal mid 2020

Although the number of irregular and mixed migrants in the region by far exceeds the figures reported by international institutions such as UNHCR and UN DESA, there is a tendency throughout the region to exaggerate numbers and report figures that are in stark contrast to those used by UN bodies. The announcement of exaggerated estimates of international migrants, often by both senior government officials and national media sources, is to be found in all countries of the region. For example in Sudan and Egypt, some officials estimate the current number of international migrants in the country to be 7 million and 9 million respectively while the figures recorded by most international organisations are far below these ⁶.

As indicated in Table 2 below, the total number of international migrants in the region represent a very small proportion of the total population of the region, with the exception of Libya where international migrants amount to 12% of the total population followed by Sudan (3.1%). With just 0.3% of its total population, Morocco has the smallest share, followed by Egypt, Tunisia and Algeria with 0.5%, 0.5% and .06% respectively.

⁶ See for example IOM Triangulation of Migrants Stock in Egypt, July 2022; Al Entibaha Daily 15 January 2021.

Table 2: International Migration Profile in North Africa Mid 2020

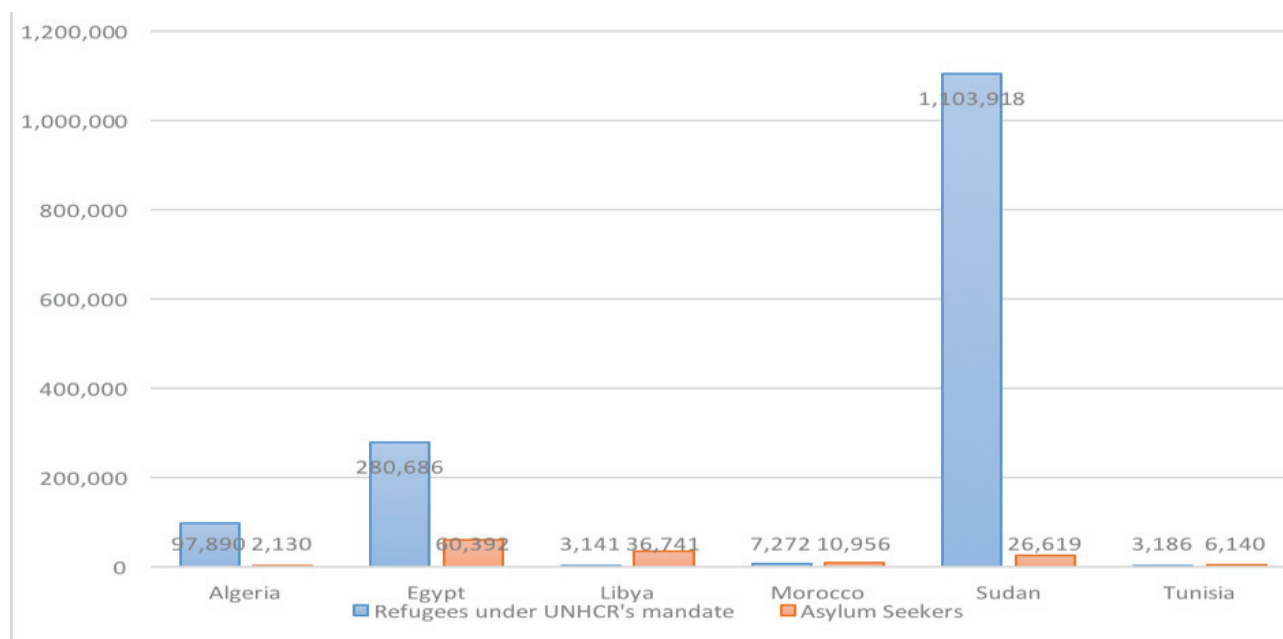
	Sudan	Egypt	Libya	Tunisia	Algeria	Morocco
Total Population	43.8 m	102.3 m	6.9m	11.8m	43.9m	36.9m
National Unemployment Rate 2019	12.7%	11.8%	15.7%	15.3%	10.1%	9.3%
Youth Unemployment	27.2%	34.3	42.3%	36.3%	24.3%	17.9%
Total Number of Emigrants	2.1m	3.6m	185,500	902,300	2m	3.3m
Total International Migrants Stock	1.4m	543,900	826,500	60,100	250,400	02,400
International Migrant Stock as Percentage of Total Population	3.1%	0.5%	12%	0.5%	0.6%	0.3%
Share of Female in International Migrants	50.3%	46.8%	28.2%	47.7%	47.2%	48.5%
Share of International Migrants 19yrs and younger	48%	19%	22.1%	20.2%	15.6%	21.5%
Share of International migrants 65yrs and older	5.9%	3.8%	4.4%	8.8%	11.6%	8.5%

Source: Extracted from UN DESA International Migration Data Portal 2020

In terms of the gender distribution of migrants in the region, as shown in Table 2 above, women represent nearly half of the total number of migrants in all countries, with the exception of Libya where women are only 28%. Also all countries of the region have a sizable proportion of youth and minors, with Sudan has the highest number of migrants who are 19 and younger (48%) and the rest of the countries have roughly one in five with the exception of Algerian where the figure stands at 16%. With migrants who are 65 years old or above ranging between 3.8% in Egypt and 11.6% in Algeria, mixed migrants in North Africa are generally young and in their working age.

Despite the vast number of recognised and unrecorded or unrecognised migrants in the region, available figures indicate a very limited commitment to the international refugee regime. As shown in Graph 1 below, with the exception of Sudan, which hosts over one million refugees and some 27,000 asylum seekers (representing 69% of the regional total in 2021) and Egypt which grant refugee status to over 280,000 migrants and considers a further 60,000 as asylum seekers (21% of the regional total), all other four countries grants refugee status to a very small number of their mixed international migrants (with the lowest in Tunisia 0.6% of the regional total and highest in Algeria 6.1%).

Graph1: Refugees and Asylum Seekers in North Africa 2021



Source: Extracted and calculated from UNHCR 2021

4. Admission Policies

Although there is very limited literature on how state actors in the region perceive the concept of mixed migration, available evidence tends to show that their views are somewhat different compared to those of international organisations and European governments. While most often acknowledge the mixed nature of migration flows, government officials, official records and media discourses in all countries of the region are reluctant to use the term mixed migration. Instead they prefer to refer to the situation as *'hijra ghair sharia'* (illegal migration), *'hijra ghair munazamah'* (irregular migration), *'hijra sirriyah'* (clandestine migration) or simply *'wojoud ajnabi'* (presence of foreigners). The laws of all countries of the region criminalize irregular entry and stay of international migrants and impose harsh penalties on people who cross or remain irregularly. Irregular migrants, including asylum seekers and refugees, are also often mistreated and abused. Officials tend to depict the situation of irregular mixed migration and human trafficking as a problem/crisis of the others (migrants/human trafficking/crime, source countries or the EU), rather than one which is also their own.

International migrants in North Africa broadly fall into four main conventional migration policy categories: 1) refugees and asylum seekers 2) victims and survivors of human trafficking 3) labour migrants (including seasonal migrants) and 4) irregular and undocumented migrants (who may also overarch all of the three other categories). As shown in Table 4 below, all the six states of North Africa are committed to six of the major international conventions pertinent to the admission, dignified treatment and the provisions for and protection of all categories of mix

migrants including the two pertinent to the asylum seekers and refugees and those related other categories of migrant such as the Palermo Protocols on human trafficking and transnational and organised crimes, the convention for the protection of the rights of all migrant workers and their families in addition to the Convention on the Rights of the Child and the Convention for Combating all forms of Discrimination Against Women (CEDAW). The only exception to this is Libya, which is not party to the international refugee regime (but still collaborates with UNHCR, Sudan, which has not yet ratified the migrant workers convention, or CEDAW and Tunisia which is yet to join the convention on the rights of migrant workers and their families ⁷. As shown in this section and in the protection section, the reality of the way mixed migrants are admitted, treated and the huge protection gap for all categories of migrant in the region indicate that all countries of the region are far from meeting their stated international commitments towards mixed migration. As shown in Graph one above, despite the large numbers of mixed migrants in the region, those who are currently viewed as asylum seekers or admitted as refugees is very limited in all countries with the exception of Sudan and Egypt. This indicate limited commitment to the admission of refugees in most countries of the region.

Migrant admission policies and practices in the region are hardly documented and information about some aspects of these are inaccessible to independent researchers. Apart from policies pertinent to recognised and registered refugees which are mostly documented by UNHCR, information about admission policies and practices for all other three categories in the region are patchy. Available evidence indicates that all states in the region have ambiguous, inconsistent and inadequate migrant admission policies that criminalise and punish irregular entry and stay, and that the practical application of these policies is also selective and very poor.


Table 4: Commitment to International Conventions

Country	Refugee Convention 1951	Refugee Protocol 1967	Human Trafficking Protocol 2000 (Palermo)	Convention to Protect Rights of All Migrant Workers and families 1990	Child Rights Convention 1989	Combating Discrimination Against Women 1979(CEDAW)
Algeria	R	R	R	R	R	R
Egypt	R	R	R	R	R	R
Libya	N	N	R	S	R	R
Morocco	R	R	R	R	R	R
Sudan	R	R	R	N	R	N
Tunisia	R	R	R	N	R	R

Source: Extracted from UN Treaties, <https://treaties.un.org>

S for signed, R for Ratified and N for NOT signed or ratified

⁷ Sudan is among very few major migrant countries that have not ratified the migrant workers convention, but it has despite opposition from religious hardliners it has recently expressed interest in joining CEDAW.



The increasing recognition of the complex migration flows and the challenges they pose for migration policy has led to the growing acceptance for the notion of ‘mixed migration’ among some policy makers. Yet, as shown throughout this paper, the situation in North African remains bleak and the protection space is still limited. Migrants admission policies are particularly inadequate and their application is both weak and inconsistent through all the countries in the region.

Information on admission policies in the region are lacking and inaccessible. The following section uses a few examples, from two countries of the region with significant numbers of mixed migrants: Sudan (the country that currently hosts the majority of mixed migrants and Libya (the country with the major flow in recent years and the current worst admission and protection records), to illustrate the inadequacy of mixed migrants’ admission policy and some of its implications.


Sudan official discourse does not use the concept of mixed migration and often refer to the flow as *‘wojoud ajnabi* (presence of foreigners). Yet the country uses a number of national laws to deal with mixed migration. The most important are: the Passport and Immigration Law 2015, the Sudan Refugee Act 2014, the Human Trafficking Act 2014, the Employment of non-Sudanese Act 2001, the Sudan Labour Law 1997 and the Sudan Criminal Act 1991. The 2015 Passport and Immigration Law has specific provisions that deals with the admission of migrants (Chapter 4 –Articles 9-14). These provisions give extremely wide powers (often without the right of appeal) to the Minister of Interiors that include refusal of entry, detention, restriction of movement imprisonment and payment of fines for irregular migrants and their smugglers. Sudanese laws criminalise unauthorised crossing of borders, with some exceptions such as asylum seekers and refugees, pastoralists moving seasonally (Umbarraro nomads, South Sudanese, Chadians etc.).

Sudan has a long history of hosting very large numbers of refugees that goes back to 1960s and the Ethiopian-Eritrean conflict. The country also has a national government department, known as the Commission for Refugees (COR) and established since 1967, that was solely devoted for refugee issues. Sudan is also one of the very first countries in the region to enact a national refugee law in 1974.

Sudan also signed bilateral agreements that provide limited freedom of movement and exchange of goods with counties such as Ethiopia and Chad, South Sudan and Egypt⁸. The implementation of these agreements is often selective and largely depends on the political situation and relationship at the time.

Despite the toughness of its laws on irregular migration, compared to other countries in

⁸ Migrant admission agreement with Egypt include the Four Freedom Agreement Sept 2004, and with South Sudan include the Cooperation Agreement of September 2012, which include free trade, and free movement of people. Free movement of nationals agreements and exchange of goods with Ethiopia and Chad were often within shared border areas and include the seasonal labour migration of agricultural workers as in the case of Ethiopia (see Gamal Eldin, A and Ferede, T, 2018) and for medical treatment as in the case with Chad.



North Africa, Sudan deals very leniently with irregular migrants over stayers and those who violate their visa conditions and manages this through what officials refer to as ‘regularisation of presence of foreigners’, ‘reconciliation’ and ‘corrective’ measures. These measures often involve payment of penalties and issuance of photo ID cards that state the person is registered but does not say what their legal status is.


Regularisation of presence often involves policies to accept refugees on en masse basis, penalties for overstays registration of migrants, especially in refugee camps and in major urban areas such as in the case of Eastern Sudan and Khartoum. They also involve and medical check-ups that often include compulsory HIV/AIDS, hepatitis and lung and skin diseases.

Deportation of migrant is very limited and typically targets some migrants who were involved in criminal activities that fall within the provisions of the Sudan Criminal Act 1991. Limited coordination between various relevant government ministries, such as the one between the Ministry of Interior and the Ministry of Labour leads to taking right to enter or remain as automatically granting right to legitimately work. This causes a problem for both migrants and others involved in the Sudan labour market.

Although Sudan enacted a national anti-trafficking law since 2014, the country’s record in practically identifying and protecting victims and combating human trafficking within and through its national borders has been poor⁹.

Although, similar challenges and practices are also present in almost all other countries, Libya currently has the worst records in terms of migrants’ admission and protection. Libya adopts a strict and responsive approach to mixed and irregular migration despite the country’s heavy reliance on migrant workers. The countries relationship with EU states, especially Italy and Germany and the EU externalisation of border control were among the main factors behind this approach. As early as 2012, Libya established a specialised agency, called the Department for Combating Irregular Migration (DCIM), to help implement its irregular migration policies by centralizing the response to mixed migration flows. The DCIM was initially envisioned as a mean to process migration flows and to arrest and deport irregular migrants. However, the DCIM gradually expanded its mandate and role and became involved in the arbitrary arrest and detention of refugees and migrants, especially those intercepted at the Mediterranean Sea, under appalling situation and without legal rights or access to basic services. Abuse, violence and even murders were reported and denounced by civil society organizations, the EU and UN agencies. In general and in a continuation to the migration policies inherited from the former regime, Libya migration policy criminalise irregular entry or stay ad managed it through heavy fines, detention, forced labour and deportation.

⁹ US State Department, Annual Trafficking in Persons Report, 2021



Rather than controlling entry to Libya through its southern, eastern and western borders, the focus of Libyan policy seems to be on intercepting those attempting to cross the Mediterranean and placing them into remote detention centres. This policy was encouraged and supported by the EU and was viewed by some Libyan officials as a way of extending and improving relationship with the EU countries. Libya uses its coast guards that were trained by the EU under the agreement signed with Italy in 2017 and also keep a blind eye to EU operatives operating within its international waters and sometimes within the country itself. The EU countries also helped Libyans to set up its own Maritime Rescue and Coordination Centre (MRCC).

According to the IOM, in early 2022 some 3,094 refugees and migrants were intercepted by the Libyan Coast Guard (LCG) and returned to Libya. Some 410 refugees and migrants were also reported dead or missing in the Mediterranean, of which 373 were along the Central Mediterranean Route and 37 along the Western Mediterranean Route. In March, media reported Germany's announcement that it would no longer participate in the support and training of the LCG, carried out by the EU since 2016, citing cases of mistreatment of intercepted and returned migrants and "unacceptable behaviour" by the Libyan authorities¹⁰.

With regard to refugee admission, Libya is not a State party to the 1951 Convention relating to the Status of Refugees, nor to its 1967 protocol. Libya is, however, a State party to the 1969 Convention of the Organization of the African Union (OAU) governing the specific aspects of refugee problems in Africa, which is the regional complement of the 1951 Convention. In the absence of a national asylum system, registration, documentation and refugee status determination activities have been carried out by UNHCR. Libyan authorities authorised UNHCR to register refugees and asylum seekers from only certain countries and UNHCR does not register asylum seekers in detention centres¹¹.


Following the 2011 revolution, a Constitutional Declaration of the National Transitional Council (NTC) guaranteed the right to asylum under Article 10, 3 but in practice, there is no legislation that reaffirms these rights. In the absence of any national asylum legislation or framework, refugees and asylum-seekers are generally viewed and treated as 'illegal migrants who have no right to remain in the country or rights for provision and protection'¹².

Refugees and asylum-seekers face specific obstacles in obtaining official documents including travel documents and accessing civil registration for newborn children in Libya. Many refugees and asylum-seekers enter the country through irregular channels, sometimes via smugglers or traffickers, and may not have valid visas or identity documents and fear

¹⁰ MMC North Africa Quarterly Mixed Migration Update Q1 2022: North Africa.

¹¹ Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report UNHCR , Report by Human Rights Liaison Unit Division of International Protection, October 2014).

¹² Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report UNHCR , Report by Human Rights Liaison Unit Division of International Protection, October 2014)



they could be detained or deported if they approach the authorities to register their children. Sub-Saharan Africans in particular, face significant challenges in accessing civil registration services including obstacles related to language and discrimination. They do not have free access to basic education and health care services, and in many cases will prefer not to give birth in a hospital for fear of being treated as an illegal migrants and face deportation. The most affected persons are believed to be from Eritrea, Ethiopia, the Democratic Republic of Congo, Liberia and Chad¹³.


Similarly, to other countries in the region, Libya is selective in its application of its harsh migration laws and policies. For example, the Libyan Government has granted Syrian and other Arabic speaking nationals free access to public education. Sudan and Egypt include each other nationals in many health and educational benefits and some visa restrictions and also also adopt similar selective benefits policies for refugees and migrants from some Arabic speaking or Muslim countries (such as Syrians, Palestinians, Yemenis). Children of other nationalities are required to pay fees to attend school, including at the primary level. As a result, many refugee, asylum seeker and migrant children are effectively without access to education as their parents lack the Syrians and Palestinians have been generously granted free access to medical care in public hospitals. However, access to health services remain a challenge for asylum-seekers and refugees from other nationalities, in particular for nationals of many sub-Saharan African Countries. Some refugees and asylum seekers do not have documentation confirming their identities, which can inhibit access to treatment.

Managing the diverse and complex flows of migrants presents obvious policy challenges for states and other actors. Deciding the basis of admission and rejection of each group or sub-ground of migrants and how to deal with those who were not admitted and the humanitarian and protections needs of all mixed migrants are at the heart of these challenges in North Africa. The key challenge in relation to both migrant admission and protection, however, lies in the tension between the simplistic character of migration policy adopted by all countries and the complex nature of migratory flows in the region. Such policy which are drawn from conventional policy regimes tend to classify migrants by discrete categories based on a single motivation for migration – labour, highly skilled, refugee, family, student etc. – and organise entry and entitlements accordingly. In reality, however, migration may be driven by a combination of factors that require a comprehensive relevant and appropriate policy approach to adequately address them.

5. Protection Challenges

Migrants from, within or on transit through North Africa region are among the most vulnerable in the world. Refugees, asylum seekers, victims and survivors of human trafficking and migrants smuggling, and other types of migrants are within the mixed flow and protracted transit situations in North Africa and are practically indistinguishable. The majority of them

¹³ Ibid.



are already irregular and have limited options to get out of their irregularities and their associated lack of rights. Also, during their often lengthy and complex migration process from ‘home’ through their transit country(s) and even after arrival in their final destination, people on the move can fall in and out of different categories of legal statuses several times¹⁴.

Many migrants across the region continue to endure a multitude of protection challenges, with women and girls particularly vulnerable to abuse. In addition to verbal and physical attacks, migrants have encountered exploitation, as well as poor living conditions. These realities are further exacerbated by the general situations in countries with weak rule of law and where militias or smugglers and traffickers act with impunity. In Libya, for example, migrants have regularly been taken and held in “official” detention centres, where they have faced a multitude of abuses. Other migrants have ended up in warehouses or unofficial detention centres and left at the mercy of smugglers and traffickers. International organizations are often denied access to these centres, leaving many in appalling conditions. However, these realities are not limited only to detained migrants; many in urban settings are confronted with barriers to accessing basic needs and services and are exposed to difficult, impoverished living conditions. Women and girls have particularly been subjected to abuse such as rape, including during their journeys to and through the region. Incidents of this nature were reported in all countries of the region, especially, Libya, Sudan, Egypt, Libya and Morocco¹⁵. The so-called ‘cloning’ of European policies and strategies on border control by various states in the region led in aggressive and abusive border control, particularly on the southern borders, and resulted in further exacerbation of the protection space for migrants; rendering them ‘illegal’ and with no rights¹⁶.

Violence by authorities and rebel factions against migrants including refugees is widespread in Libya. For example, IOM reported that on January 10th, 2022, Libyan security forces violently ended a refugee protest in Tripoli that had been going on since October 2021, arresting more than 600 individuals and detaining them in Ain Zara detention centre.

Protection of migrants in North Africa is particularly lacking in relation to those who fall victims to the brutality associated with human trafficking. Appropriate services and legal referrals are lacking in all countries and the scarce victim protection services are inadequate. Almost all governments in the region make limited or negligible efforts to identify and provide services to trafficking victims. Unidentified victims, due to lack of proactive screening and identification measures often result in punishment—such as arrest, detention, prosecution, and deportation of victims for ‘illegal’ migration, prostitution, and other unlawful acts

¹⁴ Van Hear, Nicholas and Brubaker, Rebecca and Bessa, Thais (2009): *Managing mobility for human development: the growing salience of mixed migration*. Published in: Human Development Research Paper (HDRP) Series, Vol. 20, No. 2009; Heaven Crawley & Dimitris Skleparis (2018) Refugees, migrants, neither, both: categorical fetishism and the politics of bounding in Europe’s ‘migration crisis’, *Journal of Ethnic and Migration Studies*, 44:1, 48-64.

¹⁵ IOM, World Migration Report 2022; US State Department 2021.

¹⁶ See Boubakri, H (2021) *The EU Border Externalization Policies in North Africa and Beyond: Impacts on the Region*

traffickers compelled them to commit¹⁷. Although, human trafficking affects many mixed migrants in the region, government authorities across the region, including law enforcement agencies, have limited understanding of the difference between human trafficking and migrants smuggling and often confused the two, in theory as well as in practice. Preventing and combatting smuggling and human trafficking and prosecuting traffickers and smugglers are often underfunded, limited and ineffective¹⁸.

5.1 The Impacts of Covid

Covid and its related movement restrictions resulted in changes to irregular migration patterns, involuntary immobility, forced returns and discrimination against all types of mixed migrants in North Africa¹⁹. Women migrants have been disproportionately affected by COVID-19, and in countries such as Tunisia, Libya and Morocco, where women reported to severe economic impact and risk of sexual exploitation. Border closure and general travel restrictions have the cost and the flow of migrants moving to Europe through the Mediterranean routes. Migrants detained in places such as Libya faced serious protection gaps and were held under extremely poor housing situations, where overcrowding, poor sanitation and the lack of safe water have made them vulnerable to contracting COVID-19. Migrant in other counties of the region such as Sudan, Egypt and Morocco, have found themselves stranded because of border closures or due to the suspension of voluntary return programmes of the IOM and others. In some cases, migrants have been forcibly returned by authorities, leaving them stranded in the desert²⁰.

However, some countries, such as Algeria, which has agreements with origin countries including Mali has temporarily lifted, travel restrictions and allowed the IOM to facilitate the return of stranded migrants. The pandemic also inflicted a significant financial toll on a large experienced discrimination and stigmatization, compounded with being excluded from vital services such as health care, although some countries, such as Egypt, have included migrants in their health-care responses and vaccination plans²¹.

Despite their obvious vulnerabilities, the ‘irregular’ mobility of ‘mixed’ migrants across international borders in and through North Africa is securitised and criminalised and migration governance is often conceptualised and operationalised as a question of ‘controlling access’ to territories and protecting the ‘migration system’ from abuse, rather than protecting the migrants²².

¹⁷ US State Department, Annual Trafficking in Persons Report, 2021.

¹⁸ Ibid.

¹⁹ IOM, 2022.

²⁰ IOM World Migration Report 2022, North Africa pp 72-73

²¹ Ibid.

²² Roger Zetter, “More Labels, Fewer Refugees: Remaking the Refugee Label in an Era of Globalization,” *Journal of Refugee Studies* 20, no. 2 (June 1, 2007): 172–92; Johannes van der Klaauw, “Refugee Rights in Times of Mixed Migration: Evolving Status and Protection Issues,” *Refugee Survey Quarterly* 28, no. 4 (January 1, 2009): 59–86; Christina Oelgemöller, “Mixed Migration and the Vagaries of Doctrine Formation since 2015,” *Interventions* 23, no. 2 (February 17, 2021): 250–72.

6. Conclusion and Recommendations


The most significant factor and the issue of prime concern for actors, especially policy makers, with regard to mixed migration in North Africa seems to be the complex and shifting migration flow, its nature, perceived directions and the characteristics of migrants rather than the migration stock. Indeed, in most countries of the region, the mixed migration stock seems to be less significant in terms of absolute number and as a proportion of total population. There is also huge variation between migration stock and flow figures announced by government officials and those recorded by international organisations such as UN DESA and UNHCR. The proportion of mixed migrants who are recognised as refugees is extremely small throughout the region, with the exception of the case of Sudan. This reflects the limited protection space available for mixed migrants in the region, who are both prevented from moving forward and at the same time denied their fundamental human rights.

Whether the main concern is the stock or the flow of mixed migrants or the migration flow, there are no laws that specifically deal with 'mixed migration' in any of the six countries of the region. There is instead a general securitisation of all forms of what is often referred to as '*hijra ghair sharia*' (illegal migration) and a criminalisation of the migrants involved. Thus, there is an urgent need for a policy reform and an alternative approach. Such approach must balance the states' responsibility to control their borders and their citizens with acknowledging the positive side of migration and adheres to the international commitment of the state and ensures that all migrants, especially irregular migrants, are de-securitised and de-criminalised and their human rights are respected.

The region has a big normative and institutional framework gap with regard to the protection needs of all categories of migrants and refugees, especially women²³. Those needs are various, not often easy to identify and meet and therefore require coordinated efforts of state and non-state actors, as for various reasons including the low visibilities of mixed migrants, the conditions and needs are not always easy to identify and respond to. In general, whether they fit into the narrow definition of refugee or not, migrants in North Africa region are overwhelmingly irregular and stranded with no legal rights and limited options for further movements. This made them easy prey for exploitation and abuse by various actors including unscrupulous employers, smugglers, human traffickers and some government officials.

With regard to broader protection regime, it is very obvious that the Refugee Convention alone is incapable of offering the necessary protection for the complex and overlapping combinations of mixed migrants in the region. Consideration to other laws such as the Convention on the Rights of all migrant workers and their Families, the Child Rights Convention, CEDAW, the Human Trafficking Protocol 2000 (Palermo) and a more comprehensive and collaborative approach based on state commitments under human rights and humanitarian laws can offer more adequate protection, especially for those who are undocumented and trafficked or stranded in major migration hubs such as the situation in Libya, Egypt and Sudan.

²³ See for example, MMC North Africa Quarterly Mixed Migration Update Q1 2022: North Africa; Liska Wittenberg, 2017.



Managing diverse migratory flows present obvious policy challenges for all actors. However, among all the mixed migrants in the region, those who are trafficked and/or ‘on the move’ into, within and through Libya are particularly lacking humanitarian assistance and legal protection, hence require special attention and greater efforts through a comprehensive and collaborative approach that involves state actors, international migration organisations, national and international human rights actors and local civil society organisations.

Close cooperation and collaboration and information sharing within countries as well as at the regional level are crucial for effectively responding to mixed migration in North Africa and beyond. Such cooperation has to be based on comprehensive and collaborative approach to migration management and based on international commitment of states and the principles of shared responsibilities between states within the region and beyond. Shared information, experiences and good practices is essential for the success of the region. States cannot do this alone, hence the effective involvement of humanitarian agencies, human rights organisations and civil society organisations and academics and researchers, in both the regional dialogue on migration and the challenge of protecting and providing for all migrants, is imperative.

Good policies and practices depend largely on good and reliable evidence, which is lacking throughout the region. All countries of the region need to improve their qualitative and quantitative data on mixed migration, including data on migration policies and practices; and make these more disaggregated and more accessible to researchers and other stakeholders. They should also take their international obligations toward asylum seekers and refugees more seriously and fully adhere to the recognition and protection of refugees. They should also open up legal, orderly, and managed channels for regular migration (including temporary and seasonal migration) and expand freedom of movement between countries of the region and other neighbouring countries. States of the region should also launch nationwide irregular migration and human trafficking awareness raising campaigns.

Data harmonisation and information sharing essential for better coordination, and close collaboration between government and civil society human rights organisations is imperative for improving the mixed migration policy framework in the region and ensuring better protection for all migrants regardless of their actual or perceived legal status.

7.0 Reference

Alexander Betts, “Towards a ‘Soft Law’ Framework for the Protection of Vulnerable Irregular Migrants,” *International Journal of Refugee Law* 22, no. 2 (July 1, 2010): 209–36;

Annick Pijnenburg and Conny Rijken, “Moving beyond Refugees and Migrants: Reconceptualising the Rights of People on the Move,” *Interventions* 23, no. 2 (February 17, 2021): 273–93.

Boubakri, H, 2021 *The EU Border Externalization Policies in North Africa and Beyond*

Christina Oelgemöller, “Mixed Migration and the Vagaries of Doctrine Formation since 2015,” *Interventions* 23, no. 2 (February 17, 2021): 250–72;

De Haas, H. A theory of migration: the aspirations-capabilities framework. *CMS* 9, 8 (2021)

De Haas, Hein (2006) “North African Migration Systems: Evolution, Transformations and Development Linkages”. *Migración y Desarrollo* 2006(2): 65-95.

Gamal Eldin, 2021, The concept of mixed migration and its manifestations, and its legal impact on North Africa, Policy Brief Paper.

Gamal Eldin, A and Ferede, T 2018, Assessment of Seasonal Migration Management System on the Sudan–Ethiopia Border, June 2018. Brussels: Better Migration Management, Horn of Africa.

Hammond, Timothy G. “The Mediterranean migration crisis.” *Foreign Policy Journal* 19.5 (2015): 1-12.

Heaven Crawley & Dimitris Skleparis (2018) Refugees, migrants, neither, both: categorical fetishism and the politics of bounding in Europe’s ‘migration crisis’, *Journal of Ethnic and Migration Studies*, 44:1, 48-64.

IOM World Migration Report 2022, North Africa pp 72-73.

IOM Triangulation of Migrants Stock in Egypt, July 2022.

Johannes van der Klaauw, “Refugee Rights in Times of Mixed Migration: Evolving Status and Protection Issues,” *Refugee Survey Quarterly* 28, no. 4 (January 1, 2009): 59–86.

Katharina Natter, 2014 *Fifty Years of Maghreb Emigration: How states shape Algeria, Morocco and Tunisia emigration*, Oxford University, DEMIG Project Paper, July 2014.

Liska Wittenberg, “Managing Mixed Migration: The Central Mediterranean Route to Europe,” New York: International Peace Institute, April 2017.

Marina Sharpe, Mixed Up: International Law and the Meaning(s) of “Mixed Migration”, *Refugee Survey Quarterly*, Volume 37, Issue 1, March 2018, Pages 116–138

MMC North Africa Quarterly Mixed Migration Update Q1 2022: North Africa.

Mohammed Ouhemou and Mohamed El Amine Moumine “*Comparative Analysis of Migration Policies and Social Transformations in the MENA Region*”, *PERCEPTIONS, Journal of International Affairs*, Spring-Summer 2020 Volume XXV Number 1

Moretti, Sebastien. “Addressing the complexity of regional migration regimes through a mixed migration approach.” *Asylum & Migration Symposium Organised at the University of Geneva, Geneva, Switzerland*. 2016.

Roger Zetter, “More Labels, Fewer Refugees: Remaking the Refugee Label in an Era of Globalization,” *Journal of Refugee Studies* 20, no. 2 (June 1, 2007): 172–92;

Thomas Linde, Mixed Migration – A Humanitarian Counterpoint, *Refugee Survey Quarterly*, Volume 30, Issue 1, March 2011, Pages 89–99

UN DESA International Migration Data Portal 2020

UNHCR, 2014 Submission by the UNHCR For the Office of the High Commissioner for Human Rights’ Compilation Report UNHCR , Report by Human Rights Liaison Unit Division of International Protection, October 2014)

UNHCR, Sudan Country Profile, 2021.

US State Department, Annual Trafficking in Persons Report, 2021.

Van Hear, Nicholas and Brubaker, Rebecca and Bessa, Thais (2009): *Managing mobility for human development: the growing salience of mixed migration*. Published in: Human Development Research Paper (HDRP) Series , Vol. 20, No. 2009