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Part 1 – The Frame

Introduction

1. Framing the Puzzle

How do Non Governmental Organizations (NGOs) interact with global and local (non)state actors in fragile and fragmented contexts? Which types of governance outcomes does this interaction produce? According to Avant and Haufler (2012), these aspects remain substantially under researched. Yet, the persistence of this paucity of knowledge is counterintuitive for a twofold reason. First, because exploring this interaction is key to understand the processes through which governance structures emerge, consolidate and/or dissolve where authority is fragmented. Secondly, because such exploration would also account for how international humanitarian actors *decide* regarding their contribution to the delivery of life-saving services under such conditions.

With regard to this issue, one can easily turn to governance studies as a broad church of contributions that are relevant for the discussion at hand. This multi-sectorial scholarship analyses the processes through which institutions regulate the delivery of services over time, creating and changing governance structures. Starting from the classical studies in this stream of literature, in particular, we review the recent application of governance studies to the “areas of Limited Statehood”. While a promising and somehow enlightening approach, as we will see in the next chapter, these studies failed to grasp the real potential of NGOs as autonomous actors, as they have been substantially treated as supplementary parts of (inter)governmental bodies; by doing so, governance studies have shrunk their agency capacity to a minimum. This scholarship is also policy-oriented – i.e. interested in suggesting how international actors can be (more) effective in the delivery of services in the absence of local providers. As a result of this intent, this strand of literature also tends to downgrade the role of local institutions in their interaction with global governance.

For this reason, a second strand of governance studies deserves consideration when addressing our puzzle: hybrid governance. Along with the increasing dissatisfaction with the failed state narrative, scholars have increasingly focused on the forms of (in)formal institutions emerging in contexts where state institutions are absent or not working. This strand is interested in providing a better understanding of how everyday life is organized in such contexts. However, the main limit of this approach is that it has left under-researched the conditions under which hybridity provides improvements for the everyday. Moreover, only a limited number of studies devotes attention to the interplay between formal and non-formal actors, and how this is influenced by the existence of economic resources in conflict areas.

Thus, a third strand of studies within the governance literature deserves consideration – one that digs more into the role of non-state armed groups in their participation to governance structures in fragile contexts. Classic

studies in this field are represented by the scholarly literature on security privatization, which explores the relationship between state institutions and private contractors in relation to the delivery of security. A major argument emphasizes the presence of principal agent problems related to the creation of governance structures and in the delivery of public goods.

The focus on understanding how non-state security actors organize governance settings in fragile contexts has recently broadened and structured under the header of “rebel governance”. This school analyses the relationship between rebel groups and the civilian counterparts (e.g. populations, NGOs etc) that they administer, although through different strategies. NGOs here are either absent, or considered as partners in ‘rebel-state-building exercises’, but tend to be treated as marginal actors.

On the whole, the governance scholarship analyses in different ways the presence of international NGOs, mixing different fields like humanitarian aid and development, as well as considering the category as a unitary group. As a bottom line, however, governance studies tend to adopt systemic or structural focuses, which are not interested in understanding how organizations strategically choose on how to relate with governance structures.

A second broad relevant scholarship is that on humanitarianism, which has dealt more extensively on the relationship between humanitarian action and governance. Within this field, three major strands emerge. A first school focuses critically on the changes taking place within global governance structures, and explores their relationship with political orders. A second one digs into what is considered a “wicked” relationship between politics and humanitarianism, with a particular emphasis on the risk that humanitarian aid became instrumentalized for political reasons, so compromising its ethical commitments. Both of these strands provide essential insights to understand the relationship between different actors in governance structures, and on some of the processes that unfold. However, their systemic focus leaves out of the picture the empirical reality characterized by different strategic choices adopted by different organizations against similar structural conditions; moreover, it seems to under-estimate the effects that bottom-up pressures may exercise. More insights are provided by the third strand reviewed – that inquiring the motivations driving NGOs programming. In this, the classical studies depict NGOs as antithetically motivated either by a norm-orientation or by a financial security motivation. Their debate, however, remains open, and a newer perspectives try to combine both visions, as described below.

As it emerges from this brief description, none of the strands identified in the literature is substantially able to answer the questions of why and how NGOs decide (not) to engage with governance structures under the conditions of fragility. Studies tend to emphasize the isomorphic tensions inherent in governance structure – conditions that favour their effectiveness etc. But, how local actors, and systems of rule interact with such international structures, remains substantially at the margin. Moreover, how NGOs make sense of the changes, conflicts, cooperative relationships taking place within governance structures, what roles do NGOs play in the processes through which structures regulate the provision of services, is something more assumed than researched.

In fact, we need to better conceptualize the processes through which decisions are taken within NGOs, particularly on the (internal) processes through which organizations define their programme – the portfolio of projects that they decide to implement. Yet, this requires assessing the role of different factors, both external, and internal, international and local, material and non-material, that are relevant for decision-making, how each of them interacts with the others, and is utilized by NGO personnel. In other words, we need to conduct an exploration of decision-making processes of international humanitarian aid NGOs – a persisting gap in the literature (Heysel 2011).

2. Aim(s) and Questions of the dissertation

These premises constitute the theoretical puzzle against which this research is organized. In particular, I aim at partaking in filling part of this gap in a three-fold way. First – following a theory-building logic – I aim at contributing to the research on decision-making within NGOs, shedding more light also on the motivation-debate. I provide a new theoretical model borrowed by economics of organizations (see paragraph 1.3) that helps understanding the decision-making process, and highlights the presence of a set of factors that are common, relevant and interconnected for organizations. Parametrizing contextual conditions, such as the institutional environment and type of sector of involvement, this allows exploring the similarities and differences in the decision-making processes through which different organizations elaborate their programming related to one type of services. In the empirical part, I test this approach comparing the decision-making process of three organizations.

In addition, as I will elaborate in section 1.4, the research has a second theory-building component. Reviewing the literature on the relationship between humanitarianism and governance, I intend to contribute to the debate creating a fine-grained typology of organizations that allows me to formulate clear propositions regarding the potential programming trajectories, depending on the combination of two major intra-organizational conditions. This means contributing in a twofold way. First, I elaborate by identifying factors that *differentiate* within the group of international humanitarian organizations – highlighting the presence of different *identities* in the humanitarian community. But I also elaborate on this by identifying the different potential avenues of programming that correspond to different organizational types.

Thirdly, both the theoretical framework and the typology allow me to explore which types of (intended) consequences different routines have for governance structures. Therefore, I elaborate more on the governance significance of humanitarian aid in conflict scenarios. Hence the project intends to answer the following questions:

RQ 1
How have different international humanitarian NGOs developed their programme portfolio for migration in post-Qaddafi's Libya?

In particular, this question will be answered by examining three different dimensions. The first relates to the exploration of the interaction between NGOs with governance structures, at subnational, national and international levels. Therefore, understanding *how* – over time – the *NGO makes sense of what* is possible/desirable to develop as service-delivery routines.

RQ1.1
How has the NGO interacted with the stakeholders and institutions operating in governance networks?

The second dimension regards the relative role of different *types* of determinants of decision-making in the process. This requires examining which factors determine the developing of specific types of organizational routines, and similar factors have similar effects/roles in different organizations.

RQ 1.2
Do material (resources) and non-material (cultural, institutional) factors contribute in similar ways to programme development across different organizations?

The third dimension to the effects different programme routines have with regards to the institutions present in governance structures. In particular, this means exploring which *institutions* are taken to the fore, and what institutional objectives routines intend to achieve. In other words, the governance consequences of humanitarian routines.

RQ 1.3
Do different programme portfolios have similar intended effects on institutions present in governance structures?

3. The argument

In order to understand how international humanitarian actors decide in relation to their programme portfolio, and the relationship between the routines and the broader governance setting, we will start by framing the discussion on the humanitarian post-conflict context in which organizations operate. This can be better understood looking at three inter-connected elements: an overarching political economic framework that highlights the existence of multiple institutional sets and their co-existence/competition in civil wars. These institutional settings are plugged into strategic complexes – networks that connect multiple actors that provide the institutional constraints and opportunities of action for humanitarian aid. Lastly, these networks constitute the arena – the social space – in which humanitarian aid is negotiated, and in which its language can be used for legitimization purposes, while simultaneously advancing individual interests and objectives. Each point is elaborated below.

A political economic approach allows us to achieve a fine-grained understanding of rationality driving the behaviour of different types of actors. Internal conflicts bring with them processes of re-ordering, including the emergence of alternative political orders dominated by re-structured relationships between economics and politics. Formal and informal political and economic structures interact, compete and/or cooperate, and international support plays important roles in this. Institutions in civil wars do not cease to exist, rather they re-adjust to different equilibria. Political and economic life is thus regulated by multiple institutions: the formal institutions of the state; as well as those international institutions that participate in post-conflict countries and the informal institutions that precede or emerge during the conflict.

This creates a context in which different sets of (often contradictory) institutions coexist and/or compete, creating tensions and dilemmas for actors, but also giving them strategic opportunities. Thus, the interaction of multiple institutional sets concretizes in governance relationships/arrangements between multiple types of actors at different levels. International actors, thus, interact with national and sub-national, armed and non armed, state and non-state, developmental and humanitarian actors, within territorial and or functional spaces. Because the context is one of civil war, such spaces are likely to be subject to contestation between competing rulers. Yet, even in these areas – where central governments do not have the full capacity to implement decisions – specific sets of institutions regulating the political or market environment can create incentive structures for actors to cooperate on service provision. In this type of context, humanitarian aid acquires governance significance by intervening on the balance of power between different institutions. Thus, it can have either a stabilizing or a de-stabilizing role of political and economic order.

Institutions interact within strategic complexes – i.e. network structures that link global governance to sub-national actors. In particular, they tend to standardize the avenues of intervention, providing both cognitive/normative frameworks, and the operational capacities for NGOs to frame their responses. Looking at international agencies and actors, this constitutes a *modus operandi* that is based upon three main elements.

First, the increasing reliance on the institutions of market economy to discipline the relationship between donors and third implementing parties. Second, an increasing involvement into internal political dynamics, Third, an increasing concern for the potential consequences of humanitarian action on domestic dynamics.

At the same time, such networks constitute a social space – an arena in which different actors and institutions compete for the advancement of their specific understanding of the needs and the solutions. While humanitarian aid is a particular *type* of service delivery which, according to *its* institutions, should be delivered following the principles of impartiality, neutrality and humanity, different institutions enter the network structure, resorting to the language of humanitarian aim to legitimize themselves, advance their interests and (political) objectives. Some members of complex networks may thus acquire the language of the humanitarian discourse to acquire social recognition and through this enhance their (network) position. Humanitarian institutions are thus negotiated, implemented in a context-dependent manner and so is the outcome of foreign aid.

These are structural conditions against which Humanitarian NGOs are supposed to take difficult decisions, balancing between different opportunities and constraints related to the provision of services that can determine the life or death of human beings. In addition to severe structural constraints, their programming has to take into account both internal normative commitments and financial security concerns. Programme managers have to consider both. Principles so determine the identity of NGOs, their long term objectives, goals and commitments. But the external environment determine their financial constraints. In other words, they operate as principled instrumentalists.

I suggest that the unfolding of this decision-making, and the role of different normative and/or material factors at each stage can be captured through the framework of organizational learning. Programme managers develop their programme portfolio through a complex process grounded on multiple elements. Organizations learn from the interaction between their experience in task performance, the organizational and environmental context and their knowledge (Argote 2013). The active context of the organization – its members, resources, etc. – interacts both with the latent context – the internal institutions such as the mandate, and its culture – and the environmental context. The latter is composed by the networks of institutions, competitors, clients that are outside the boundaries of the organization. In a humanitarian context, this can be the network of formal and informal institutions, including donors, other NGOs, national institutions, local institutions etc. Finally, the cumulative number of tasks performed represents the experience. Through the interaction between these elements, organization transform task performance experience into knowledge – the cognition on what is possible to achieve and how. The routines performed by the organization, then reflect the knowledge the organization has acquired at that specific moment in time (Argote 2013, 33-34).

4. The Research Design

As such, this research configures as an exploratory Small N case study. Basing on interviews conducted in Tunis between November 2016 and March 2017 and on the analysis of secondary sources, I reconstruct the decision-making process through which three International Humanitarian NGOs – the Danish Refugee Council (DRC), International Medical Corps and Mediciens Sans Frontiers Holland (MSFH) – have organized their programming in the period between 2011 and 2016 in the post-Revolutionary Libya. The combination of secondary and primary sources allows me to reconstruct the environment in which these organizations operate(d). Process tracing is then used to account for the causal path leading to programme development, and I resort to it to reconstruct the sequence of events/facts etc, that were crucial for the three programme managements at field level over time, and according to which the programme has decided to allocate organizational resources.

In theory, programming in post-revolutionary Libya configures as a classical case for the research at hand. The fall of Qaddafi in 2011 has paved the way to a new political landscape in which authority and political power have grown increasingly fragmented. In this context, International networks of global governance are present. A multifaceted transnational presence has been operative since 2011 at different levels. International Organizations (such as the UN and the EU) have political support and humanitarian missions. Some international organizations have supported political processes to facilitate the emergence and consolidation of political institutions. Others have coordinated, and/or directly delivered services to specific beneficiaries whose access to basic services and/or international protection was severely restricted. On the other hand, local dynamics and actors have demonstrated an almost unprecedented level of intricacy. Scholars interested in Libyan domestic dynamics have noted that the contours between political and security (non) state actors often merge (Pack 2015). This overlap is sided by a the strong political and military fragmentation (Lacher and Cole 2014), where alliances within the constellation of local actors are structured along very complicated lines (Pack 2015).

The Libyan political system is thus fragmented and running along blurring lines of (in)formality, in which informal institutions often cooperate and/or compete with formal systems; an institutional system whose legitimacy is tightly connected with the evolution of the relationship between political and security actors (Wehrey and Lacher 2014). Lacking sufficient military forces to prevail over adversaries, the Libyan governments attempted to co-opt militias through seats and revenues from oil rents, without challenging the existing chains of command. This “appeasement” drained economic resources, increased corruption, and strengthened the militia influence on the democratic process (Pack, Mezran and Eljarh 2014). With the breakdown of any monopoly over the means of violence (Gaub 2014, Lacher and Cole 2014), Libya thus moved to a decentralized oligopoly with blurred lines between political and security actors, and no rule of law (Lacher and Cole 2014)¹.

¹ For a succinct overview see e.g. Chivvis and Martini (2014).

This work focuses on just one sector of humanitarian aid: the assistance to mixed migrants and the connection between mixed migration and the economy of human smuggling in Libya. This choice is due to a multiplicity of factors. First, because of the relevance this sector has acquired over time: the fragmentation of political power allowed Katibas (Militias) leaders to seize political power at multiple sub-national levels. Those who could combine political assets with military resources pursued their agendas independent from the central authorities' intents. Key for this, however, was the capacity to control economic assets – such as oil facilities, airports, ports, besides for military bases, as well as ministries and institutions, or the human beings and their logistic hubs (Micallief 2017, El Kamouni-Janssen 2017). Assets allowed financing military and political power (Shaw and Mangan 2014, 8).

Secondly, because over time the economy of human smuggling has created negative externalities for the weaker part of the market: the migrants. Their living conditions are precarious, and they need a multi-faceted assistance, starting with basic items for daily survival (European Commission 2014). The Libyan legal system makes irregular entry and departure a criminal act – irrespective of the type of legal status; particularly the 2010 Law on Combating Irregular Migration foresees the indefinite detention and deportation of people accused of irregular status (Amnesty International 2015). Additionally, Libya has never signed the 1951 Refugee Convention (European Commission 2014). Yet, many migrants travel undocumented (Amnesty International 2015). Because of this, daily routines needed to satisfy basic human needs can expose them to abductions, detention, or simply violence (DRC 2015). All this is compounded by a general xenophobia towards migrants (Amnesty International 2015). On top of this, if detained, they have limited legal safeguards, and abuses, violence, under-nutrition or malnutrition, restricted access to water, chronic precarious hygiene and health conditions prevail (UNHCR 2015; Amnesty International 2015). Migrants can be detained in detention centers affiliated to the Ministry of Interior – or in other centers run by armed groups contesting the authority of the central government (OHCHR 2016).

5 The Structure of the Dissertation

The dissertation then proceeds as follows. Part One contains the theoretical and methodological parts. Chapter 1 is devoted to the theoretical discussion. In it, I first review the major strands of the literature on humanitarianism and identify the gaps in it. Then I move forward Identifying the theoretical framework that has informed the research and can serve to fill the gap. Chapter 2 contains the description of the Research Design and the Methodology. In it, I describe the pros of the proposed strategy. I critically reflect on the potential weaknesses, and of available instruments to minimize them. I also provide a typology of different types of organizations, and provide the discussion on how I intended to operationalize the variables. Then I move to Part Two – that is devoted to the empirics. Chapter 3 provides an overview of the humanitarian context in the aftermath of the conflict in Libya. The political economy of migration then is object of chapters 4 and

5. In particular, in Chapter 4 I describe in detail the (in)formal actors, (in)formal institutions that characterize the national/local dimension of migration and smuggling in Libya. In Chapter 5 I look instead at the institutions, actors and norms that shape the international side of the political economy of humanitarian aid on migration. These two chapters, therefore, fix the contextual traits of institutions that pose constraints and avenues for programming development. Yet, the actual analysis of decision-making is object of Chapter 6. In this, I review the salient steps that, according to programme managers, were relevant for programme development on migration. Thus, I compare the relative role played by multiple external as well as internal factors for different organizations. Chapter 7 then draws the concluding remarks.

Chapter 1

The Theory

This chapter proceeds as it follows. It is divided into two major areas. The first contains a review of the literature that have touched the questions of governance, humanitarianism, and NGO service-delivery in emergencies and post-emergencies. Second, it moves at the definition of the theoretical framework upon which this research is grounded.

1.1 A review of studies of Governance and Humanitarianism

The review has been conducted through a systematic search on ISI-Web of Knowledge and Scopus, entering multiple keywords such as Governance, Conflict, Humanitarian*, NGOs etc. Keywords were combined together in multiple chains, and the results refined thematically. I here present a review of the two broad 'Families' of research. I will first describe the Governance Studies strand, and how it has been differently applied to the study of governance settings into crises, conflicts, (post) emergencies. Secondly, I will turn to humanitarian aid studies, highlighting the global governance, the practitioners, and the NGO motivation avenues of inquiry.

1.1.1 Governance Studies

A first broad family of studies that are relevant for the discussion at hand consists of the body of scholarship analysing governance settings. Within this it is possible to distinguish 1) classic studies of governance and their application to conflict settings. 2) Hybrid governance literature. 3) The security privatization and rebel governance studies.

1.1.1.1 Governance studies: Classics and beyond

Since the 1990s, scholars have increasingly studied the non-hierarchical modes of coordination, as well as the involvement of non-state actors in public policies, within and beyond states (Boerzel and Risse 2010, 113). Governance, could be described as the “various institutionalized modes of social coordination to produce and implement collectively binding rules, or to provide collective goods” and consists both of a structure – relating to “institutions or actors constellations” – and of a process – i.e. the “modes of social coordination by which actors engage in rule-making and implementation, and in the provision of collective goods” (Boerzel and Risse 2010, 114). In particular, some scholars argued that the participation of non-state actors to policy-making would have improved both the quality and the effectiveness of public policies (see e.g. Reinicke 1998, cit from Boerzel and Risse 2010, 113). Later on, IR scholars of International Relations and European Studies introduced this argument in their researches, and concepts such governance without governments (see e.g. Rosenau & Czempiel 1992, Cutler et al. 1999), or new modes of governance (Rosenau 2000, Heritier 2002) were discussed as alternatives to 'traditional' forms of top-down hierarchical steering by governments. In such non-hierarchical systems, coordination is achieved through voluntary commitment and compliance (see e.g. Rosenau 2000).

What the empirical evidence of such studies gradually demonstrated, however, is that having non-hierarchical coordination systems in which non-state actors are present is not a sufficient condition to increase the effectiveness and legitimacy of policy-making; the 'governance without government' would be more likely to work “if a strong state looms in the background which sees to it that non-state actors contribute to the provision of collective goods” (Boerzel and Risse 2010, 113). In other words, the way in which actors interact in the local (security) governance is greatly dependent on the ability of the host state to cast a “shadow of hierarchy” (Boerzel and Risse 2010). In the original perspective, this concept related to the capacity of states to threaten the imposition of binding rules on non-state actors, with the aim of changing their cost-benefit calculation (Boerzel and Risse 2010, 116), a “Damocles Sword” upon companies needed for the promotion of different forms of self-regulation or co-regulation (Schimmet and Streeck 1985, 131 cit from Boerzel and Risse 2010, 116). The shadow of hierarchy is crucial for governance without governments, since it creates incentives structures necessary for the cooperation of non-state actors: as Heritier and Lehmkuhl (2008, 2) remind us, “legislators can threaten to enact adverse legislation unless potentially affected actors alter their behavior to accommodate the legislators' demands”.

Boerzel and Risse (2010, 118) are amongst the first to broaden the potential of such strand of literature, extending the discussion highlighted so far to the “areas of limited statehood” and moving away from the original domain of governance research – the developed world of liberal democracies. Most of the world is actually composed by these “areas of limited statehood”, which include “those parts of a country in which central authorities (government) lack the ability to implement and enforce rules and decisions, or in which the legitimate monopoly over the means of violence is lacking, or both” (Ibidem 118). In other words, in these areas the Krasnerian concept of domestic sovereignty (Krasner 1999, 4), “the formal organization of political authority within the state and the ability of public authorities to exercise effective control within the borders of their own polity” – lacks or is extremely circumscribed. By definition, the more states contain areas of limited statehood, the less they can cast a shadow of hierarchy (Boerzel and Risse 2010 119): clearly, if a government lacks the capacity to enforce rules on part of its territory, it cannot provide credible threats either.

While weak state institutions would seem to imply necessarily governance failures, in the areas of limited statehood the authors find the presence of “functional equivalents to the shadow of hierarchy” (Ibidem 120), which allow them to identify “cases of governance without a state” that “appear[s] to be an empirical reality in many parts of the world” (Ibid 120).

The set of alternatives to consolidated statehood can be grouped according to the underlying logic of social action sustaining them – either the logic of consequence or the logic of appropriateness (March and Olsen 1989, March and Olsen 1998 cit from Boerzel and Risse 2010, 120). In the first case, actors are self-interested and utility-maximizing, and will constructively participate to governance if the right incentives are present, and/or if the behavior of these actors is constrained by the presence of institutional settings – in which the authors are enmeshed (Boerzel and Risse 2010, 120). According to the first mechanism, abiding to this logic – the “risk of anarchy” – non-state actors engage in governance and the provision of public goods when there is no political order even if they have the concrete risk of entirely absence governance. “If the pursuits of their individual profits depends on the provision of certain common goods and collectively binding rules to produce them, and the state is not capable or is unwilling, companies have a major incentive to step in and provide governance in areas of limited statehood” (Ibid. 121). Nevertheless, the occurrence of cooperation in areas of limited statehood – following here an institutionalist argument – is directly proportional to the level of institutionalization of the setting (Ibid 122).

The second mechanism is one of 'external compensation for limited statehood'. External actors – such as International organizations or foreign governments – can promote the participation of non-state actors to governance. This can be the case either of external actors directly exercising domestic

sovereignty over areas of limited statehood, or the case of actors that must comply to standards of good-governance , or actors that must uphold the same rules as the government that is no longer able in function; or – lastly – if external governments force non-state actors to contribute to governance (such as through the compliance with standards of good governance etc) (Ibid 122).

Alternatively, in accordance with a logic of appropriateness, actors are “embedded in normative structures that induce them to follow social rules” (Ibid. 121). A first case is represented by normative structures affecting and embedding markets. In this cases, norms become increasingly important for the core activities of non-state actors – the example provided is that of “human rights creeping into the core business of many companies”, such as multinational corporations with a brand name to defend” (Ibidem 124). Here, empirical studies strongly support this claim, highlighting how the provision of collective goods where statehood is limited is greatly determined on whether the company at hand is interested in defending its reputation (see e.g. Hoenke et al 2008).

A second order of cases is the one represented by areas of limited statehood populated by 'traditional' communities which have their own social standards. Local communities – it is reported – do not provide a shadow of hierarchy, but can expect non-state actors to abide with local norms and to provide collective goods (Ibid. 125)

These points provide fascinating insights, which nevertheless leave some aspects to be clarified. A first order of considerations regards to empirical unresolved questions. As Hoenke reminds us (2010; 2013, 5) governance scholars have been mainly interested “in the role of business as an issue of private authority and self regulation. This research has focused on forms of public-private co-regulation and self-regulation in industrialized countries and on policy formulation at the transnational level” (see e.g. Cutler et al 1999), whereas few authors actually study companies' security behaviors (Ibidem 5), and even less work on humanitarian organizations' security behavior. Moreover, surprisingly enough, little research has analyzed the participation of non-state actors to contexts in which the condition of statehood is marginalized to the extreme, as the Menkausan example of Somalia (Menkhaus 2007), in which although the sovereignty over a territory is extremely dispersed across local actors, local actors can create governance settings and create systems of rule. In this sense, Libya represents an interesting case, since it presents aspects object of research in other strands of literature, but it is also different from the cases analyzed before for its lack of domestic authority.

Theoretically speaking, the governance-argument that companies' engagement in local security governance is determined by the capacity of host states to cast a shadow of hierarchy – or one of its functional equivalents in the areas of limited statehood (Boerzel and Risse 2010) – is challenged by

the similarities noted in corporate security practices across different cases in Africa (Hoenke 2013, 5). From a different angle, the same argument is proposed by scholars of state failure and state-building, according to which governance outcomes are determined by the strength of state institutions (Fukuyama 2004, Rotberg 2004 cit from Hoenke 2013, 5). However, even though states across Africa display different characteristics, several similar aspects can be noted in security governance across cases – an aspect which questions the utility of state variables (Hoenke 2013, 5). One possible answer to this puzzle may be drawn by constructivist arguments of norm diffusion and world society, which would suggest that such similarities can be determined by transnational norm diffusion (e.g. Finnemore and Sicking 1998, cit from Hoenke 2013,5). On the other hand, this answer would find a limit in the fascinating plurality of corporate security practices in Africa (Hoenke 2013, 5). However, I suggest that none of the two possible answers, neither the shadow of hierarchy nor constructivist arguments, can fully explain differences and similarities in the behaviour of organizations operating under similar structural conditions. Ultimately, this points to the need of rethinking the way in which scholars approach the issue of organizations' engagement in governance structures. This is why we need to turn to a different body of literature.

1.1.1.2 Hybrid Governance

In recent years, another growing strand of literature is the one on hybrid governance in fragile and conflict areas. Most of this literature tries to understand how everyday life in so-called 'failed', 'collapsed' or 'fragile' states organizes itself (see e.g. Cleaver 2002, Menkhaus 2007, Lund 2006, Raeymaekers et al. 2008, Boege et al. 2009, Arnaut et al. 2008, Hagmann and Plecard 2010). Some voices see positively the emergence of alternative (or hybrid) forms of governance, since this could fill some of the gaps that are created by the collapse or the malfunctioning of state institutions (e.g. Menkhaus 2006, Moe 2006, Logan 2009, Boege et al 2009). Others, more critically, point to the potential erosion of formal institutional settings that these alternative frameworks may determine (e.g. Schmid 2001). Still, other scholars maintain that governance outcome are inherently context-dependent and variable (Van Rouveroy Van Nieuwaal 1999).

Three common elements are generally highlighted in this strand of literature at the basis of hybrid governance: historicity, hybridity and negotiability (Cuvelier, Vlassenroot, Olin 2014, 346). First, hybrid governance is often 'history-dependent' (Ibidem 346). Claever (2002) notes that when people tend to (re)organize aspects of political, economic, and social life, they tend to draw on their own past. What emerges is an 'institutional bricolage', a “process by which people consciously and

unconsciously draw on existing social and cultural arrangements to shape institutions in response to changing situations” (Claever 2002, 26).

In terms of hybridity, a remarkable example is that provided by Lund (2006, 673), which introduces the term of 'twilight institutions', non-formal institutions which nevertheless exercise public authority. He illustrates this process through the example of vigilantes in Niger who – during the 1990s – sought and acquired legitimacy juxtaposing symbols of authority from the 'state' police and other governmental offices, with other taken from chieftaincy and witchcraft (Ibid 2006). Lastly, with negotiability, the literature generally refers to the non fixed and stable character that hybrid forms of governance can assume (Cuvelier, Vlassenroot, Olin 2014, 346). Actually, hybrid governance is often seen as fluid and unstable, subject to processes of bargaining and restructuring between different actors (see e.g. Titeca 2006).

I would suggest that this strand of literature has the unquestionable virtue of focusing on settings and forms of governance that are usually neglected by governance literature, and for their look at public authority from below. In particular, in the face of the increasing dissatisfaction with the failed state narrative, scholars have increasingly focused on the forms of political orders and their institutions emerging in contexts where state institutions are absent or not working. This second feature, in particular, allows investigating “how public authority actually works in the face of obvious state failure and impending collapse” (Lund 2006, 674).

At the same time, while this strand proved capable of providing a better understanding on how the everyday life is organized, the literature has also highlighted some of its limits: firstly, as Cuvelier, Vlassenroot, Olin note (2014, 346) “despite the plethora of new analytic tools,..., there have been hardly any corresponding attempts to systematically gather empirical evidence”. As a result, “without evidence, much of the literature,..., tends to rely on unsubstantiated assumptions”. Also, the conditions under which hybridity provides improvements for the everyday, and for whom, remain under-researched. More generally, the participation of NGOs has been substantially at the margin of this field of research.

1.1.1.3 Security Privatization and Rebel Governance

There is a limited number of scholars interested in studying international (for-profit) organizational practices in areas of conflict and limited statehood (Hoenke 2013, 7). One strand of literature which has increasingly paid attention to these themes is the one working on privatization in security

governance. The original domain of this strand of literature focuses on western democracies (see e.g. Berndtsson and Stern 2011, Leander 2013). More recently, however, the geographical focus has been broadened. From an international relations perspective, Avant and Haufler (2012) have started to explore organizational strategies that companies undertake in areas of limited statehood. Interested in exploring the debates about global governance and global private regulation, through an actor centric focus, they mostly intend to analyze what contributions organizations give to governance (See eg Avant and Haufler 2012, Avant 2007). From a different angle, in a recent outstanding contribution, Abrahamsen and Williams (2011) analyze the privatization of global security services through the focus of commercial security providers in Africa. In two of their cases, they concentrate on extractive enclaves and on the crucial role played by global security companies in their organization. Using Bourdeusian lenses, they inquired the field of security experts, and the way in which, through the interaction of private security professionals and state actors, new forms of authority and power are reconfigured in 'global security assemblages'. As the authors define them, global security assemblages are “transnational structures and networks in which a range of different actors and normativities interact, cooperate and compete to produce new institutions, practices and forms of de-territorialized security governance” (Ibid. 90).

In order to provide stronger foundations to their theory, Abrahamsen and Williams (2009, 9) study how private security personnel co-produce security arrangements and look at a case characterized by a Menkhausian anarchy. So, they explore if specific conditions favor or hinder the development of a globalized security (bordeausian) 'field', which sees international security experts as fundamental figures (Hoenke 2013). Moreover, just for their focus on global corporations and state institutions, what falls beyond their analysis is the fact that broader sets of actors gather around sites of extraction, differently participating in their governance: these can comprise local authorities, donor agencies or even NGOs (Hoenke 2013,7). More generally, looking at Libya, with the shrinking of the authority exercised by 'central institutions', there is a wider set of actors participating in security governance, some of which are armed groups partaking the civil war, some others are transnational non-armed organizations.

This last point allows us to introduce the last strand of the literature surveyed, which discusses the participation of rebels to security governance. One way to approach this literature is to look at the governance capacities and conduct of rebel groups (Cuvelier, Vlassenroot, Olin 2014, 345). Some scholars claim that rebel governance is mainly concerned with extracting resources from the population (see e.g. Mampilly 2011, Weinstein 2007): in these contributions, rebels are seen as producing governance arrangements that intend to maximize the extraction. For example, Weinstein's

(2007) study was conceived to answer the question 'why some rebel groups prey on civilians more than others' and it identified the specific role of initial resource endowments in determining the type of rebellion emerging, either opportunist or activist. From this, following a path dependent mechanism, rebels would adopt different rebellion strategies, recruiting different types of rebels, creating different systems of control of recruits' behaviors, different governance strategies and regimes of resource extraction. Opportunist rebel groups – which would emerge in presence of rich original resource endowments - were found to attract short-term oriented recruits, adopt weak forms of control over (mis)behaviors, resort to non-participatory governance systems, and coercive regimes of resource extraction. And vice versa for activist groups (Weinstein 2007). Mampilly (2011), instead, devotes part of his analysis to understand what is the logic behind the relationship between armed groups and non-armed organizations, such as NGOs. The argument proposes that armed groups – under specific conditions – may come to favor the presence of external actors such as transnational NGOs, as the services they deliver configure as public goods for the population under rebels' rule. This allows the group to gain some legitimacy in the eyes of the population (Mampilly 2011).

Given the geographical bias on African states, this strand suffers from a lack in comparative material that would allow making generalizing conclusions; so, more research to extend our knowledge on these matters is needed (Cuvelier, Vlassenroot, Olin 2014, 345-6). Clearly, more research is needed could compare the strategic behavior of organizations that need to interact with non-state armed groups to remain operative. Through this focus, our research could address a still-understudied aspect – what relationships can be established between the group and the organization, what determines these relationships, and how they evolve during time.

1.1.2 Humanitarian Aid Studies

How has scholarship approached the relationship between humanitarianism and governance? A review of the relevant literature has mainly provided three strands of research, whose arguments will be outlined below. The first reflects (critical) studies on the relationship between macro changes in global governance structures and their relationship with conflict societies. The second strand digs into the wicked relationship between politics and humanitarianism, elaborating on the risks deriving from the growing instrumentalization of humanitarian aid for political aims, as well as from the loss of credibility of the humanitarian principles. A third strand works indirectly on the relationship between

humanitarian aid NGOs and governance, focusing on the motivations driving engagement/disengagement of organizations in service delivery.

1.1.2.1 Humanitarian Aid within Global Governance

A first major strand in the literature interested in humanitarian studies consists of sociological studies examining the emergence of global policies and on their effects on humanitarian action. Duffield (2001) for instance, critically reflected on the shift in the global aid policy occurring since the mid 1990s, one that incorporated new aims such as conflict resolution and societal reconstructions – until that historical period alien to that, being part of an emerging system of global governance. In particular, networks and linkages that bring together different inter-non-governmental actors and forms of regulatory authorities constitute what has emerged as a global system of governance. Networks abiding to a specific political paradigm – liberalism – which makes proper speaking about Liberal Governance.

As a response to new wars, and the overlap of security and development discourses – “innovative strategic networks” that connect state, non state actors, public-private organizations, military and civilian organizations have emerged – based on the rationale of information sharing, coordination and comparative advantages, and constitute the operational basis of the liberal peace, as well as for global governance. Such strategic complexes/networks go beyond the state, in ways that re-formulate the structure of incentives that define people’s loyalties. Participation to these networks is usually motivated by economic rewards. This structural change has been institutionally facilitated by the privatization and subcontracting of former state development responsibilities. The emergence of such complexes has been favoured by a set of conditions:

1) the pressures of globalization on the qualification of nation state competences, eroding its sovereignty from above and from below. “Political authority has become increasingly multi-levelled and asymmetrical. The growing importance of networks and cross-cutting linkages is central to the transition from hierarchical structures of government to more polyarchical and networked patterns of governance. Although they remain important, states and governments increasingly exercise their authority through complex international, national, and subnational governance networks linking state and non-state actors” (Duffield 2001, 50).

2) the changing nature of loyalty and sacrifice, which has been favoured by the privatization and marketization of public policies. The risks governments used to run to intervene in complex emergencies have been outsourced through the contracting out of NGOs. NGO ethos – in this sense – which encompasses ideas of duty and sacrifice, can be seen as one motivator, with monetary return and material gain growing on parallel as means to mobilise “strategic complexes of global Governance” (Ibid. 2001, 52). Both the number, their budgets and the scales of NGO operations have increased, and so has done the competitive aid market in which they started to operate. Funding systems however have increasingly gone beyond the state – through the growth of UN and EU subcontracting – for their ability to work and negotiate access in unstable areas. Therefore – since the 1990s – NGOs expanded their relationships with both UN agencies and military organizations; moreover, they formalized their relations with donor governments. NGOs and UN agencies developed and standardized new patterns of relationships – with NGOs taking in charge the responsibility to implement UN programs and UN agencies negotiating access in war zones on their behalf (Duffield 2001, 54). At the same time – the new set of relationships expanded both with military establishments, due to the NGOs’ ability to operate in conflicts, and with donor governments – with which the sub-contracting relations have expanded in terms of contracting regulations (guidelines, monitoring tools, targets etc) (Ibid. 55).

NGOS have also increased their participation to new forms of international fora – such as networks and representative structures in order to be effective, being them their entrance door to national and international decision-making processes. Some of these fora were restricted to international NGOs, and many organizations have institutionalized their relationship with such consultative bodies. Overall, this development allowed many NGOs to pool resources and develop common positions – rather than being directly co-opted – thus making NGOs effective institutional counterparts to International organizations and governments.

As for multilateral organizations, the end of cold war produced effects both on their structure and on mandates. While UN agencies had tended to operate independently according to their respective institutional histories, organizational cultures and modes of funding, confronting the complex emergencies of the post-cold war implied a demand for system-wide operations, ergo for new ways to work together and improve coordination. The creation of the UN Office for Coordination of Humanitarian Affairs – OCHA – is indicative. Their mandates and responsibilities expanded – the UNHCR for instance had previously limited its responsibility for refugees, while it gradually became the principal humanitarian agency, with extensive institutional links with multiple counterparts, and interested in Internally displaced people.

For donor governments – the increasing globalized nature of governance in humanitarian affairs has changed the nature of state authority towards more networking. New international and local actors have “drawn out state authority” and created multiple multi-level and cross-cutting decision-making mechanisms. Governments, however, were closely involved in such organizational changes, being part of the new institutionalization of the modes of representation, the links the contractual regimes etc – thus acquiring the capacity to project their authority through non-territorial and supra-state systems (Ibid. 71-72).

Lastly, these institutional developments needed support from a practical perspective. Duffield makes this point clear when he outlines the institutional complexity underpinning the shift from government to governance of complex emergencies: the need to work together imposed actors to find new ways to make actors and institutions with different mandates, motivations and histories to work effectively together. Governments and donors invested extensively in creating, improving and mainstreaming coordination mechanisms. “in the attempt to coordinate actors, regulatory tools are playing an important role,..., (and represent) attempts to legitimize new networks and relations” (Ibid. 73). However – in order to be effective, within such networks, “shared policy assumptions (are the instrument through which) different actors can communicate and coordinate. Without some degree of shared understanding, as to what the nature of the problem is and how it should be tackled, governance networks would find it difficult to operate”. “policy” he concludes “plays the role of politics within global governance – and is illustrated in the liberal consensus regarding the causes of conflict and the methods of social reconstruction” (Ibid. 75-77).

With the criticism to humanitarian action emerging in the 90s, particularly the charge of the unintended consequences on conflict, new discourses of humanitarian action started to emergence. Rather than claiming the existence of a universal right to humanitarian action, the “new humanitarianism is based on a consequentialist ethical framework. Assistance is conditional on assumptions regarding future consequences. It should do no harm nor it should entrench violence while attempting to ameliorate its effect” thus “reinforce[ing] earlier policy commitments to linking relief and development, conflict resolution and reconstruction” (Ibid. 75-77).

While at the beginning of the 90s the UN system increasingly incorporated the neutral principles of humanitarianism – giving it an institutional framework for its realization, the global approach became increasingly questioned. Reflections in the humanitarian system emerged as reaction for the new modes of operations carried out by the UN agencies: Intervening in non-government-controlled areas, and brokering access negotiations represented a clear break from the cold war praxis. For some (see for instance Kaplan 1994), this constituted a reflection of a new international system unable or

unwilling to end conflict, with governments of the global north accepting instability and violence as part of a “southern predicament”. Humanitarian action came to be seen as a substitute for political action, assuming the form of the lowest international common denominator in complex emergencies. Yet, deprived of structures and instruments working for peace, humanitarianism could not stand above politics, and became strained in intractable emergencies. This understanding came with the growing awareness of the close interaction between war and aid. While “aid could keep people alive, assistance inevitably became part of the local (war) political economy” (Ibid. 78-79).

The critics to the established global humanitarian practice, however, tended to concentrate on the effects produced on the local population. Amongst those most studies, there were the “unforeseen consequences” of conflict, the gap emerging from intervening in ongoing conflicts without the means of resolving wars, the blurring lines between traditional distinctions (military/civilian, combatant/non-combatant). All of them cancelled the practical feasibility of the neutral humanitarianism (p 80).

Both the arguments of humanitarian aid as capable of entrenching modalities of under-development and conflict as well as that of being capable of harming individuals shaped humanitarian aid policy changes in the mid-90s. The new emerging humanitarianism based its actions on the assumed consequences of a given intervention in relation to wider developmental aims (Slim 1997). The new humanitarianism shifted the policy focus from saving lives to “analysing consequences and supporting social processes” – i.e. complementing the aims of development aid with a focus on the role of aid in “altering the balance of power between social groups in the interest of peace and stability”. (Duffield 2001, 80).

The new humanitarianism – consequentialist and process oriented – required new forms of surveillance and control, appraisal and monitoring, to oversee the progresses of programs against expected outcomes. This was a major implication for liberal governance. Relationship between strategic networks “thickened” between strategic actors, broadening the range of instruments of management and regulation for their subcontracting to implementing partners. This implied “more detailed and demanding contractual agreements”, more “social advisers within aid departments” allowing donors and NGOs to be more closely linked in terms of policy design and implementation, tighter instruments of “project monitoring and appraisal”, more consultative meetings and joint fora, new forms of impact assessment (Ibid. 80). Through these mechanisms, Northern donors could avoid the dislocation of authority provided by globalization, regaining new institutional instruments for project their national authority into transnational fora/emergencies (Duffield 2011, 86).

Because of the dislocation and re-articulation of authority networks, and of the blurring of divides between public/private, national/local, civilian/military, the question of neutrality of humanitarian practices became increasingly questioned. The very possibility and usefulness were: “when people, army and governments are interconnected rather than divided, it is difficult to be neutral within such a system. This is reinforced when as a result of these interconnections, people are often deliberate targets”. Thus, due to these interconnections, humanitarian aid can have unwanted or un-anticipated consequences (Anderson 1996). From the same angle, humanitarian aid is essentially political, “shown in the way assistance is mobilized, the decision surrounding who gets what, the compromises that obtaining access may entail and, not least, the consequences beyond intention that may result.

Making choices in this context is necessarily a political act” (Duffield 2001 87). It is political under different dimensions – since organizations compete for funds and operating space with other agencies, as they negotiate with local authorities for access, for the effects their actions cause on the local context. Politics get into humanitarian action “becom[ing] the policy decisions that aid agencies make when face with hard ethical choices”, but also because “policy decisions are regarded as [...] making a difference and being able to alter outcomes” with humanitarians increasingly aware of the need to “minimize their impact on the relative power of warring parties, or to affect them as equally as possible”. Yet – this vision still reflects an understanding of the complexes as separated from the context – “a self-contained structure that acts mechanically and predictably to outside resource flows”: “politics are the decisions that aid agencies take based on their assumptions surrounding the consequences of their actions in this closed and mechanical system” (Duffield 2001 87).

The last passage to understand the characteristics of the new humanitarianism is the emergence of the link relief-development discourse that acquired centrality in humanitarian strategic networks. While teleologically, the ethos pushed towards the incorporation in the humanitarian practice of initiatives that could help re-defining societal relationship towards a re-construction of the economic and social fabrics, it implied more stringent contractual mechanisms, monitoring and reporting techniques, normative guidelines etc. By development, the humanitarian agenda meant the “sustainable process of self management that has economic self-sufficiency at its core, and rests on the vision of conflict as a consequence of under-development. Households – instead – are seen as free and self-contained economic agents that – with some “access to functioning markets and sufficient human and material resources” can aim at “reproducing themselves and security the social- wellbeing of their members (ibid. 100-101).

1.1.2.2 The Wicked Game: the practitioner's literature on humanitarianism and politics

This extensive strand of literature has widely documented how the practice of humanitarianism has been influenced by a limited set of voices – particularly those emerging from powerful elites within state apparatuses/large international organizations and NGOs. Apart from humanitarian interventions – where governments and security actors have taken control sided by humanitarian agencies – this was also noted more narrowly in the field of humanitarian aid. The modalities through which people in need of assistance are identified, for instance, as well as the means of providing aid are also the “purview of a humanitarian elite. This has resulted in a narrowing of the debate of humanitarianism to a specific focus on interventionism, with the scope of the argument limited and the empowering of particular voices” (Christie 2017, 45).

The end result has been the (de)politicization debate on humanitarian aid, with the increasing preoccupation on the capacity of states to dominate the terms of humanitarian assistance in conflicts. Within this broad category lie studies adhering to multiple disciplinary schools – from practitioner perspectives (see e.g. Donini et al 2004, Donini 2012) to academic diagnoses of the application of ethical principles of humanitarian aid and their consequences for aid delivery. Starting from the latter, Barnett (2005, 2009), Mac Farlane and Weiss (2000) lament the politicization of humanitarianism that has been increasingly reduced to the voice of the needs of states and local/global elites. Some complain the erosion of independence humanitarian aid suffers from politics (Barnett 2009, 623), arguing that at the essence of humanitarian aid lies the intention to relieve suffering as an act of humanity, and in application of the principles of impartiality, humanity neutrality and independence. Regrettably, the argument goes, the intrusion of states into humanitarian aid endeavours neutralizes ethical considerations, subjugating humanitarian action to the geopolitical interests of dominant states (Barnett 2009, Rieff 2002).

In *the Golden Fleece*, for instance, Donini (2012, 2) names instrumentalization the use of humanitarian action as a “tool to pursue political, security, military, development, economic and other non humanitarian goals”. His definition refers to the “misuse” of humanitarian action – providing examples of the “blatant abuse and distortion of relief operations to achieve political objectives – often antithetical to humanitarianism and lead to increased rather than reduced mortality. But they also include manipulations arising from the convergence of interests between aid workers, their organizations, around agendas related to globalization, peace-consolidation, nation-building etc.... or

how humanitarians themselves manipulated governments, international organizations --- in support of lofty partisan or institutional objectives”.

Donini (2012, 3) clearly warns against the identification of a golden age of humanitarianism – a purist period in which “core humanitarian values took precedent over political considerations”. He goes as far as arguing that “the challenges of the value of humanity impartiality, neutrality and independence” may “seem more pronounced because they are most studied, but are not caused by the new threats” posed by current crises. At the same time, he highlights how humanitarianism as a *system* has grown substantially, both in economic and substantial terms. With greater possibilities came greater power – “the power to raise and move resources and personnel, to decide when and where not to intervene, to influence government and the media. Humanitarianism has become part of global governance if not government” (Ibid. 3). This aspect shows similar traits with what Duffield has highlighted above. In particular – according to Donini, Humanitarianism has become “a global fig leaf that covers up for global misgovernance – the collective unwillingness or inability to prevent conflict, to address the plight of millions”.

However – except for such claims – Donini’s analysis is helpful in that it creates a typology of actors, pressures and types of instrumentalization present in a classical crisis setting. Regarding the actors, these can listed (although non exclusively) as Donors, Government, Media, Third party military, Humanitarian Agencies (NGOs, and IOs). Non-State Actors include rebels, warlords, diasporas, all the way down to civil society, private contractors, to the affected population. The pressures exercised by these actors to pursue their *agendas* are two way – meaning, both top-down and bottom up. Donors may exercise pressure on Civil Society Organizations, but the latter may exercise similar pressures on donors – framing issues and risks. Commenting on the “two ways of instrumentalization flows”, Donini notes (2012, 5) that for instance “donors may subordinate the provision of funds to humanitarian activities to their own political agendas, while at the same time being influenced, or manipulated, by the perspective and leverage of aid agencies on the ground”. Coming to the nature of the instrumentalization, he notes how the exploration of “objectives and outcomes” is “murky”, with roles and responsibilities of actors – particularly of international NGOs – difficult to categorize.

Yet, he states that it is possible to distinguish among active, passive and default instrumentalization. The Active type consists of humanitarian help overtly denied by belligerent or donors to a particular group. The criminalization of life-saving assistance to areas controlled by groups defined as terrorists by the international actors is an example (Donini, 2012, 6). Passive instrumentalization can be more subtle – such as through “seductive co-option”, with NGOs accepting funds for projects that are parcel of a security agenda, or institutional growth and development – at the expense of independence. “the

pressure to raise and spend funds and to ensure the continuation of projects can constitute instrumentalization by default. The top-down and supply-driven nature of the system can lead to other forms of instrumentalization” (Donini 2011, 8-11). Lastly, there is the instrumentalization by storytelling – in which media representations influence the way responses are organized, providing simplified narratives of causes and avenues that are functional to the advancements of specific understandings of war and crises (Ibid 12).

1.1.2.3 NGO Motivation

Although grown as a separate strand of studies, a third avenue for research that has concentrated on the Behaviour of NGOs specifically is the one that seeks to inquire into the motivations driving NGOs in programming. Here, three major positions can be identified. A first position in the scholarship of transnational activism firstly emerged in the 1990s, and was mostly interested in understanding the relevance of non-state actors, within specific fields such as conflict resolution, human rights – which actually claimed to adhere and advance universal principles in a world dominated by states. As such, this first strand emerged with the mainstreaming of constructivist scholarship – with its emphasis on norms – into International Relations. Coherently, this first scholarship identified International NGOs and transnational networks as agents in the international system, promoting the diffusions of norms and principles. In particular, this was applied to the study of the process of institutionalisation of norms at the global level (Price 1998, O’Brien et al 2000), as well as with the cooperation/clash with local actors while implementing norms domestically (Hertel 2006, Schmitz 2006). From such angle, NGOs apply a specific normative/ideational power through the mechanisms of socialization and persuasion (Rodio and Schmitz 2010). The general view surrounding this strand of scholarship was the emergence of a global civil society (that includes NGOs) based upon shared liberal norms and values (Finnemore 1996, Keck and Sikkink 1998).

A second contrasting position contested, instead, the relevance of norms and ideals as driving forces, and focused instead on the material incentives and constraints relevant for NGOs. In particular, their (sometimes dysfunctional) behaviour can be explained through the examination of “constraints and incentives produced by the transnational sector’s institutional environment” (Cooley and Ron 2002, 6). Some have pushed the argument as far as drawing a parallelism between NGOs and firms seeking private gains (Bloodgood 2011). This line of reasoning, however, sees NGOs as organizations acting in competitive markets, needing to secure resources for survival, therefore constantly seeking fundraising. These pressures on organizational survival pushes NGOs in favour of competitive rather

than cooperative practices, to the extent that they may find necessary to trade off their guiding principles for their financial security (Cooley and Ron 2002). The growth of the global aid market, and the marketization of relationships between resource providers (e.g. Donors) and resource contractors (NGOs) have created forms of relationships that are seen as the cause of dysfunctional behaviour. As stated by Cooley and Ron (2002, 13), “when an organizational survival depends on making strategic choices in a market environment characterized by uncertainty, its interests will be shaped often unintentionally by material incentives. We assume NGOs behaving similarly to other organizations, internalizing values, goals and methods of their institutional environment through imitation and isomorphism. The more that non-profit groups attempts to secure and maintain contracts under market-generated pressures, the more they will copy the structure, interests, and procedures of their for-profit counterparts”. They also add that NGOs’ “embedded[ness] in market-based institutions created by contracts between donors and INGO contractors [implies] Donors [as] seek[ing] their effective implementation of projects and contractors preoccupied for organizational survival”. To conclude that, “[Being in] the business of implementing programs, security contracts is the best way to remain solvent” (Ibid. 2002, 14). From here, the actual focus of their argument, the explanation of dysfunctional behaviour on NGO side: “Self-interested action, inter-NGO competition and poor project implementation” can be explained, from this perspective, through a political economy approach that focuses on “principal-agent problems, competitive contract tenders and the presence of multiple principals (Ibid 2002, 13).

Looking more in depth at these factors, starting from the first, short term contracting creates multiple agency problems. “in all relations of authority, an agent’s fulfilment of principal’s directives cannot be taken for granted, and donor-principals face the problems of hidden action and information. Because contractor-agents often have de facto control over a project’s resources, they will try and guide the project so that it promotes their own goals”. Particularly, “if the project is not going according to the donor’s plan, contractors may conceal, withhold, or distort information harmful to their interests”. Importantly, being the project renewed after initial evaluations, contractors have “little incentives to report failing or inappropriate projects”. On parallel, when facing renewal pressures, contractors will be “reluctant to report recipients’ opportunistic behaviour unless donors can credibly guarantee that they will not terminate or reduce funding” (Ibid. 15-16).

Regarding the second, short term competitive bidding is a “powerful institutional constraint” for NGOs. Donors initiate “projects with semi-public tender(s), which contractors then bid on”. On their side – contactors “incur significant start-up costs”, from which they can recover only by “securing additional contracts”. Since NGOs are frequently threatened from market competition to lose

contracts, they are “under constant pressure to renew, extend, win new contracts regardless of the project utility”. As a consequence – “securing new funding is an ever-expanding part of the NGO function, pushing other concerns, such as ethics, project efficacy or self-criticism to the margins” (Ibid 2002, 16).

Lastly, multiple principal problems arise when “multiple donors or contractors compete for the same project”. In fact, parallel to the growing number of contractors, the organization’s position within the market will grow insecure. As a result, some organizations seek to undermine competitors, conceal information and act unilaterally; “this generates project duplication, waste, incompatible goals and collective inefficiencies, contrary to what we might expect from the behaviour of normatively driven and robust global civil society, cooperating, pooling resources and sharing information” (Ibidem 2002, 17).

The conclusions drawn from this perspective provide interesting implications for our analysis. Financial considerations might be more pressing than liberal norms when it comes to decision-making. “Competitive environments create institutions that not only systematically shape the behaviour of donors, contractors and recipients” but they “also inhibit cooperation” (Cooley and Ron 2002, 36-37). Of course, the author concedes, “many NGOs are motivated by normative agendas. Insecurity and competition, however, often push them to behave in rational and rent-seeking ways. As scholars of institutional isomorphism have long suspected, organizational environments have powerfully homogenizing effects on their constituent units [...] when placed in market-like settings”, NGOs are likely to behave like for-profit organizations. “they behave consistently with agency theory precisely because they have entered into contractual relations and thus have disparate preferences”. In conclusion, in light of such ‘structural contradictions’, “opportunism, may be a rational response to institutional configurations of material interests, not an inherent characteristic of individual NGOs” (Cooley and Ron 2002, 36-37). Organizational survival, then, motivates choices of organizations selecting or ignoring causes (Bob 2002), so that those selected will be for the financial propensity of donors and media resonance, rather than on an principled evaluation of the needs (Ron et al 2005).

While the two perspectives discussed represent the major theoretical perspectives through which NGO motivations have been analysed, a third middle-ground position comes from Mitchell and Schmitz (2014). Departing from exclusionary logics that see NGOs as *either* motivated by a logic of appropriateness – case 1: constructivist studies– *or* by a logic of consequence interested in organizational survival – case 2: rational choice political economy – the authors claim that “resource dependence, financial incentives, government contracting practices and competition for resources [do not necessarily] undermine the principled character of NGO, [forcing] them to sacrifice their social

missions in the pursuit of financial security. [...] Economic environmental factors do not necessarily pervert the principled nature of NGOs, but function as exogenous constraints within which NGOs act in pursuit of their missions” (Ibid. 2014, 489).

Accordingly, NGOs behave following a logic of “principled instrumentalism”, as “organizations instrumentally pursue their principled objectives within the economic constraints and political opportunity structures imposed by their external environments” (Ibid. 2014, 489). Thus, “a principled orientation” is rooted into “the objective functions of organizations” – so that NGOs define “self-interest in terms of the national pursuit of organizational effectiveness. Funding concerns are salient to leaders, but they constrain the distribution and magnitude of principled activity rather than undermine it” (Ibid. 489).

Motivated by a desire to move over the rationalist Vs constructivist divide, the authors acknowledge how in the IR literature the two approaches are increasingly seen as complementary rather than contradictory; moreover, they acknowledge how recent scholarship on NGOs has started to move binary divides, focusing either on variation in national origin, or internal organizational structure (Ibid. 491). In sum, drawing from the authors above, principled instrumentalism hypothesizes a logic of action of constrained optimization, in which the objective is the achievement of programmatic goals, though conditioned by the exogenous constraints imposed by the environment, and where financial resources are a core constraint rather than an objective or an irrelevant fact (Ibid. 492).

From this perspective, for NGOs goals are expressed in their principled mandates; the financial needs are seen as “salient”, but as a “constraint rather than an objective”: goals, in fact, are not adjusted in response to resource availability”. “Peer organizations”, in addition, “are seen as potential partners to augment organizational effectiveness” rather than direct competitors for resources. Lastly, the concern is with “over safeguarding their organizational missions, and are less preoccupied with the possibility that peer organizations may reduce funding availability” (Ibid 492).

Principled instrumentalism then sees NGOs as strategically deciding about where to invest resources effectively, in a trade off between two functions: programming – i.e. developing projects – and fundraising. In the short term, they will balance between meeting the beneficiaries’ needs and allocating funds for organizational growth – a necessary function for long-term effectiveness. In addition, considered the magnitude of NGOs services worldwide, organizations will “converge on strategies that accommodate perpetual organizational growth”. This “may appear instrumental in the short term, as organizations expend resources on fundraising at the expense of current programmes, but in the long term such investments may help sustain higher levels of programme spending over future periods”. Thus – as said – the objective is the maximization of organizational effectiveness,

which the authors define as the “extent to which [leaders] make specified level of progress toward their predetermined goals” (Ibid 501.)

While in a “static environment NGOs would spend all their resources on programmes, since there is no possibility for a return on fundraising” and actually, in a “dynamic, long-term environment fundraising investments may result in greater long-term impact through positive future returns even though they necessarily reduce current programme spending” (Ibid 501). In reality, the majority of NGOs are engaged in “persistent issues”, requiring long time-frame perspectives, so implying multiple decision-making sessions regarding the trade-offs between fundraising and programming. The empirical reality – so to say – is characterized by NGOs engaging both in programming (principled behaviour) and fundraising (instrumental behaviour). The instrumental feature of their decision making regards their “rational internal decisions about resource allocation between programming and fundraising so as to maximise long-term organizational effectiveness”. Yet, they are also principled “in that their objective function maximises the organizational effectiveness”, since “principles determine the objective function, while its external environment determines its financial constraints”. From this perspective, then, NGOs are “constrained optimizers”, “they rationally maximise long-term organizational effectiveness given exogenous financial constraints” (Ibid. 501).

1.1.3 Conclusions

The overview provided here has concentrated on two macro-strands, within which we distinguished multiple sub-sets of studies. In light of understanding how NGOs decides in their programming, we firstly reviewed the scholarship of governance. Classic governance studies, with their application to areas of limited statehood provided interesting insights on the functioning of governance structures. Their policy orientation has nevertheless implied a focus on the relevance of international institutions – and agencies – in supplementing the weakness and dysfunctionality of local institutions. This normative stance has nevertheless the shortcoming of downgrading both the role of local agency – particularly that of local institutions in shaping the (changing) structures and modes of regulating authority under the conditions of fragility. Secondly – it neatly downscales the importance of agency of NGOs, as well as their role where international institutions lack.

To partially fill this gap – we reviewed the second sub-set of governance studies, that on hybrid governance. This is relevant in bringing to the fore the role of local institutions, their relevance for the construction and change of structures of authority where formal institutions are challenged or substituted, and for governance formation processes. However, it critically lacks of either

comparative studies, or of sufficient empirical investigations/confirmations of their propositions. Moreover – the interplay between formal-non-formal actors, in contexts where economic resources are presents is also somehow marginal – although it could be extremely helpful.

The third strand of studies thus elaborated on such themes. The participation of non-state armed actors to existing governance structures, or their role in the development of governance structures, is at the core of both security privatization and to rebel governance studies. The first focuses mostly on the principal agents problems that the externalization of security functions to private contractors creates in relation to the provision of public goods in governance structures. The second tends to highlight the role of state-making trajectories undertaken by non-state actors, more or less deterministically. This second strand seems particularly influenced by Tillyian conceptions of state-making of non-state actors, and on the conditions that favour the transitions between roving to stationary bandits. Furthermore, NGOs are seen as legitimacy-multipliers for non-state actors. However, this strand does not fully account for why certain NGOs decide to operate in rebel-held areas (while others do not); and on which considerations are formulated by NGOs with regards to their (non)interaction with rebels. Similarly to the classic governance studies – NGOs are seen as a homogeneous family, with similar processes of decision-making, un-inquired strategies of governance participation.

The first and the third sub-set of analyses tend to be mostly systemic. They tend to focus on the mechanisms through which either international institutions can be more effective at creating governance structures that regulate the provision of services, or non-state actors can be predicted at being more accountable towards their constituencies and effective in the provision of services. The second tends to be less policy oriented, and more descriptive – complementing the picture of service delivery in fragile settings by highlighting the role of those formal institutions that are often neglected by governance studies. At a minimum – as a group, governance studies can be seen as highlighting the centrality of institutions in shaping the behaviour of organized groups in fragile settings. However – they tend to oversee the diversity of practices implemented by non-state humanitarian actors, therefore leaving in the black-box the factors that had contributed to the making of such practice diversity.

This is why we resorted to the second macro-set of studies, on humanitarianism, which has dealt more extensively on the relationship between humanitarian action and governance. As we have seen, within this field, three major strands emerge.

A first school focuses critically on the changes taking place within global governance structures, and explores their relationship with political orders. It is mainly composed by sociological studies that inquiry the changes in the modus operandi of international humanitarian institutions in the last three

decades. Through the mechanisms highlighted, this strand highlights the isomorphic pressures towards the standardization of practices and policies, describing the assumptions gradually establishing in the humanitarian international community, the mechanisms of control to avoid (not always un-problematically) principal/agent problems. In addition, it highlights the roles played by the platforms through which such normative and resource frameworks move and spread globally. Yet – it tends to focus on the role played by the agents of international institutions and western governments in shaping such agenda, thus leaving to the margin the study of how third-non-state actors have participated to this. What kind of role NGOs have thus played, how local actors/institutions respond, as well as which implications such (counter)movements play for global governance structures could be elaborated more.

In a somehow similar manner, the second sub-set into a “wicked” relationship between politics and humanitarianism. This is mostly a practitioner’s scholarship, which hints to similar mechanisms of isomorphism in terms of policy pressures, and focuses on the risk that humanitarian aid became instrumentalized for political reasons, so compromising its ethical commitments. Scholars, in fact, tend to advocate for the re-establishment of an autonomy space between pure humanitarian actors and political projects/policies. From this perspective, this strand again highlights the pressures towards isomorphism in terms of practices put for systemic factors (resources, political priorities etc), but tends to fall into the same issue affecting former studies – namely that of taking (humanitarian) NGOs as a homogeneous group of actors with similar orientations, roles, functions. Both of these strands provide essential insights to understand the relationship between different actors in governance structures, and on some of the processes that unfold. However, their systemic focus leaves out of the picture the empirical reality characterized by different strategic choices adopted by different organizations against similar structural conditions; moreover, it seems to under-estimate the effects that bottom-up pressures may exercise.

Regarding this latter point, more insights are provided by the third strand reviewed – that inquiring the motivations driving NGOs programming. Scholars tend to study which are the mechanisms of internal resource allocations and classical positions emerge. According to a first – norms orientations of NGOs motivate decisions on global campaigning. A more critical second position, financial security concerns and political economic institutions are seen as driving ‘opportunistic’ behaviours of NGOs in their campaigning. The debate spawn from this last strand of studies remains open, though, with recent scholarship taking intermediate (and more realistic) positions in-between ‘purist vs cynical’ perspectives of programming.

But as we have seen – the key questions of determinants programming, the processes of decision-making, of international NGOs remain mostly under-researched in this literature. Accordingly – from the next paragraph to the end of this chapter – we will construct a model of humanitarian decision-making under the conditions of fragility that can account for the complexity of the issue at stake.

1.2 The Theoretical Framework

Thus – the persistence of gaps in the study of decisions within NGOs has implied the need to study forms, strategies and decisions of engagements in governance settings in crises. The following paragraphs are devoted to this. I start from the definition of the context. I take a political economy approach that highlights the role of institutions in humanitarian crises. I present the issue of institutional multiplicity, and how this multiplicity touches the ground in the work of strategic complexes – macro networks of actors. I then suggest that the interaction between actors in strategic complexes follows a negotiation logic, in which different perspectives, institutions and priorities are advanced from multiple sides. Multiple types of actors to better advance their relative interests in such networks then often capture the language of humanitarian aid. The processes taking place in such complexes then contribute in determining the contextual boundaries of humanitarian aid in crises. But – when it comes to NGOs, programming both internal and external factors are considered by managers for programming. NGOs decide with the intension to maximise their long term goals, given the environmental constraints. Learning is thus the process through which NGOs develop their programme under the conditions of uncertainty.

1.2.1 Institutions, governance and the political economy of humanitarian crises

The next paragraphs will focus in sequence on the following. 1) the overarching framework drawn from political economic studies applied to civil wars. 2) the centrality of institutions – both political and economic – in political economic analyses – and the issue of institutional multiplicity. 3) Governance when statehood is limited, and the governance significance of institutional multiplicity.

I start by framing my theoretical perspective firmly into the political economy through of civil wars, war economies and post-conflict peace/statebuilding. Scholars such as, Keen (1998), Menkhaus (2007), Reno (1998) and others have analysed civil wars looking at the ways in which they alter the relationships between state and market institutions, and how such interaction during civil war creates specific patterns of behaviour that tend to persist in the aftermath of war. Looking at international state-building interventions, Berdal and Zaum (2013, 4) remind us that the term political economy broadly refers to both the description of the close relationship between economics and politics, and

to the application of methodologies of economic research into political issues. Civil wars give rise to new structures of economic and political power/authority, competition over economic resources bring some actors on the rise, while others on decay, all of this spawning into “new forms of interaction between the political and economic life” (Berdal and Zaum 2013, 4).

In such regards, Keen (1998) and Cramer (2006) have challenged views that regarded civil wars simply as the breakdown of political orders, regressions in the development path, suggesting instead that internal conflicts bring with them processes of re-ordering, including the emergence of alternative political orders dominated by re-structured relationships between economics and politics. With such observations in mind, still from a post-conflict state-building perspective, Berdal and Zaum (2013,4) urge on understanding political economy as “econmpass[ing] the relationships between formal and informal economic and political structures in post-conflict environments”. The focus, therefore, is on “formal political and economic structures, as well as with the alternative systems of power, profit and protection rooted in war and conflict, but certain to have mutated adapted and survived into the post-conflict phase”. This focus allows grasping both the active role played by the end users of international support (MacGinty 2011), and the fact that international support “itself forms an important part of the political economy post-conflict state-building (and that by extension, the policies and actions of outsiders feed back into and do themselves play a critical role in shaping the character and dynamics of conflict ridden societies) (Berdal and Zaum 2013, 5). I borrow this line of thought, assuming its practicality in light of the aim of understanding humanitarian aid decision-making related to service delivery in conflicts, without the condition of re-constructing state institutions.

With this assumption in mind, I follow Berdal and Zaum (2013,5), who claim that post-conflict political economy entails the investigation of three dimensions: 1) the institutions and structures of the formal state, which are reformed and supported by external actors. 2) the informal structures and actors which precede and/or emerge during the conflict (such as warlords, clan/tribal structures, criminal/smuggling networks). 3) the international presence, that exercises state functions and (intentionally or not) participates in the politics and conflicts of post-conflict countries.

Institutions do not cease to exist with the outbreak of civil wars; civil wars bring with them processes of institutional evolution – that imply change, emergence and/or death of institutions regulating political and economic life (Cramer 2006, Keen 1998). Institutions, therefore, are not lacking – rather “poor development of state-monopolized institutions leads to situations where multiple normative systems prevail and hybrid institutions evolve”. As a consequence, post-conflict societies often feature intense forms of institutional multiplicity (DiJohn 2008) in which state, sub-state, and supra-state institutions figure in complex and fragmented landscape (Hilhorst and Jansen 2010, 10).

As DiJohn (2008 33) described, “institutional multiplicity is a situation in which different sets of rules of the game, often contradictory, coexist in the same territory, putting citizens and economic agents in complex, often unsolvable situations, but at the same time offering them the possibility of switching strategically between one institution to the other”. Accordingly, such situations can be described as coexisting spaces between multiple sets of institutions, emanating both from the state, from customary systems, from markets, from NGOs (DiJohn 2008). Such institutional context is exacerbated by the fact that territorial or functional spaces of humanitarian aid – either the physical enclaves in which humanitarian services are delivered, or the thematic areas of service provision that should be competence of the host government – are often the stage of territorial contestation between competing rulers, governments and armed groups (Mampilly 2011, Kalyvas 2006, Weinstein 2007). Not only institutional orders tend to be multiple, fragmented and coexisting/competing in humanitarian settings, but their existence tends to be associated with the existence of competing sources of political/military power, as well as structures of authority.

Such interaction leads to governance relationships/arrangements between formal, informal, supranational, sub-national actors of multiple types – armed, non armed, private, public etc (Van der Haar and Heijke 2013, 99). Boerzel and Risse (2010, 189) remind us how “most of the world’s current states contain areas of limited statehood”, in the sense that central authorities do not control the entire territory, do not fully possess the monopoly over the means of violence, and/or have limited capacities to enforce and implement decisions”. Yet, even in such cases where there is not the usual mechanism of the shadow of hierarchy working to induce non-state actors to cooperate for the provision of public goods, specific sets of institutions regulating the political or market environment can reformulate a set of incentive structures for service provision to take place (Boerzel and Risse 2010, 189).

The absence of the shadow of hierarchy – the more or less explicit threat to sanction deviations from institutionalized patterns of behaviours can be substituted by functional equivalents (Boerzel and Risse 2010), that can be summarized as alternative institutional settings that provide credible incentives and threats for actors to cooperate in the absence of strong state institutions. In the plurality of the functional equivalents, some work as top-down mechanisms, others are identified as emerging from below. Amongst the top-down, clearly the external compensation for limited statehood is one example. In this scenario, external actors such as International Organizations or foreign governments can step-in, providing public goods, or “substitute for a lacking shadow of hierarchy and commit non-state actors to engage in governance, the external shadow of hierarchy” (Ibid. 2010, 190). Other forms of institutional settings that can contribute to “effective governance” instead emerge from below: Socially Embedded Markets, for example, may create “reputational incentives for non-state actors to

contribute to governance” (Boerzel and Risse 2015, 7-8). More in general, suffice here to say that according to the literature on the topic, areas of limited statehood are seen as productive of alternative forms of sanctionary/benefitting mechanisms, composed by institutional sets that frame the set of incentives for actors to cooperate and deliver collective goods.

At the same time, the typical case of humanitarian action is one in which territorial control is contested, so that multiple formal and informal “spheres of governance coexist and intersect” (Meininghaus 2016, 1458). In terms of governance, networks, actors constellations and institutional structures are diverse and interact either in the form of competition, cooperation, hybridization. In such circumstances, humanitarian aid cross-cuts such divisions, and operates in both types (formal and informal), delivering life-saving services both in government and rebel held areas (Ibid. 1458).

Institutional theory is helpful here in explaining the governance significance of the work of humanitarian aid NGOs (Ibidem). Institutions – such as those regulating humanitarian aid – can have both stabilizing or de-stablizing effects on policies and markets. In particular – following Hall and Taylor (1996), any institution is going to operate on a stage populated by social, political and economic actors, and will inevitably play a role in either stabilizing the status quo, or promoting socio-economic change. Operations undertaken by humanitarian organizations ground on a set of initiatives – such as access negotiations, needs assessments, recruitment, interaction with civilians – that “entrench” the global side of networks, with the local side of the governance. They also make organizations part of the local governance systems, which are extremely diverse in civil war settings, because of the high number and high variation in the type of actors present (Meininghaus 2016, 1458). Because of their ties with such hybrid political orders – in which the access and management of social, political and economic resources is parallel to the negotiation over statehood (Hagmann and Plecard 2010) – humanitarian organizations will have an impact on the system in place, by reinforcing or undermining it (Meininghaus 2016, 1458)

1.2.2 Actors and Strategic Complexes

At first, a relevant aspect for NGOs is understanding how – following Duffield (2001) – *strategic complexes* of global governance are interested in responding to the specific case of humanitarian crisis. Duffield recalls that such networks have a role in providing both the cognitive/normative frameworks, as well as the operational capacities for NGOs in framing their responses to humanitarian crises.

In terms of their functioning, relevant actors operating in strategic complexes at a global level – namely humanitarian/development agencies of resourceful governments, UN agencies and/or missions – have gradually crafted a new regime, a set of demands regarding expectations and obligations imposed on sub-contractors. Motivated by a (not unfounded) concern with limiting harmful consequences for beneficiaries *and* conflict dynamics, “the view that humanitarian aid entrenches underdevelopment and conflict has motivated a thickening of governance relationships”. Thus – in order to minimize damages while at the same time maximise beneficial processes, experts working for donors and humanitarian international organizations have developed a growing set of contractual arrangements, new forms of partnerships in project design, implementation and monitoring, new consultative mechanisms and fora. All this has allowed donor governments to remain active and operative even while scaling down from direct involvement in service provision in conflict settings, through their capacity to consolidate political authority throughout such non territorial networks. This process – that hints to the relevance both of the political authority and the financial opportunities in shaping contemporary humanitarian responses – has provided governments with a significant power in controlling humanitarian agendas (Duffield 2001, 81-82).

Besides such technical forms of control, these strategic networks have increasingly adopted a *modus operandi* that has increasingly abandoned equidistance from political parties. While classic humanitarianism emerged based on the conventional distinction between people, army and governments, the increasing internal nature of contemporary conflicts in which humanitarian NGOs operate has progressively blurred distinctions amongst belligerents, between belligerents and civilians, governments and rebels. In this sense, contemporary conflicts exhibit similar features of complexity with the strategic complexes of “liberal peace with which they conjoin and articulate”. With this, they bring new questions to the principle of neutrality that has been for long at the forefront of humanitarian action: “when people, army and governments are interconnected, it is difficult to be neutral”. Not only it could have unintended consequences, but its very nature – if one looks at how resources are mobilised, which beneficiaries will (not) be reached, which compromises does access negotiations entail – is essentially political (Duffield 2001, 87). From this perspective, humanitarian action is not a substitute for political action, it is itself a political action (Duffield 2001, 87). In conclusion, the successes of operational neutrality could be attributed to the presence of a strong (political) will of donor governments to maintain an open (humanitarian) political space – “an overarching political framework within which warring parties could be encouraged to consent”.

Yet, governments of developed countries rarely agree on interests and conditions that would allow the creation of system-wide operations, and have increasingly reduced such attempts. As a consequence, some amongst the members from above of these strategic networks have been compelled to look for autonomous negotiations for access.

The third foundational element of the functioning of strategic complexes is the consequentialist ethic (Duffield 2001, 90). Particularly after the relevant critiques brought to the humanitarian system regarding the consequences of humanitarian action, strategic complexes increasingly balance a rights-based ethic with a teleological ethics “that is concerned with future consequences and outcomes (Duffield 2001, Slim 1997). In particular, Slim (1997,8) recalls how “ethics becomes the complicated and uncertain processes of anticipating wider outcomes and holding oneself responsible for events well beyond the present time”. Thus, an ethical framework for decision making that brings to the fore the analysis of potential consequences on the individual and/or on societal level.

1.2.3 Humanitarian aid as Arenas of institutional multiplicity.

Humanitarian aid does not operate in a vacuum. Multiple (and/or multi-level) institutional arrangements, and organizational interactions provide the basic cognitive, normative, operational frameworks constituting the structural governance backdrop in which humanitarian crises unfold, and that serves as points of reference for humanitarian organizations to navigate crises. As Hillhorst interestingly notes (2013, 9) crisis responses are as much about the efficiency in the use of technology and resources, as they are social and political phenomena: “[they] are shaped by the people, institutions, and history in which crises happen”.

In fact, crises are situations requiring extraordinary measures from the outside of societies, but they are “likely to create tensions between central authorities and populations” as well – with central authorities struck in the tension between their responsibility to protect their population, and their interest in strengthening their grip over territories and population, increase their legitimacy in ways that may “have little to do with the urgency of the situation”. All of this is compounded by the fact that “in cases of political conflict, the dividing lines between legitimate authorities [...] and contested authorities who are challenged by equally legitimate opponents is very thin” – with the provision of international legitimacy conferred by international actors often working as a critical weight in such balance (Hillhorst 2013, 9).

This points to a central element in the study of humanitarian crises. Even in the direst cases, crises and their responses never happen in *institutional* vacuums: “[they are] institutionalized in very many and often conflict ways”, where “conflicts and disorder are breakpoints of social order [...] but they are also marked by processes of continuity and re-ordering, or the creation of new institutions and linkages” (Ibid. 2013, 9). Conflicts do not necessarily imply the destruction of institutional settings, even at the local level. Research has extensively demonstrated how even in the persistent absence of states, institutional settings emerge, coalesce, strengthen and/or change, either in governance forms (Menkaus 2007, Boerzel and Risse 2010), in forms intertwining global with local forms.

Yet, international responses to humanitarian crises are often ideally associated to the delivery of life-saving services from international organizations according to the principles of impartiality, neutrality, independence. (Hillhorst and Jansen, 2013, 188). Both academic and practitioners’ literature refer to it through the concept of humanitarian space. Spearin (2001, 22) defines this as “an environment in which humanitarians can work without hindrance and follow the humanitarian principles of neutrality, impartiality and humanity”. Such operational space is multifaceted, having namely both a “physical and metaphorical” connotation. For the first, it refers to the spaces, objects, people of humanitarian action – e.g refugee camps (Hillhorst and Jansen 2013, 188), or detention centers, where humanitarians deliver basic services. On the metaphorical side, it refers to the “manoeuvring space for humanitarians to work without fear of attack” (ibid. 2013,188).

Rooted in a Dunantian conceptualization of assistance to civilians in international conflicts, the notion of humanitarian space has acquired centrality in humanitarian assistance. Yet, its effectiveness has been widely questioned – as we have seen above – with authors often pointing to the co-optation, instrumentalization, and diversion of aid for military/political ends and how they impact on conflict duration, or operational security of aid personnel (Hilhorst 2013). Interestingly, Kleinfeld (2007,174) notes how – both from practitioners and academic perspectives – the critical voices regarding the political interference in the humanitarian space are often “ungirded by the taken from granted assumption that humanitarian spaces and relations can and must be separated from politics”.

At the center of this discussion stands the question of how the language of humanitarian space is used by different actors in crises – and how this interacts with crises dynamics. Hillhorst and Jansen (2013, 188) outline that as a language and principles, the idea of humanitarian space is both from above and below used “strategically or tacitly to advance or legitimize their interest, projects or beliefs”. From below – humanitarian assistance “contributes to the legitimization of political actors by allowing authorities to fulfil their social and material obligations, or by lending recognition to territorial

authorities through cooperation and negotiation”. From above - the humanitarian language is used by humanitarian agencies themselves, while seeking political legitimation, “presenting themselves as void of political or territorial context”, “hid[ing] their self interest and their intended or unintended political role” (ibid. 188).

If then the humanitarian discourses as used both for the operational capacity of service delivery and for legitimation processes , it becomes pivotal to understand who gets access to the space and how; which legitimacy is conferred to whom, and by which means, who will be the target of aid and why, how resources will be allocated in practice (ibid. 188). Resource allocation, the politics-needs tension, actors strategies and positioning can be best captured, along this line, conceptualizing the humanitarian space as an *arena* (ibid, 189).

An Arena is a social space “where actors negotiate the outcomes of aid. Social recognition encompasses any kind of strategy, including coercive behaviour, statements, formal interactions or schemes employed in the shadows. The realities and outcomes of aid depend on how actors along and around the aid chain,..., interpret the context the needs, their own role and one another”. Grounded on an “actor-oriented approach” this idea assumes social actors as reflecting upon their experiences and their interaction with the context, as well as they use their knowledge and capabilities to interpret and respond to their environment (ibid. 189). In humanitarian arenas, actors display different behaviours over time, driven by multiple motives, grounding on one’s own re-elaboration of inputs related to the context, the needs, and on their interaction with others (ibid. 189). What configures a humanitarian aid in crises – from this perspective, the actions and actors – cannot be determined a priori, nor “are the principles that qualify as humanitarian established in advance. Regarding the first, services in humanitarian contexts are provided by multiple types of actors – such as UN agencies, NGOs, the private sector, the military. As for the second, principles are socially negotiated, acquiring meaning in practice. Although universal, principles are interpreted differently by different actors, are context-dependent, and work out differently in practice. “they only became real through the ways in which service providers interpret them and use them in their everyday practice”, being “partially negotiated with reference to other principles that are important for service delivery” (Ibid. 190).

Yet, in terms of motivations, such perspective concedes that a range of drivers can underpin the conduct of humanitarian actions, such as (geo)political motivations, organizational politics – or it can be influenced by infra-organizational differences – such as organizational cultures, structures etc. In sum, in the analysis of the much less known interaction between such elements, how they influence each other can be understood better from the analysis of the daily routines, the practices of the frontline workers, how they understand and organize their daily work (ibid. 190).

1.2.4 NGOs as Principled Instrumentalist Actors

NGOs are private, self governing, mandate oriented, non-for-profit organizations that work for the improvement of the living conditions for the most disadvantaged individuals (Vakil 1997). They take difficult decisions, weighting amongst opportunities and constraints related to potential welfare services, in a context that relates to choices regarding the well-being, if not the life and death of human beings. This is compounded by the frequent violent nature of the political confrontation in which they are considering to operate. In other words, the selection of humanitarian projects regards difficult choices around the questions on what the organization can do, where, how, and then if to continue or not (Heyse 2006).

Yet, if the discussion above highlights the role of the external institutional environment in creating barriers and avenues for cooperation, the literature on NGOs rightly points to the need for looking at their “inside”, to understand how they will partake the delivery of lifesaving services in civil wars. In other words, they have to face themselves at the mirror and clarify what are they going (not to) work on, and why. As such, operations face several obstacles (Cuny 1983, Smillie 1995), that include both factors related to the local context, such as the current needs for status, the problem of access (see e.g. Perdegast 1996, de Wall 1997), the multiple and fragmented nature of national and or local counterparts (Heyse 2006). The international context – such as the expectations and requests posed by international donors and partner organizations (e.g. the EU, the US Government, the UN) (Weiss and & Gordenker 1996, 32) – the expectations of the public at home and, last but not least, the organizational constraints (such as the expertise and human resources, the mandate, the budget and funding) (Heyse 2006).

For the purposes of our analysis, here I will draw on the major insights provided by the literature on NGO motivations at a global level. As noted above, the first strand of studies on NGOs in IR looks at them as norm entrepreneurs in a state-centric world. This constructivist scholarship focused specifically on the role of transnational networks as carriers of principles and norms, and on how – within such networks – NGOs promoted the institutionalization of norms – i.e. if they clashed or cooperated with multiple actors at a global or local level in the implementation of norms or policies (Mitchell and Schmitdz 2011. 490).

Principles here play a crucial role. They are fundamental for understanding the establishment and power of NGOs, define what is (or is not) acceptable and determine the beginning of campaigns. Lastly, principles integrate into social networks determining their functioning – so that the activists are motivated by principled aspirations – rather than profits and power (Mitchell and Schmitdz 2013).

On the contrary, other rationalist scholars have instead focused on the role of material incentives in promoting and hindering NGO behaviours. Market opportunities and bottlenecks shape NGO responses, considering their primary survival need. Pressures of organizational security, coupled with the institutionalization of a precarious financial system determine self-interested behaviours intending to prioritize organizational survival, and rational interests in (re)producing solutions that are palatable for donors more than they are effective; moreover, they determine a system of incentives that favours dysfunctional behaviours and monitoring issues. On the top of this, this perspective suggests, principles and ideational commitments will be compromised whenever a trade-off requires a balancing exercise between aspirations and organizational needs (Mitchell and Schmitdz 2013).

Clearly, then, such two visions rest on different understanding of the (determinants of) NGO behaviour. On the one hand the role of structural norms prevailing in the (institutional) environment, and how they influence behaviour. Ideational determinants are pivotal in explaining behaviour, along with an emphasis with a social ontology and a logic of appropriateness (Mitchell and Schmitdz 2013). On the contrary, for rationalists it is the economic self interest, and a logic of consequence will be useful in explaining (Mitchell and Schmitdz 2013).

It is also true, however, that a growing consensus is emerging regarding the complementary nature of ideational and rationalist accounts in IR. Growing academic interest is developing on other determinants for decision-making, such as organizational structure or organizational culture. What is relevant, however, is the fact that recent literature has pointed to the theoretical consistency of complementary approaches. I refer specifically to Mitchell and Schmitdz (2013, 501), who demonstrate how “most of NGOs (at a global level) are engaged with persistent issues (i.e. repeated in time) that require more than one round of (the two core NGO functions) – programming and fundraising”.

Programming can be described as the set of activities directed to the development and implementation of projects targeting the immediate needs of beneficiaries, while fundraising is the allocation of enough funds to sustain organizational growth; both activities are necessary for improving long term effectiveness (Ibid. 499). Because at a global level the needs of services provided by NGOs is so vast, organizations will converge on “strategies that accommodate organizational growth”. Thus, while internal investment on fundraising may appear instrumental in a short term – as it curtails the portfolio

of resources available for programming – it may provide returns in the long run – increasing the availability of resources for future programmes. Caught in between these two activities, NGOs try to maximise long term organizational effectiveness – defined as the “extent to which NGOs make progress toward their predetermined goals”: this then depends on the level of programming”, since it is “proportional to the magnitude of the impact it creates through programming (ibid. 500)

Organizations simultaneously engage with programming – an element of principled behaviour – and with fundraising (instrumental, rational behaviour). However, evidence suggests that it is inaccurate to equate instrumentalism with unprincipled behaviour, or self interested resource acquisition. Instead, NGOs are instrumental in that they make rational internal decisions about resource allocation between programming and fundraising, so as to maximise long term organizational effectiveness. They are also principled in that their objective function maximises long term organizational effectiveness. In essence, principles determine its objective function, while its external environment determines its financial constraints. NGOs can be thus understood as classical constrained optimizers. They rationally maximise long term organizational effectiveness, given exogenous financial constraints. We term this principled instrumentalism (Mitchell and Schmitz 2013 501).

Areas of limited statehood, then, are far from being ungoverned (Boerzel and Risse 2015). They are social environments characterized by multiple coexisting and competing institutional settings, in which operate external interveners, such as humanitarian NGOs. Institutions can be of different types, either those that emerge from the local level, and those that touch the ground along with interveners’ boots. For the first, institutions can be those that have ruled social and functional spaces before the institutional crisis, and those that have never been formalized but have remained operative. In general, social communities tend to draw on their history for regulating social life during crises (Lund 2006). Armed groups governance strategies are also dependent on the institutions regulating state-society relationship before the crisis, as well as resource availability (Mampilly 2011, Weinstein 2007).

As for the second, international organizations intervene in social, political and economic ways, becoming part of the local set of relationships, but also bringing with them their baggage of institutional frameworks that they attempt to re-produce locally (Berdal and Zaum 2013, Mac Ginty 2011). This takes place in humanitarian crises – with respect to human rights standards and protection of refugees and asylum seekers – in complex crises – political missions also respond to state-building and/or political mediation mandates – consolidating state institutions, while at the same time coordinating humanitarian aid as to promote so-called coherent strategies. States, through their departments also partake such processes, advancing programs and agendas in response both to humanitarian needs and their political interests.

In such contexts, humanitarian responses become arenas in which multiple types of actors compete to frame the realm of what is possible and permissible, in the attempt to develop an understanding of needs, problems and solutions that can best maximize their legitimacy and serve their organizational politics. Negotiations not only shape the “outcomes of aid” – problems identified and responses proposed/adopted. They actively influence the very process of re-construction of statehood, bringing about competition/coexistence/hybridization between institutional systems, thus determining the ways in which political orders (re)emerge during crises. On parallel, actors negotiate their position into governance systems, their legitimacy, and/or the adaptation to local contexts of internal organizational features (e.g. the adaptation of international norms, values, organizational principles etc). Negotiations in such arenas are carried out by networks of strategic actors. While for its focus on global governance, Duffield focuses on the international side of such networks – which promote western inspired institutional isomorphism across different settings.

I depart from this concept, simply to include the national aspect. I refer, in particular, to the fact that strategic networks at a national/local level include the active participation of crucial actors from local/national authority structures. Focusing on the ways in which the international component of networks operate, strategic actors behave constrained by tight contractual relationship that allow international donors to control international and non-governmental organizations; in addition, their a-political stance is often questioned by the increasing involvement into local politics, particularly when they select specific local counterparts as partners for state-building. Lastly, a consequentialist ethic frames the logic of action – one that balances the principles of humanitarian aid focused on needs and impartiality, with a consideration of the consequences in governance and political terms of their choices.

Against this background, recent scholarship sees NGOs as principled instrumentalist actors. Two core activities of NGOs are at the heart of their involvement in service delivery, programming and fundraising. Such two activities respond to two different logics. Fundraising is a cost for the organization, but allows future programming through the generation of resources that can be spent for future projects, organizational growth etc. This is – therefore – a self interested activity that responds to a rationalist logic. Programming is, instead, a principle-inspired activity, one in which the organization intends to respond to specific service delivery gaps in governance settings, by developing projects that can provide life-saving services. The two types of activities from this perspective are complementary, since NGOs maximize long term organizational effectiveness – the accomplishment of organizational goals – given the specific sets of organizational (here intended as financial) constraints (Mitchell and Schmitz 2013).

1.2.5 Humanitarian Aid Organizations and Programming Learning

What remains to be seen – however – is to understand the ways in which decisions are taken in selecting scopes, domains of interventions, and means in volatile environments. Decisions on service delivery are complex and account for multiple features. I here develop an heuristic framework based on the learning theories of organizations. Such a framework sees NGOs as repositories of political knowledge – that is knowledge regarding interests/preferences, beliefs and opportunities provided both externally and internally. Internally, such knowledge is co-determined by both immaterial factors, such as the organizational culture, values and by the organizational experience available within the organization etc. and by material factors, such as the means, the people working etc. Externally – by (changes in) the (inter)national institutional environment – both local and global, political and economic.

The literature on organizational learning is extremely vast and varied; moreover, although the concept of organizational learning is widely accepted, no single model or theory has so far acquired undisputed dominance in the theory (Fiol, C.M., and Lyles, M.A. 1985). As Argote reminds us (2013, 31), researchers have extensively debated in the past on whether organizational learning should be considered as a change in “cognitions” vs “behavior”. This confusion dates back to Simon's 1963 pioneering work (Fiol, C.M., and Lyles, M.A. 1985, 803). What is important to remind here is that organizational learning has been seen as consisting of the “development of insights on the one hand and structural and other action outcomes on the other. One is a change in the state of knowledge – not clearly perceptible; the other often involves a change more easily visible in terms of an organizational outcome”. Moreover, these processes often occur simultaneously, which makes their distinction as complex as important (Fiol, C.M., and Lyles, M.A. 1985, 803). As a result of this confusion, the literature has referred to learning in terms of mere actions, or as new insights or knowledge, or new structures, or new systems, or as combinations of some of these (Ibid. 803).

The relevance of these aspects of the debate has anyway declined in recent years, since the idea of learning as a “change in the organization's knowledge that occurs as a function of experience” has reached a widespread consensus (Argote 2013, 31) more concretely, learning has been seen as “the process of improving actions through better knowledge and understanding” (Fiol, C.M., and Lyles, M.A. 1985, 803).

Learning is therefore a vital process for organizations, one which, through the accumulation of experience translated into knowledge, allows organizations to improve their performance. Implied in the concept of learning, there are two basic dimensions which must be considered (Fiol, C.M., and Lyles, M.A. 1985, 806). The first refers to the content of learning, which is both cognitive and behavior development. The content produced by the process of organizational adaptation has been seen in the literature as the “patterns of cognitive associations developed by the organization's members” – the cognitive development – or alternatively as the “behavioral outcomes that reflect the patterns and or the cognitive associations that have been developed”. What is deemed as fundamental, however, is to consider cognition and development as distinct since, besides being two different phenomena, they do not necessarily represent an “accurate reflection of the other”(Fiol, C.M., and Lyles, M.A. 1985, 806). In other words, there might be behavior without cognitive associations, and viceversa. Additionally, while too much stability can lead the company to stagnation, the opposite – extensive changes in behaviors along protracted times – can turn into an overload for the members of the organization (Fiol, C.M., and Lyles, M.A. (1985, 805). What is implied in this line of reasoning is that to properly speak of learning there must be a level of cognitive development involved in the process of adaptation. More in general, at the same time, learning and adaptation result from a combination of cognition and behavior.

The second important dimension implied in the concept of learning relates to the 'level' of learning. Generally speaking, the literature identifies a hierarchy in the levels of learning, and the distinction has been advanced between so called 'low level' and 'high level' learning. Low-level learning “occurs within a given organizational structure, a given set of rules. It leads to the development of rudimentary associations of behavior and outcome, but these are usually of short duration and impact only part of what the organization does. It is a result of repetition and routine and involves association building [...] The desired consequence of lower level learning is a particular behavioral outcome or level of performance” (Fiol, C.M., and Lyles, M.A. 1985, 807). This is similar to what Argyris (1976) called 'single-loop learning', identified as a process that maintains the central features of the “theory-in-use” of an organization – the set of rules – and restricts to detecting and correcting errors within a given system of rules. High-level learning aims at adjusting, on the other hand, not only specific activities and behaviors, but rather the overall rules and norms on which the organization is founded. Associations generated by this type of learning have long term effects and impacts as a whole. It is more of a cognitive rather than a behavioral process.

While the literature on strategic management seems to emphasize the importance of high-level learning for the organizational alignment to the environment and survival, I will stress the importance of single-loop learning in the specific cases I will analyze. Applying this theoretical discussion to our topic and assuming the set of 'general rules' as fixed, one possible hypothesis sees NGOs as crafting country-level programming through a single-loop learning. Learning, intended as the development of organizational knowledge – is then a process in which individuals operating within the organization absorb inputs related to beliefs, interests, material opportunities, conflict and political dynamics from their environment. Individuals, on parallel, assess such constraints and opportunities provided by such institutional environment against an evaluative framework that grounds on internal elements – such as the experience that the organization can resort to, the set of values constituting the internal understanding of the organizational mission, its culture.

1.2.6 Learning in action

How does exactly learning occur? Here I propose a framework drawn from the authoritative work of Argote (2013, 32). The framework here I present is in a simplified version, but it maintains the core components originally proposed by the author. A snapshot of Figure 1 (from the author) facilitates the understanding of the discussion. This figure depicts the ongoing cycle of organizational learning, through which “task performance experience is converted into knowledge.” (Argote 2013, 33). The experience from task performance interacts with the contexts and creates knowledge. The knowledge “flows out” of the organization into the environment, as well as it changes the organization's context, determining future learning (Ibid 33).

Learning always takes place in a context that includes both the organization and the external environment. The environmental context includes elements that are outside the boundaries of the organization, such as competitors and governments. It can vary along different dimensions, such as volatility, uncertainty, interconnectedness, and it affects the experience the organization acquires.

On the other hand, the organizational context includes elements such as structure, culture, technology, incentives goals, strategies, or the relationships with other organizations, such as alliances and joint ventures. More specifically, the organizational

FIGURA 1 - LEARNING FRAMEWORK (ARGOTE 2013)

context can be distinguished in active and latent. Through the active context, which is constituted by the organization's members and tools interacting with the task, the learning process actually occurs. It is the active context which takes actions and performs tasks. Conversely, the latent context – constituted by elements such as organizational culture, degree of specialization, structures – operates indirectly, through the influence on the active context. The latent context affects “learning through its effects on the active components of members, tasks and tools”. It “determines the “organization's task and the tools available to perform” it (Argote 2013, 40). Each of the above mentioned components - experience, context and knowledge can be broken down along various dimensions. The identification of these sub-units of the different components is not just a purely descriptive activity. The sub-units – which will be screened in the following paragraphs – actually influence the learning process of organizations. To adapt the Argote’s discussion with the case at hand, I take inspiration from the elements identified, and propose a selected set.

Looking first at Experience, this can be either direct or indirect. The 'Directness' relates in first place to whether the experience is accumulated directly from its focal organizational units – such as the project/programme manager, the head of mission – or indirectly, from other organizational units (Argote 2013, 36). But this notion can be broadened to include whether the experience has been accumulated directly from the organization, or from the observation of other organizations. While different studies have shown how organizations can greatly benefit from their direct experience, or from their indirect experience separately, one open issue that remains to be clarified concerns the relationship between the two and, particularly, “the conditions under which direct and indirect experience complement or substitute for each other” (Argote 2013, 36). Nevertheless, while on the one hand a strong hypothesis derived from organizational learning literature relates to the need of keeping distinguished direct-learning from 'vicarious-learning', on the other hand the literature has produced a weaker hypothesis according to which learning from direct experience should be easier and more frequent than learning from vicarious experience (Reiter 1996, 33).

Additionally, a unit for task experience can be success or failure, where organizations can learn drawing from both (Argote 2013, 36). For some researchers, learning processes are biased for the tendency to re-propose positive examples or experiences (Denrell and March 2001). Others have instead emphasized the importance of failures as push factors for learning, being sources of strong motivation for search and understanding (see e.g. Haunschild and Sullivan 2002 or Sitkin 1992). Here evidence does not provide unitary evidence. Argote suggests that a look at motivations can “reconcile these disparate findings on learning from failures”, meaning that “when the failure is very serious [...] organizations are very motivated to learn from failures. On the other hand, if the stakes

are not very high or if organizations are invested in the failed activity [...] learning from failure occurs less frequently” (2013,37). Lastly, the geographical concentration of experience matters: “geographically distributed experience poses challenges to organizational learning, but also provides opportunities for accessing new knowledge” (Argote 2013, 38). On the one hand, geographically dispersed units can have access to more access than those geographically concentrated. On the other, geographically concentrated units tend to create shared understandings that promote the flow of information and the interpretation of experience (Argote 2013, 38).

I now turn to look at the components of the context relevant for this study. As previously said, the organizational context has been divided into two components, the latent and the active. Starting from the active context, this is defined as the set of members and tools operating in a organizations. In particular, the 'members' of the organizations are those partaking to programme operations in Libya at different level – from the remote field offices to the Head Quarter level.

The latent organizational context, instead, “affects learning through its effects on [...] members, tasks and tools”. Here, organizational culture and the organizational structure are crucially important factors. Organizational culture, defined as the set of “shared learning experiences that lead, in turn, to shared, taken-for-granted basic assumptions held by the members of the group or organization” (Schein 2004, 22), has received considerable research attention for its effects on learning. More in depth, the culture of an organization may take concrete form in the “overriding ideologies and established patterns of behavior” and therefore consists of the “shared beliefs, ideologies and norms that influence organizational action-taking” (Fiol and Lyles 1985, 804). Culture provides bases to make predictions on the actions that organizations may take; in fact, an organization’s strategic posture can be closely tied to its cultural background, since beliefs systems can influence strategies and directions of change: this is because “norms will influence the behavioural and cognitive development that the organization can undergo. In turn, change and learning often involve a restructuring of those broad norms and belief systems” (Fiol and Lyles 1985, 804).

Organizational Structure is here interpreted as the “extent of decentralization”. Decentralization is seen as positively related with learning (Fiol and Lyles 1985; Argote 2013, 42). the more organizations have decentralized structures of decision-making, the more they are seen as capable to learn from experience. “A centralized, mechanistic structure tends to reinforce past behaviors, whereas an organic, more decentralized structure tends to allow shifts of beliefs and actions” (Fiol and Lyles 1985, 805), or alternatively “decentralization enable an organization to explore solutions and thereby prevents it from prematurely converging on suboptimal solutions, which is valuable in uncertain environments” (Argote 2013, 42).

The last element to be analyzed is Knowledge, the outcome of learning. This takes the forms of changes in behaviors or cognitions; it can be declarative – knowledge about facts or know what – or procedural – knowledge about procedures or know how (Argote 2013, 48-9). Interestingly, knowledge flows out the organization into the external environment and remains into the organization, spread by the members of the organizations and affecting future learning (Argote 2013, 48). The flow out of knowledge of organizations is an interesting fact: actors in the external environment observe changes in procedures or behaviors of firms and adjust accordingly. Beyond that, another observation can be made. Argote uses this metaphor “patient might receive a new treatment from which the medical staff of other hospitals could learn” (Argote 2013, 34) but alternatively, it could be said that observing the treatment provided to that patient, other patients could exercise pressures on the other hospitals to receive the same treatment.

Chapter 2

Research Design and methodology

This chapter proceeds as follows. First, connecting the previous theoretical chapter to the empirical part, it provides an overview on how the multiple variables identified before have been operationalized for field research. Accordingly, the first step is the creation of a typology that could help identifying potential cases for research. Secondly, I proceed with identifying the objects of inquiry – the ‘indicators’ of different determinants that have a role in decision-making. Third, I move to introducing the Case Study Research Design, with specific reference to the type of Small N Comparative Case Study, that I select for this research. After motivating to the description of Process Tracing, I review the methodology adopted for gathering and analysing data. Thus – I describe the qualitative nature of the data collected, and the techniques selected for obtaining data.

2.1 Operationalizing the Research Variables

2.1.1 A typology of NGOs

NGOs contribute to welfare implementing specific projects. Any project identifies areas of intervention and specifies its objectives. Projects then highlight the specific pattern of activities necessary for the accomplishment of those objectives. In other words, NGOs set up specific practices, upon which they rely for their contribution to welfare in humanitarian crises. What is theoretically and empirically interesting to explore is whether different types of organizations engaged in the same sector elaborate internal-external inputs in a similar way, and whether the governance implications of their routines are (dis)similar. To do so, we need to create a typology of NGOs that could help us to frame a set of propositions regarding the trajectories in which learning processes will unfold over time.

Weiss and Gordenker (1995, 376) developed a twofold typology for describing the two main potential roles NGOs can play. A first type identified is the “operational NGOs” – “involving the delivery of emergency relief” – the “most numerous type, have the easiest fund-raising tasks and are central to international responses to internal conflicts. The delivery of emergency humanitarian services is the most prominent item in most NGO budgets”. In accordance with what noted before – against a growing reliance on NGOs as sub-contractors, on behalf of donors and governments, this role of sub-contractor increases the risk of compromising their autonomy. The second type of NGO is the advocative and educational NGO, seeking to influence citizens. Through this activity, then, they aim to raise “new resources, as well as [influence] new governmental policies, . . . , or international regimes. [Or] they can reinforce the norms promoted by intergovernmental organizations through education campaigns [attempting] to make states more accountable to their international commitments” (Ibid. 377)

While interesting theoretically, this categorization can be at best understood as an ideal type – as the reality on the ground is mostly mixed, with organizations demonstrating to have one dominant character over others. Taking the case of Libya, for instance, while the Danish Refugee Council has mostly uniquely operated as “operative organization”, it had released as part of its project activities a report called “Risking Lives for our Daily Bread” – an advocacy-oriented output aimed to produce an influence on the wider policy community of mixed migration in Libya.

Interestingly, Vakil (1997) develops a typology of organizations based on two “essential descriptors”. First of, their orientation, namely the type of activities the organization performs, being them listed as welfare, development, advocacy, development education, networking and research and their level of operation (Ibid. 2063). Second of, the level of operation. This can be proxied with the level of operations – namely the international, the national, and the community level. In addition to these basic indicators, she add other contingent descriptors – such as the sectoral focus – and evaluative descriptors (e.g. accountability etc.). Accordingly, the argument goes, differences in orientation, level of operation, sectoral focus, evaluative descriptors might account for differences in structures, operating procedures and management of NGOs (Ibid. 2063).

Both categorizations serve here as framing grounds, but can be adapted to a better understanding of the determinants and causal mechanisms bringing NGOs to change (or not) service delivery. To do that, I identify a comparable ground selecting a group of homogenous operational organizations in the terms proposed by both Weiss and Gordenker (1996) and Natsios (1997). They are operational, in the sense that they send expatriates on the field, and they ideally have a specialized welfare orientation, which is typical in emergency relief operations. Yet, even within this category, it is possible to identify a set of features which differentiates them, upon which to create a typology.

Elaborating further differentiations within the category of NGOs is important for our purposes. In fact, the arguments of institutional isomorphism, according to which NGOs are expected to converge upon common practices in humanitarian aid (Stroup 2012), either through the normative-ideational mechanism (Finnemore 1996), or the financial-security (Ron and Cooley 2002) process, are challenged by a continued diversity in practices (Stroup 2019, 9). Some (see for a brief review Stroup 2012, 9) have focused on national origin to explain diversity, though others (see e.g. Heyse 2011) have contested this argument, noting the diversity in decision-making strategies of same-country organizations.

In its contribution *Evolution without progress*, Michael Barnett (2009) argued that the ways in which humanitarian aid agencies and organizations responded to the new security and humanitarian challenges emerging in the 1990s depended on a combination of both non-material and material elements.

First, he suggested, organizational responses could be influenced by a diversity of non-material elements related to their “humanitarian” Identity (ibid. 2009: 625). Although from different perspectives, such as political theory (see e.g. Weiss 1996) or practitioners perspectives (see e.g. Donini 2012) other authors note the persistence of differences in the normative frameworks *internal* of organizations. According to Barnett (2009, 627), while humanitarianism concerns the desire to

relieve suffering of strangers, organizations diverge in their understanding of *which suffering matters most, and how to address that*. Some organizations are grounded on humanitarian institutions that want to relieve suffering writ-large, such as poverty. Others focus only on those that are at severe life-threatening risk. Some organizations, then, intend to relieve suffering in emergency and non-emergency settings, addressing both symptoms and causes of suffering, and treat independence and neutrality as guiding principles rather than “axioms”. Barnett refers to this type of organizations as Alchemical – in that they intend to “tackle symptoms and causes” (Ibid. 637). On the other, emergency organizations limited themselves to relief operations. This is a first level of functioning of ideational factors on organizational behaviour; it is a less tangible one, and more deeply related to elements of the organizational culture, “that shapes the kinds of changes the staff believe are consistent with their identities” (Ibid. 632). Organizational Culture (Schein 2004) is here intended as the “pattern of shared basic assumptions learned by a group”.

Yet – there is also a second most visible and tangible level of non-material factors, that consists in the (different types) of the rules codified and institutionalized in the mandates, or social missions, of organizations. This usually reflects the first level of non-material factors. As Slim and Bradley (2011, 2) recall, in the humanitarian discourse mandates contain “the values, the forms of legitimacy and mission of agencies”, therefore representing the internal institutions regulating NGOs functioning. While facing the pressure emerging in global governance networks to integrate relief and development operations as emerging since the late 1990s (Duffield 2001), NGOs organizations have responded differently, developing and or codifying (different) internal norms (Slim and Bradley 2011). Usually, NGOs tend to be self-mandated – “set-up by private initiatives seeking public support”, though they are usually “recognized, registered and regulated by states”. Secondly, mandates contain the technical professional field of operation of organizations, thus reflecting either its field of expertise or its target group (Slim and Bradley 2011, 2).

Some agencies are specialized – e.g. in children, health, civilians, *or* human rights, while others become multi-mandate organizations, covering multiple technical field of expertises – such as health *and* education, *and* children, etc (Slim and Barley 2011, 3). The technical specialization is considered as a critical dimension of the distinction between specialist and multi-mandate organizations. The second dimension relates to the scope of their humanitarian intervention. “Single mandate” agencies, such as the ICRC and MSF, operate “only with a emergency humanitarian mission based on international humanitarian law and humanitarian principles”. MSF in this sense is exemplar as single mandate organization – as it limits to emergency relief *and* to the health sector. “Multi-mandate agencies”, such as Save the Children, codify norms that allow them to operate not only in relief, but

also in addressing longer term issues of poverty, human security and social justice, therefore adopting also developmental functions (Slim and Bradley 2011, 3).

Slim and Bradley (Ibid. 5) elaborate on this by saying that such difference then corresponds to two different ethical goals permeating the humanitarian programming. Humanitarian relief has “a narrow, quick and reparatory ethical goal – such as bind wounds, stop hunger. Its aims and values are largely palliative, restorative and protective”, and it is designed so “that vulnerable people can survive in dignity in severe circumstances”. On the contrary – “the forms of development that multi-mandate agencies promote seek to develop the full potential of a person/community”. Thus, it has a “broader, accumulative creative ethical goal. It sets out to plan, design, reorganize, empower”, “development actors address root causes, transform societies, advocate” (Slim and Bradley 2011, 6). Hence, not only this difference in ethics and purpose creates cultural clashes between organizations, but it also poses questions of institutional (and governance) partnerships. Developmental activities require, more than relief operations, formal associations with official structures and ministries. They also tend to benefit state parties more (Macrae and Harner 2004, 13). Programme directions – such as strengthening governance capacities, improving infrastructural systems etc. – may give decisive advantages and legitimacy to particular sides in the conflict (Slim and Bradley 2011, 7).

This theme overlaps with the classical distinction in organizations provided by Stoddard (2003) between Dunantist and Wilsonian organizations. Dunantist organizations – so called for their formal adherence to the principles of impartiality, neutrality and independence after Henry Dunant – stress the principles of impartiality and are more likely to take critical stances with multilateral and/or national institutions (Stoddard 2003). Wilsonian organizations (adhering to the principles formulated by the American president Woodrow Wilson) are more familiar with principles of cooperation with governments and institutions, as well as with multilateralism (Stoddard 2003).

Therefore, the first dimension of the typology is created from what said above relating to the normative frameworks of organizations. Keeping constant the field of engagement – since all organizations are operational and are engaged in the same sector – and placing aside the national provenience dimension, a first dimension in the typology I propose relates to the normative frameworks of organizations. Organization are different in terms of their normative commitments, broad multi-mandate internal institutions inspire some of them, more focused single-mandate frameworks drive others.

The second dimension of our typology regards instead material factors, particularly economic resources. Barnett suggests that humanitarian organizations are different also in their relative resource dependence towards the environment (2009, 628). Both scholars of organizational theory (see e.g. Cooley and Ron 2002), and sociological institutionalism “treat the environment as the locus of selection” of organizational behaviour; “organizations largely depend on their environments to provide resources they need to survive, reduce organizational insecurity and accomplish their goals” (Barnett 2009, 628). “Material resources are then fundamental for organizations to pay employees and their technologies, but symbolic resources are also needed to be perceived as legitimate (Barnett 2009, 628).

A major source of resources in the humanitarian environment is provided by the State; states have both the diplomatic, political, military and financial resources that can hinder or further humanitarian action. States’ attention to humanitarian concerns in the post-cold war is often owed to a “re-calculation of the relationship between their security interests and humanitarian disasters”, a slippery relationship that can bring humanitarian organizations to become instruments of “hearts and minds” campaigns to conquer the support of local populations. Yet, because states define their humanitarian priorities and practices through the perspective of their national interests, aid agencies may find themselves torn between their and the state’s conceptualization of humanitarianism. This particularly regards the principle of impartiality, with states increasingly defining beneficiaries and modalities of aid. With more agencies, then, competition for funds increased, with greater pressure for the adoption of practices consistent to the interests of states (Bennett 2009, 630). Although all organizations need to secure resources, and although material dependence on environments characterizes all organizations, what is critical is the organization’s relative dependence on funds, and whether interests between states – international organizations – non-governmental organizations coincide (Barnett 2009, 631). Evidently, the interaction between the conditions identified creates a multi-faceted scenario in which organizational trajectories of programme development reflect varying degrees of autonomy in decision-making (Barnett 2009, 631). While all organizations aim at being autonomous, “the less autonomous they are, the more beholden they are to outside actors who might use their leverage in ways that potentially threaten the organization’s goals, principles and rules. Accordingly, autonomy is a subsidiary goal for organizations, and organizations who resist their environment will enjoy more decision-making discretion and greater flexibility when choosing how to respond to new contingencies” (Barnett 2009, 631).

From this discussion, I develop an NGO Typology along two axes as elaborated below. This brings out a two-by-two matrix in which I desume 4 ideal types of organizations, each of which will follow a different trajectory of programme development.

Financial Autonomy		
Private Sources (independent)	Principled Carpenter	Critical Entrepreneur
Donor Funds (Dependent)	Contracted Carpenter	Runner-fixer
	LRRD (Wilsonian)	Emergency Relief (Dunantist)
	Mandate-Cultural Orientation	

Table 1 – Learning Trajectories of Programme Development

The x axis relates to the discussion on ideational factors. I suggest that a first criterion on the ways in which NGOs orientate their programme development is influenced by how the NGO conceives itself. The active context, and here namely the management of the organizations is expected to reflect on the range of possible actions basing on an internal discussion on what the internal institutional setting proposes as operational avenues. All organizations will go through a *balancing* between institutions, but the outcome of this process will be different.

The more organizations develop internal institutions - both in their organizational mandates and in the organizational culture permeating the active context – an orientation towards a broad range of possibilities that link first emergency responses to longer term solutions, the more they are likely to engage with a consequentialist thinking that links project activities with institution-building or governance-building considerations. Such codification is more likely to take place in organizations in which the active context is shaped by a Wilsonian culture. Together, these conditions may bring the management (at Headquarters and or field level) to integrate in their programme considerations that account for the interaction between multiple governance institutions outside the organization. In other words, LRRD organizations are more likely to be part of broader state-building or governance building endeavours promoted by donors and the international organizations. Conversely, Emergency organizations are expected to be more focused on the first setting of responses interested in relieving suffering, regardless of the institutional counterpart that is necessary for the achievement of this objective. In emergency oriented organizations the focus on improving access to *human rights* should acquire primacy over governance-institutions building consideration. Moreover the adherence to the principles of humanity, impartiality and independence is more likely to take place in emergency

organizations. This brings me to expect that the active context of emergency organizations will adhere more neatly to Dunantist ideals.

The second axis relates to resource autonomy. While all organizations need resources to survive, how the organization generates resources – whether from governments, agencies or private funds – is expected to influence the autonomy decision-making.

The management of organizations that have scarce financial autonomy, are expected to have low levels of programme autonomy. When they reach out for funds, and propose actionable solutions to problems, they will bargain with the donor/international agency on how to make their proposal operational. In this process, they are expected to develop programme trajectories that carefully consider the institutional imperatives provided by the organizations funding them. This, in particular, may relate to institutional requirements in terms of beneficiaries, means, institutional partners etc. Conversely, active contexts which can count on private sources for project development are expected to have greater levels of programme autonomy. Their decisions related to service delivery, then, are expected to be less dependent on the institutional frameworks that fly with the money of international institutions. However, they may still account for national, local institutions for access considerations.

According to these premises, there are 4 different types of Organizations that is possible to delineate. Each type of organization is assumed to follow a specific trait of programme development that mirrors the combination of conditions.

First of all, If NGOs have LRRD (Wilsonian) orientations, and are financially dependent on public funds, then they may act as contracted carpenters for governance structures. Their programme is expected to incorporate institutions dominant in the organizations that finance their programmes, or the mainstream institutions regulating the interactions between international agents. Their service delivery will be significantly influenced by the preferences identified by the financial contributor. Thus – from a governance perspective – they act as carpenters: through their service delivery they both contribute to the well being of beneficiaries, and they contribute to construct, consolidate or articulate the net of relationships between governance actors.

In the second case (up, left) they may work in similar ways – but with a substantial increase in autonomy. Theoretically, this may imply that organizations still work to the development of programs that link short- to long-term responses, therefore integrating political considerations. Their “principled” nature can be traced to their financial independence, which may allow them to be more autonomous in deciding which institutions to incorporate, whether to accommodate the requests elaborated by the institutions of the governance structure or not, and whether to stimulate/orientate through their own initiatives the trajectories of institutional development.

In the third case, NGOs with Emergency mandates and Dunantist orientations that are financially dependent on states/donors, will restrict their range of possibilities to the delivery of life saving services to beneficiaries. They still remain financially dependent on donors/agencies. This makes likely for them to “bandwagon” broader governance orientations in emergency service delivery. In other words - like “runners-fixers” they are expected to develop programmes that maximise the emergency requests produced by the international actors, but in a manner that is consistent with their interest in being impartial and apolitical. This is perhaps the type of organization that is less likely to be encountered, particularly since in contexts in which there are integrated international missions, like Libya.

Finally, Emergency-Dunantist organization which are financially independent are expected to develop programmes in which the management focuses on the delivery of life-saving services, instead of linking relief to development. Their degree of financial autonomy also allows organizations to be more detached from the institutional imperatives permeating governance structures, in particular those of institution building. Thanks to this autonomy, they can act as entrepreneurs of life-saving service-delivery, selecting cases, methodologies, areas of interventions and targets according to the internal evaluations made by the active context. The active context will then resort mostly to internal elements, such as organizational cultural frames and experience, as well as it will be in the conditions to examine critically whether both organizational and broader governance solutions to problems match the development of humanitarian concerns.

2.1.2. Determinants of Decision-Making in the Learning Framework

In essence, following the learning framework, an NGO programme is crafted through the intra-organizational mediation of multiple elements – the inputs coming from the environmental context, the context, the experience and knowledge, and how they interact with the active context of the organization. Along these lines, the next paragraphs will identify the objects of research to be inquired during interviews or secondary sources analysis.

Following Argote (2012, 34), “Experience accumulates as the organization performs its tasks. The [...] number of task performances is typically used as the measure of organizational experience”. Adapted to this discussion, we can imagine NGOs as interested in performing multiple tasks – all related to the assistance to migrants. For example – if one organization is mandated to improve access to protection through distributions, monitoring and legal assistance, its members may need to develop

a routine that combines the tasks of reaching out to migrants, to deliver the goods, to collect information, to report that information to relevant stakeholders, to develop a legal defense etc. Thus, in relation to this variable I take as indicators in interviews the number of times in which the organization has performed each task, during time, at the different stages of programme design. Also – I consider the type of task experience, namely direct, indirect, successful, unsuccessful, geographically concentrated or dispersed etc.

Then, as Argote reminds us, the *latent organizational* context operates in organizations through its influence on the *active* context – that is on its members (Argote 2012, 34). I here consider the variable as composed by two elements as identified above. First, the internal institutions codified in the mandate of organizations Mandates codify the norms that express the long-term aims binding organizations in their operations. Mandates thus highlight the general rules that orient the organization in their programme development. The norms that interviewees report as relevant as cultural indicators of the organizational positioning. Second, I look at the elements of the organizational culture, thus at the norms that relate to the values and role of humanitarian aid in conflicts, the relationship between NGOs to political/institutional actors. As regards to culture, methodologically, it is important to find a way through which abstract ideals can be identified and tracked in the everyday managerial choices. To do so, I draw inspiration from Bozeman and Kingsley (1998, 111). In their study on (risk) culture in profit and non-profit organization, the authors suggest that “managers’ perceptions” – in that case on risks – “provide the cues on acceptable behavior” and, aggregated, with a particular role played by top-managers, create culture, (Ibid. 111). Thus, following their argument, the knowledge of managers' perception on how to approach and interact with international institutions, non-formal local institutions or national institutions, allows to shed lights on what is the acceptable organization's behavior.

For the Environmental Context, Argote describes it as “everything lying outside the organization”. Diverse elements such as governments, competitors, regulations etc. constitute the environmental inputs that “flow into” organizations. I here consider relevant to consider two inter-related aspects of the theoretical section. The institutional structure regulating migration governance, and the economic system of financial incentives and constraints.

Regarding the former, I consider the institutional framework, and how this is operationalized and implemented by multiple (global and local) actors operating on a local scale. Relevant actors can be political, security, and economic, formal and informal, grouped into specific actors constellations that together form the governance *structure* (Boerzel and Risse 2010, 114-115). Consistently – I look at the formal/informal actors, at the institutions – here defined as the set of formal and informal norms

– codified or not – that regulate their behavior (North 1991); and at the patterns of routinized behaviors, implemented by different actors – thus shedding lights also on the values, interests and beliefs contained into those practices (Adler and Pouliot 2011). On the other hand – I keep an interest also in understanding how economic constraints and opportunities, in terms of contracts, services, and market functioning – evolve over time for actors, and at which kind of relationship emerges between the economic structures and the behavior of actors involved (Ron and Cooley 2002).

Knowledge, lastly, expresses the cognition that the organization develops about itself, its objectives, its achievements and shortcomings, as well as about how its performance connects with the environment in which it operates. Accordingly, it can be observed looking at the (changes of) practices and performances undertaken by organizations with the meanings, the interpretations, the rationalization processes associated (Argote 2012, 32).

2.2 Case Study Research Design

The second step in the operationalization of the research is the selection of a Research Design. A major research goal was to explore how NGOs formulate and implement strategic programme choices, why they (do not) change, and whether similar structural conditions lead to similar outcomes. In fact, we need to get deeper insights on the under-explored operations of transnational NGOs as 'non-violent' security actors in conflicts, since their strategies have crucial effects both on themselves and on the societies in which they operate (Avant and Haufler 2012, 2). Accordingly, I opted for a case study research design.

The use of case studies is particularly adequate when dealing with what Yin (2003, 6) calls “explanatory how/why questions”, usually “deal[ing] with operational links needing to be traced over time” (Ibid. 2003, 6). The utility of Case Studies as a research design increases when the “events intended to be analyzed are contemporary, and relevant behaviors cannot be manipulated” (Ibid 7). While the techniques of analysis are similar to those employed in historical studies, they do not totally coincide – grounding on additional sources of evidence such as direct observation and interviewing (Yin 2003, 8). As a research strategy, case studies are articulated grounding on “in-depth empirical investigation of one, or a small number of, phenomena in order to explore the configuration of each case, and to elucidate features of a larger class of similar phenomena by developing and evaluating theoretical explanations” (Venesson 2008, 226).

As research design strategy, Yin (2003, 13) poses some scope conditions: case studies are “empirical inquir[ies] that 1) investigate a contemporary phenomenon within its real-life context, especially

when 2) the boundaries between the phenomenon and context are not clearly evident". Intended as a "logical sequence that connects the empirical data to a study's initial research questions, and to its conclusions", case study research designs must comprise the following components (Yin 2003, 20-21): 1) the research questions; 2) the propositions, if any; 3) the unit of analysis; 4) the logic linking the data to the propositions; 5) the criteria for interpreting the findings. If well formulated along these 5 composing elements, a case study is suited for theory development, whether the researcher intends to develop or test a specific theory (Yin 2003, 20-21) through multiple methods and the identification of causal mechanisms", resorting to or combining different methods (Vennesson 2008, 227). In this research – this research strategy allows me to investigate a phenomenon that is scarce of other data at the general level of NGO programme development, and at the specific country level of Libya. As a matter of fact – not only programme development processes are more assumed that investigated in the literature, but if we look at Libya, there is a substantial lack of information about how NGOs contribute to the life-saving service delivery in migration.

The unit of analysis relates to the "fundamental problem of defining what the case is" – a problem inevitably linked to the definition of the research question, and on the propositions formulated, if present. A case "is a phenomenon, or an event, chosen, conceptualized, and analysed empirically as a manifestation of a broader class of phenomena or events" (Vennesson 2008, 226 – cfr. E.g. Eckstein 1975, 85). In this research, the case object of study is the process of programme development identified by the sequence of programmes that – within one field – are identifiable over time.

Case studies can be of multiple types, each having a specific purpose (Vennesson 2008, 227). However, this research contains elements of what Vennesson calls as "descriptive case studies". According to the author, these are "systematic description(s) of phenomena". In social sciences, particularly in those branches focused on contributing to theory-testing or theory-building, descriptive case studies are often dismissed for their supposed lack of theoretical contribution. Yet, even such design configuration can have a theoretical background that frames the investigation and, on the contrary, all types of case studies imply a descriptive dimension. Moreover, such case studies "explore subjects about which little is previously known, or phenomena in need of an interpretation that sheds new light on known data, and their descriptive aspect is invaluable". Following this – Vennesson (2008, 227) maintains that descriptive case studies "use theoretical frameworks to provide an explanation of particular cases". In fact, properly developed theories also reflect the level at which the generalization of results obtained through the case study will take place. This is a process of "analytic generalization". Researchers focus on the units of analysis selected for their case studies, and compare the empirical results of the case study with the previously developed theory and its propositions. "if two or more cases are shown to support the same theory, replication may be claimed" (Yin 2003, 32-

33). In particular, I follow the method of pattern-matching to connect evidence to the propositions (Yin 2003, 26-27) as evidenced above. Through the evidence on programme development, I identify common themes across different interviews in which programme development is described, I highlight common/different processes and connect them to the propositions identified.

Epistemologically, case studies imply an active role of researchers along the multiple stages of data collection and analysis. “scientific fact[s are] conquered, constructed and observed”. Researchers actively “engage in casing and in so doing they hope to overcome the epistemological obstacles that stem from conventional categorizations. Secondly, case studies are “shaped by an explicit effort of theory construction. Third, case studies are not based only on assumptions about actors’ goals and preferences. In-depth empirical investigations using different types of data-gathering methods and procedures, like process tracing, are key components of case study researches (Venesson 2008, 228). Casing is the first step in case study research designs. It is a process of “rupture[ing] with conventional wisdom. Cases are not waiting out there to be studied. The process through which researchers delimit, define, and describe cases contributes to carving an aspect of reality that is different from the ways in which the phenomenon, or the event is taken from granted”. Through casing , researchers “make something into a case” (Venesson 2008, 230). Programme development then is often overlooked by researchers studying humanitarian aid, although the focus on this development allow me to open the black box of decision-making processes within NGOs, and uncover their determinants.

At the same time, casing is an act of framing. Whenever researchers engage with questions such as “what is the case of?”, they are “constructing a representation of experience or of the observation”. This points to the dual nature of case study researches, one in which the investigator is both “breaking with commonsensical representation of processes”, while at the same time “conceptualizing a problem. The epistemological rupture and the conceptualization go together. The case is defined and constructed by a theoretical approach that provides a framework of hypotheses to probe the various aspects of empirical data” (Venesson 2008, 230). Thus – I select programme development and conjoin it with the learning framework, to de-construct and re-construct the determinants of decision-making along time. How the changing cognition of the organizational priorities, boundaries and possibilities has shaped the work of the management of different organization.

This connects with the intent of theory construction, that is an inherent epistemological act in my research.. Case studies imply a “theoretical intention” that is transformed into a new terminology. The theoretical frame informs the empirical analysis, in that it helps defining both hypotheses and

data needed. In this conceptualization and comparisons, ideal types and typologies play a role (Venesson 2008, 230-231). This has been the object of the previous paragraphs. While the process of creation and revision of concepts unfolds along the different stages of the research, the “definition of the empirical category and the clarification of the relevant theoretical concepts are element[s] of the theoretical and empirical contributions of case study research, quite apart from the data generated, the interpretive insights and the capacity to evaluate theories empirically” (Venesson 2008, 230-231).

2.2.1 Cases Selection - Small N Comparative Case Study

Within the great group of case studies – this research more in particular configures as a controlled comparison of strategic decisions operated by a delimited set of NGOs present in Libya and operating in the same sector –migration. This strategy is motivated by the intention to assess differences and similarities in programme development and, therefore their field level practices.

Small N comparative case studies have numerous advantages for exploratory studies of phenomena previously under-researched. In particular, this design allows for both in-depth and within-case observation, and cross-case analysis, has a peculiar capacity of theory development, supporting the creation of theoretical instances (Slater and Ziblatt 2013). According to Slater and Ziblatt (2013: 1305), Small N Comparative studies are fit for producing empirical evidence upon which causal inferences can be drawn – balancing the inherent tension between internal and external validity claims. By internal Validity, Gerring (2007, cited from the authors above, 1305) “refers to the correctness of a hypothesis with respect to the sample (the cases actually studied by the researcher). External validity refers to the correctness of a hypothesis with respect to the population of an inference (cases not studied). The key element of external validity thus rests upon the representativeness of the sample” (Ibid. 1305).

As the authors elaborate, “when we say that a hypothesis enjoys external validity, we mean both that it holds true in more than one country case, and that the additional country case(s) played no role in helping to generate the hypothesis in question. By this understanding, when a hypothesis generated in a single country case study proves valid in any other country case study, it enjoys at least some degree of external validity. To be sure – subnational evidence can establish the external validity of a hypothesis in its standard sense, without requiring cross-national evidence” (Ibid. 1306-1307). However, resorting to small N case studies permits to “generat[e] externally valid theory that remains sensitive to internal validity” when research meets three conditions: when they “operationalize [the

object of inquiry] in terms of general variables or mechanisms”, when they seek out representative variation that attempts to mirror a broader population, and when they engage with theory to select cases that maximize control”(Ibid 2013, 1321-22).

In this sense – usually researchers start from the definition of a dependent variable, observe variations or similarities in these outcomes, and then sample their cases through theoretically informed controlled comparisons. They aim to capture representative variations in the outcomes, in the attempt to generate externally valid findings through sampling mechanisms that “mirror[s] a variation in some broader and explicitly defined population of cases”. “Strategically choosing the cases in search of representative variation can be one effective way to avoid the trap of selection bias”.(Ibid.: 1312). This sort of “clockwise” methodology starts from the identification of the outcomes – searching for representative variation in the sample. However, the empirical evidence regarding the outcome of NGO practices was substantially weak before the empirical part of my research. Except for few policy or programmatic documents produced by International Humanitarian Agencies, which broadly specified a typology of assistance in the (Libyan) Migration Governance, data on which projects were selected by NGOs across time in the post-Qaddafi was not sufficient to generate *ex ante* a strong understanding of the practices, challenges and achievements faced by NGOs.

Therefore – abiding by the exploratory nature of my research topic – I intended to move “anti-clockwise”, so to say. Having adopted a theoretical framework that drew from political economy, institutionalism and governance studies, combined with the learning framework from the economics of organizations, I tried to keep track of the major features proposed by Slater and Ziblatt for crafting strong small N comparative studies. In particular, I designed the typology of cases presented above, grounding on theoretical instances, which allowed me to identify the conditions to seek in case selection in order to maximize variation in NGOs, and explore similarities and differences in the development of cognitions and practices. This, in turn, would lead to a better understanding of the outcomes.

Because of these reasons, I selected three cases - three NGOs that have operated in Libya – Danish Refugee Council (DRC), International Medical Corps (IMC), and Mediciens Sans Frontiers (MSF) – providing humanitarian assistance to migrants in Libya in the post-Qaddafi era. DRC is a medium size organization, externally financed, operational, and multi-mandated. Its mandate is broad enough to allow the organization for the engagement in multiple sectors, with international protection being an over-arching field. And it is multi-mandated also in the sense that it covers all the emergency-LRRD spectrum. In addition – it has a global internal platform on mixed migration. IMC is also a

medium sized organization, multi-mandated since it covers the spectrum between emergency and LRRD, although it places emphasis on the support to national institutions. But – it is slightly different from DRC, in the sense that is a medical organization – thus thematically has a major focus. Yet – like DRC Is externally financed and operational. Lastly MSF – is a medium size organization, operational, internally financed, single mandate organization – the direct provision of health services – and emergency oriented².

Such organization are also the major international NGOs that have been operating in the field in Libya after Qaddafi, with the exception of the Italian CESVI.

Looking at the practices developed over time by the three different organizations in Libya allows for 'parametrizing' several conditions. Intended as the operation that allows keeping constant potentially disturbing elements, the identification of parameters is a crucial step in the control of hypotheses. This step permits to highlight “the causal conditions – the operative variables which, in a specific investigation are instead allowed or made to vary in order to assess their influence” (Della Porta 2008, 200). NGOs are seen as operating in a context which has a similar level of violence, with similar institutional constraints/opportunities from above (the international level), and similar institutional constraints from below (the national/local level). Selecting cases from the Libyan context, therefore, allows to hold all these factors – which may otherwise play a role – as constant.

2.2.2 Process Tracing

To highlight the causality between the identified variables, I resorted to a methodological instrument which “in practice has always been contained” in a small N case study: process tracing (Slater and Zibblatt 2013, 1321). Process tracing is “a procedure for identifying steps in a causal process leading to the outcome of a given dependent variable of a particular case in a particular historical context” (George and Bennet 2005, 176). Vennesson (2008, 231) reminds us that through the use of process tracing “the researcher assesses a theory by identifying the causal chain(s) that link the independent and dependent variable. Her goal is to uncover the relations between possible causes and observed outcomes” , a procedure that can be applicable both for testing and for developing theories (Vennesson 2008, 232).

² These organizations are also the major international NGOs that have been operating on migration in Libya in the post Qaddafi. A fourth organization has been interested in migration – the Italian CESVI. It was part of the original sample, but it was excluded as mostly for access reasons – the management refused to conduct interviews.

In my work, I intend to reconstruct the sequence/or the cycle of events which have led to the (re)definition of organizations' programming portfolios. In terms of data – this meant resorting to interviews, reports of International Organizations, Scholarly work, Newspapers. The reconstruction of the decision-making moved as it follows. I frame the institutional set of the political economy of smuggling by reviewing relevant literature, highlighting the role played by formal and informal institutions in shaping the behavior of (non)state actors. I integrated this part with the review of literature and primary data collected through interviews regarding the functioning of state-institutions regulating migration governance.

Then, I resorted to secondary (literature) and primary (interviews) data to highlight the role of different institutions and actors working in the international networks. This was functional for reconstructing the external environment of organizations – the institutional environment, the constraints and opportunities of the political economies around migration.

Lastly – I connected these data with the primary data generated through interviews. During interviews with NGO project/programme managers I reconstructed the sequence of factors/meetings/events that were relevant for the organizations in designing their programme portfolio. This It allowed me to connect the data regarding the external environment with that on internal factors identified by the theoretical framework, and to explore the role of each during time. In particular, I traced the processes through which the active context rationalized the information grasped from the external environment, what information was considered as relevant, and how they made sense of it, combined it with what is considered relevant in terms of task performance experience, and converted into the organization's cognition. – i.e. micro practices – *over time*. By doing this, I attempted to disentangle the complex process of decision-making, feedback analysis and re-decision.

2.2.3 Research Methodology – Qualitative Data, Method and Analysis

Data collected and analysed in this study are qualitative – that is, in their essence, “words – language in the form of extended text” (Miles and Huberman 1994, 9). Such words in qualitative research can be collected in multiple ways, such as through observation, interviews or documents, usually in close proximity to a local setting over time. Importantly, such data are not usually immediately ready, but require some processing – through transcriptions, editing ect. (Ibid. 9).

For their nature, qualitative data may present a set of issues. Words attached by researchers to fieldworks may be biased, as they may be implicitly framed according to the researcher's own implicit epistemic or ontological views. Particularly, thinking for example to interviews, it has been noted that "what we consider as descriptive first-order *facts* [emphasis original], rapidly ramifies out into the interpretations and explanations that the people being studied have, *and* [again emphasis original] into the researcher's second-order conception of what's going on – the interpretation of the interpretations" (Ibid 10).

Or, additionally, they can be mediated by the researcher's values. (Ibid. 9-10). More than behaviours, then, qualitative data refer to actions, social acts that "carry intensions and meanings and lead to consequences", which are always in a social and historical context that influences their interpretation both from their agent and their analyser (Ibid. 10). Applied to the research, I am aware that - for example - during the interviews I may have encountered the issue of the agent's ex-post rationalization of facts and events. Thus – the risk is that the information provided to me may have been biased towards a rational explanation of events, while in fact, while such events were happening, the sequence of decisions may have been lived somehow differently.

On the other hand, qualitative data come with some inherent strengths. First, they focus on "naturally occurring, ordinary events in natural settings" – offering a strong grip on how real life is like. Because they are collected in proximity to a specific setting, they provide a rich and holistic picture of a specific case embedded into a context – allowing researchers to understand latent underlying issues, and revealing the complexity of social life. If sustained over time, qualitative researches allow for studying processes of social change, "assess causality as it plays out in a specific context". Lastly, qualitative data are suited for "locating the meanings people place on the events, processes and structures of their social life – thus allowing researchers to explore the connection between their meanings and the social world surrounding them (ibid. 10). Interestingly, qualitative data are useful both for developing and for testing hypotheses (Ibid 11).

As such, data collected remain incredibly useful is considered in their whole. Information not only provides clues about field-level issues of working in a (under-researched) delicate context. But they help us to understand who multiple types of organizations develop their context-cognition in uncertain settings. Because programme development does not happen over-night. I believe that the issue of ex-post rationalization of primary data, both in interviews with NGO and with IO managers may have

been countered with context awareness, background knowledge, in order to probe information through interviewing techniques (see below).

Amongst other methods to collect data on human thoughts and actions, Russell Bernard and Ryan (2010, 18) identify both the presence of “indirect observation” and “elicitation techniques”. Regarding the first, archival data and secondary analysis are two potential options available for qualitative researches. Research on archival data is both inexpensive and nonreactive. Non-reactivity, in particular, refers to the distance between the researcher and the data, thus, a belief in the non-distortion in the collection of data. However, the original data could have been collected “reactively”, and it is because of this reason that historians adopt critical postures when they analyse the texts. Secondary analysis involves instead the examination of data collected for other research projects. Both of these methods can be seen as having some disadvantageous features. First, data contained may be affected by the authenticity problem – that is the data weren’t collected for the purpose I had, and may have missing data. Second, they may be affected by sampling problems – with some samples of the population which were not selected for reasons that remain unknown to me. Thirdly, with evidence collected on secondary data, measurement errors can plague their quality. Hence, I reckon that as long as I rely on secondary sources, I run the risk of losing control on the measurement techniques and quality of these data (Ibid 20-22).

To counter this critique, I will resort to authoritative sources, and triangulate the information with a variety of sources, inspired by a logic of pragmatism – considering that I must rely on secondary sources for treating topics that 1) could not be treated during interviews, 2) had safety and security concerns preventing me from conducting direct research. With regards to the political economy of smuggling and trafficking in the post-Qaddafi’s Libya, for example, I had to avoid taking the risk of conducting primary field research, therefore I screened much of the available literature and reports, whose information was then triangulated during interviews.

The second category of methods illustrated – and picked up for this research project – consists of “Elicitation Methods”, such as interviewing. “Interviewing, is a social process” in which researchers and respondents engage in a dialogue. Amongst the ways in which interviewing can be done, semi-structured interviews are particularly useful for social-science research for their flexibility and adaptability. With such method – informants are asked a set of “similar” questions, not identical as it would be in structured interviews. As a technique – they are based on a *interview guide*, in which are summarized a number of themes or topics, and their connected questions (Ibid 22).

In this case, following the logic of exploring determinants of programme development in conflict settings, I have developed an interview guide which examined project components. Then, at each

stage of project approval, I inquired in retrospective the institutional, contextual, internal and financial aspects that had led to their development. This angle allowed me to have – for each project proposal – an insight on the multiple dimensions constituting the organizational knowledge, and its changes, at different stages in time. In other words, I could reconstruct on the one hand how the active context of the organization dialogued with the environmental context, with a particular focus on the formal-informal relationships with the members of institutions and organizations, the role of financial capabilities and constraints. On the other hand, the role of internal determinants, such as previous experience and organizational culture, as well as the feedback effect from the environment back on the organization.

The flexibility of semi-structured interviews allows the “interviewer to modify the order and details of how topics are covered”. This clearly restricts the level of control the interviewer has on the way in which the respondent answers and approaches themes. Yet, exploring questions and themes more or less in a similar manner makes it possible to conduct cross-interview comparisons (Ibid. 27.29). Moreover, semi-structured interviews rely on a set of probing techniques. Probing consists in asking specific questions in specific ways in order to put the interviewee in the conditions to elaborate on answers and questions. In this respect it is critical to keep probing as distinguished from prompting, thus crafting probing questions in a-directional ways. In fact – the quality of interview-generated data is to avoid as much as possible the suggestion of answers by the researcher, that is prompting the interviewee answers. Instead, probing techniques are fundamental to understand the quality of data collected, since they imply a test for the data provided. They include, amongst other things, silence, providing silent time for the interviewee to elaborate. Probing also consists of Echo questions, such as repeating statements just provided, asking for further elaboration, showing that the researcher understands and encourages the informant to continue. Alternatively, probing may consist in formulating questions providing general background information and through long sentences that introduce sensitive topics in non-judgmental and non-intrusive ways (the long question probe). Such techniques are useful in setting respondents in non-defensive ways, thereby encouraging them to articulate thoughts. Lastly, Baiting – the phased assertion probe – when the researcher acts like he/she knows already something to get people to open up. “You use a piece of the puzzle [got] from one person [in precedence] to get more information with the next informant and so on. The more you seem to know the more comfortable people feel about talking to you”. (Ibid. 31-33). All of these techniques are used to check information and ask for more information, but they also mean that the structure of interviews has to be tailored to the specific respondent.

Lastly, In terms of data collection, I resort to two integrated methods. For secondary sources, I resort to systematic analyses of relevant documents of public access. In this, I resort to secondary analyses of qualitative data (Bryman 2012, 586). I review different types of outputs produced by international organizations, think tanks, academic institutions, in order to explore developments in the dynamics of migration in Libya, of the smuggling and trafficking industry, of the interaction between formal and informal collective actors in the business at local and national levels, as well as the international responses to migrants humanitarian needs.

For primary sources – thus interviews – I resort to the method of snowball sampling to select interviewees. In snowball sampling the researcher “makes initial contact with a small group of people who are relevant to the research topic, and then uses these to establish contacts with others” (Bryman 2012, 202). Snowball sampling is typically used when probabilistic methods of sampling are not feasible and when researchers face severe issue of accessibility to specific fields of inquiry (Ibid. 201), or when networks of individuals are part of the research focus (Ibid. 424). However, if matched with some theoretical criteria that can maximise the relevance of the interview against a theoretical discussion, snowball sampling can counter the inherent issues of external validity (Ibid. 424). Thus, I made my initial contacts in the field of humanitarian aid, aiming to keep a focus as much as possible on the programme and project management levels for Libya operations. Yet - I had to consider which organizations were present, and who expressed its willingness to be part of my project. In fact – I encountered some denials both within the same organization, with some project/programme managers accepting and others denying, and of entire organizations (CESVI). Lastly, while I originally aimed to have equal numbers of perspectives (i.e. organizational positions) from the different organizations, I could only partially succeed in this.

I approached project managers of four humanitarian aid organizations – CESVI, International Medical Corps (IMC), Mediciens Sans Frontiers (MSF – Belgium), Danish Refugee Council. Through this initial set of contacts, I then attempted to acquire additional contacts which could span all along the general three levels of the hierarchy of programme mangament. Usually this is composed by a Head of Mission at the top – with overall representation and programme management responsibilities. A step below there is the the programme management – who has the responsibility to ensure the coherence of portfolios (projects and practices), as well as the respect of the requirements of accounting (internal and external). Thirdly – at the base there is the project manager, who administers the project activities, staff and budget. In addition, through them I reached out to the project and programme staff of international organizations – the United Nations High Commissioner for Refugees (UNHCR), the

International Organization of Migration (IOM), the United Nations Development Programme (UNDP). Thirdly, I expanded my sample size reaching out to programme and project managers of governmental and intergovernmental agencies – such as the European Union Delegation to Libya, the Italian, British, and Dutch Embassies.

With my initial contact with the potential interviewee, I forwarded a brief presentation of the researcher and of the research focus. From the beginning, I outlined the major themes I wished to treat, and advised the interviewee of my interest in recording the interview. During the colloquium, then, I asked again the permission to record. Most of my interviews are then recorded, while some – to protect the anonymity of the source and the sensitivity of the topic could not be.

Chapter 3

Post-Qaddafi's Libya and Humanitarian Context

This chapter provides an overview of the major humanitarian concerns for the Libyan civilian population in the aftermath of the evolution, covering the period 2011-2016. As it describes in the next paragraphs, since the collapse of Qadhafi's regime Libyans have in general experienced less access to basic services such as health, education and security. In addition to this, the evidence also suggest an overall trend towards a restriction in the income generating capacities, necessary to purchase basic goods such as food and fuel.

This section will first provide an overview of the major sources of concern related to the living conditions of Libyans. Second, it will focus specifically on the key features of the segments of the Libyan population considered most at risk: internally displaced people (IDPs) and mixed migrants (economic migrants, asylum seekers, refugees).

3.1 Key humanitarian issues

First, what is worth highlighting here is the worsened physical security conditions of civilians caused by the collapse of the security apparatus, the proliferation of small weapons and non-state armed groups: the collapse in the provision of services such as justice, the rise in unlawful behaviours on the side of armed groups – such as abductions, illegal detentions, and torture. After the revolution and until 2013, direct confrontations between non-state armed groups (NSAGs) increased the exposure to violence – peaking in localities that had multiple armed groups, multiple tribal constituencies, sources of power and/or economic revenues. These contested areas, such as Tripoli, Benghazi and Sabha, remained particularly unstable (ICG 2013).

With the collapse of justice systems and security agreements, civilians could be exposed to acts of arbitrary violence, intimidation, abductions, torture, and illegal detention. Civilians could not resort to courts, as courts themselves were not in the condition to work, judges were intimidated, threatened or killed (ICG 2013). Some minority groups – such as the tribes associated with former regime structures [i.e. the Tawargha and Mashashyia] were particularly vulnerable to violence. Yet, with the escalation of 2014, exposure to violence increased for several socio-economic strata. All population

groups surveyed by the UN-Sponsored Multi Sector Needs Assessment (MSN) 2015 and 2016 report increased concerns compared to the precedent year regarding physical aggression, extortion, abductions and illegal detention. At the same time, while non-state armed groups are at chances seen as the only providers of minimal functions of security, the population surveyed reports low levels of trust in the armed groups capacities of law enforcement. While on the overall access to basic services improved - access to psychosocial support for victims of violence, safe shelters, and protective environment for women and children decreased. (MSN 2015). Since June 2016, threats to safety, and deaths from small arms, and UXOs are increasingly reported (MSN 2016).

A more specific problem relates to the questions against women. Women may be victims of domestic violence, rape or other forms of abuses both inside and outside their homes (UNICEF 2011). Violence against women is sensitive; victims do not have legal safeguards, but can be prosecuted for extramarital relations, or may be forced to marry the perpetrator (UNICEF 2011). There were no shelters for protecting victims of violence before 2011 (Freedom House 2010), but only ‘social rehabilitation facilities’ – centers in which women are held to isolate them, and their stigma, from the rest of the society (UNICEF 2011). The escalation of 2014 correlates with an overall worsening in the security of women from violence. While in 2014 IDPs did not identify gender-based violence as a major source of concern (Interagency Assessment 2014), low-intensity violence against women increased – in a context where the only available protective institutions are the tribes and local elites (MSN 2015).

A second source of risks for physical security derives from the widespread contamination from mines remnants of war, etc. The Interagency assessment of 2015 highlighted how half the respondents reported the presence of UXOs in their communities, particularly in the South, where this was reported by 78%. (MSN 2015). There are multiple areas in the country that are still contaminated by the conflict. In addition, the several armed confrontations over the years have aggravated the contamination levels. Human Rights Watch (HRW) documented the extensive use of anti-personnel and anti-vehicle landmines by Gaddafi forces during the 2011 conflict. HRW researchers found at least five types of mines in nine locations, including around Ajdabiya, in the Nafusa Mountains, near Brega, and in Misrata, where the Gaddafi government also laid at least three sea mines near the port. During the 2011 conflict, Libya’s then-opposition National Transitional Council (NTC) formally pledged not to use antipersonnel and antivehicle landmines, and to destroy all mines in its forces’ possession (HRW 2015).

A third source of concern is more specific for children. Remnants of war and small arms posed significant threats to their safety and life (UNICEF 2013). At the same time, assessments identified cases of family separation, psychological distress, psychological and physical violence, involvement in armed conflicts, lack of access to basic services, such as health, as well as limited responsive capacities from institutions (Save the Children 2011). In an attempt to answer these needs, international organizations have more recently tried to involve municipalities in Libya in the provision of child protection services (UNICEF 2015), yet several challenges persist including the risks posed by war remnants (MSN 2015), and complete lack of services for children in Detention Centers. Recruitment practices of children or adolescents under 18 are also known (MSN 2015).

A fourth source of concern, although overall milder than others, relates to the capacity of Libyans to maintain adequate food and nutrition standards. The 2011 war reduced food stocks and this, in addition to deteriorating rate exchanges and worsened working conditions for the banking systems, led to increases in food prices (ACAPS 2015). After a gradual improvement, the 2014 escalation interrupted this trend (ACAPS 2015), though concerns regard rising prices, inflation effects on purchasing power more than access to basic nutrition standards (MSN 2016).

A fifth major source of concern relates to health services. The fled of specialized foreign health workers during the conflict reduced the system's capacity to address both emergency and ordinary cases. Additionally, logistic chains for the repletion of chronic and emergency supplies broke apart, (ACAPS 2015). In fact, the UN Country Team strategic framework of 2012 identified the reconstruction of the health system as a key priority (UNCT 2012). Yet, it was never accomplished; so, when the escalation of 2014 brought a renewed pressure (Interagency Rapid Assessment 12/2014), conditions became so critical that in August the Ministry of Health warned of a potential collapse of the public healthcare (ACAPS 2015). Both patients and health workers could not reach hospitals, several clinics were shut down due to insecurity, or were overtaken by armed groups (Interagency Rapid Assessment 12/2014), particularly in Benghazi (UNSC 2015). Medical supplies quickly run short (Interagency Rapid Assessment 12/2014), logistic chains were disrupted or subject to corruption (IDMC 2015). After 2014, access to healthcare increased – though unevenly, with vulnerable segments of populations excluded from it. Medical staff and supplies instead remained short, while major medical issues concerning psychological traumas, injuries or chronic diseases were mostly reported (MSN 2015). This remained constant in 2016, while rising concerns regarded the availability of water across regions, the worsening in the sanitation and waste management, as well as the reduced

access to many of hygiene items such as diapers, soap and water tanks due to raising prices (MSN 2016).

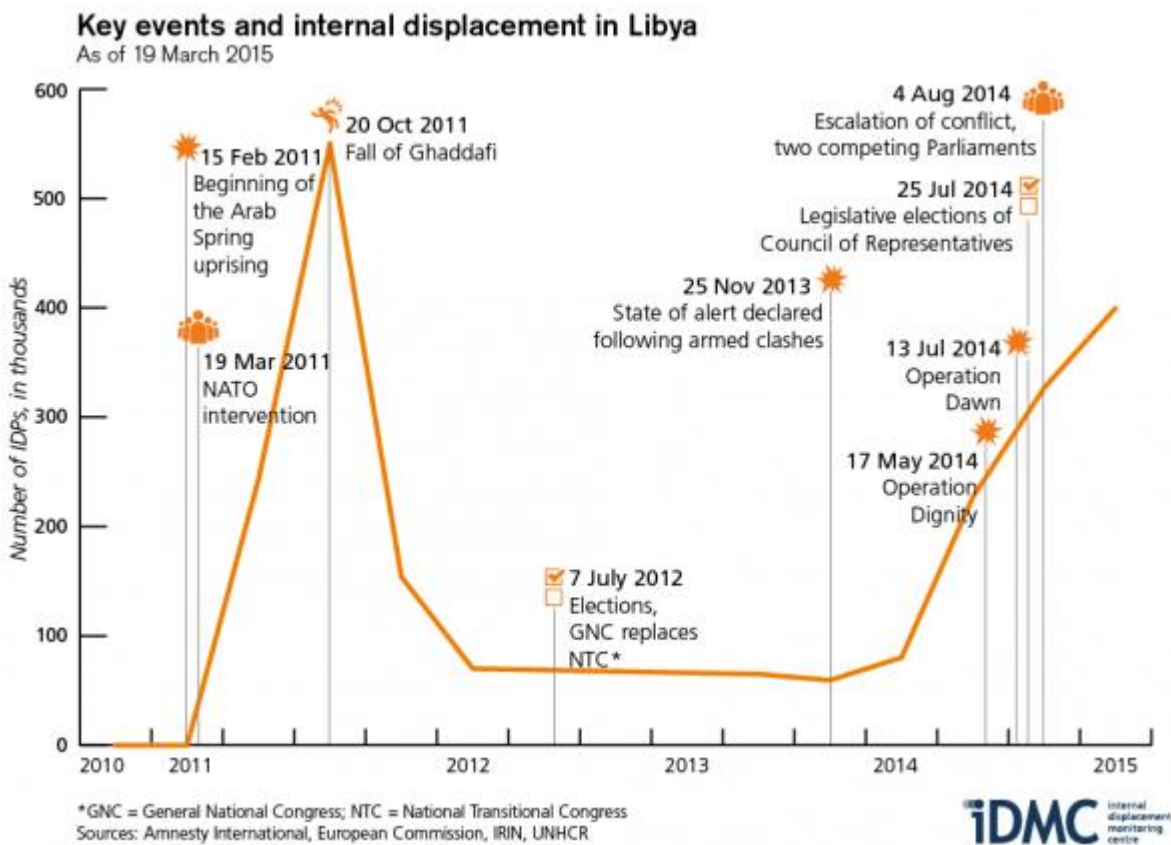
Lastly, a source of concern for Libyans related their capacity – especially related to children – to access education services. In general, data suggest that against an interruption in the functioning of school facilities during conflict peaks, education services have gradually reopened (MSN 2015). 2016 data, instead, report a decreased functionality in both primary and secondary levels of education – on a yearly basis. A particular concern related to the fact that in 19% of assessed municipalities, less than 20% of school-aged children were regularly attending schools. When schooling facilities were not functioning, reported causes included the use as shelters from IDPs, lack of teaching staff, or even destruction (MSN 2016).

3.2 Internally Displaced People

A major humanitarian concern by the revolution and the persisting insecurity relates to the Internally Displaced People (IDPs) population. Some groups within this population have experienced multiple and protracted displacement – like the Tawarghan (IDMC 2015). In April-May 2011, Loyalists besieged Misurata resorting also to Tawarghas fighters. Misuratans accused the Tawargans of human rights abuses, so after they bounced Loyalists back they attacked the town of Tawargha causing the complete evacuation of the town (Amnesty International 2013). Similarly also the Mashashiya tribes were accused of having supported the regime against Zintan, so they were attacked by the Zintanis, forcibly displaced, and their looted and destroyed (IDMC 2015).

Between 2012 and 2014 the number of IDPs decreases everywhere but in the South of Cirenaica and Fezzan. Clashes in Kufra between the Tebu, caused casualties and displacement (IDMC 2015). In the Fezzan the Tebus and the Awlad Suleiman tribes clashed in March 2012 and in January 2014,

causing displacement particularly in Sabha (IDMC 2015)



Instead, the escalation following Operation Karama in Benghazi and Fajr Libya in Tripoli inverted the trend. Since at least May 2014, fighting has brought to the displacement of over 435 thousand people, besides the destruction of infrastructure and basic services (IDMC 2015). In Tripolitania, the 2014 escalation generated approximately 270 thousands IDPs, including 120 thousands, who left the area of Wershefana after fighting in Tripoli moved south west; other major destinations for IDPs are Az Zawya, Ajaylat and Yafran (ACAPS 2015). In the Fezzan, armed confrontations among Tebu and Tuareg tribes around Awbari in late 2014 caused victims and an imprecise number of IDPs – approximated by the UNHCR in 18,500. Several found shelter in unfinished buildings and schools in Sabha, Ghat, Murzuq, Wadi Shafti, Al Jufra etc (IDMC 2015).

Displacement worsened the humanitarian conditions of several households, with a lack of medical supplies, income pressures, refuge in unfinished buildings and schools, increasing prices for basic commodities such as food, cooking oil and fuel increased (IDMC 2015). Displaced households were exposed to multiple types of violence, and relationships with host communities tended to worsen (MSN 2015 MSN 2016) Also, the female IDP population reported to feel increasing insecurity from violence of armed groups (IDMC 2015). Sexual abuse of female mixed migrants, including pregnant

women, is reportedly endemic (Amnesty International 2015), particularly in detention center facilities (UN Security Council 2015. Cit from IDMC 2015).

In 2014, 14% were moderately/severely food insecure, 84% at risk (Inter-agency rapid assessment 2014). More generally, the relative amount of income used for food, compared to the pre-escalation phase, increased due to price inflation (Inter-agency rapid assessment 2014), while other basic goods such as fuel, electricity and water became scarce (ICG 2015). The regularity of salaries and state pensions – main income generating instruments – weakened by the escalation of 2014, and the banking system got into a credit and liquidity crisis. IDPs increased their self sufficiency in 2016, though parts of the population remained with constrained income. More in general, delays of payments in the salaries remain pervasive, as well as the limited functionality of the banking system. This was coupled with rising prices and reduced productivity – which worsened access to food across Libya (MSN 2016)

3.3 Migrants, Refugees and Asylum seekers

Mixed migrants are relatively more vulnerable compared to IDPs and Libyans in general, though the estimation of their population is. Migrants' living conditions are precarious, and need a multi-faceted assistance, from basic items for daily survival to the enhancement of mechanisms preventing further violence upon them. Most of them, arrive in vulnerable conditions already, and have experienced different traumas – including torture – in their migration history (Interagency Rapid Assessment 2014).

Nevertheless, the estimated number of migrant workers and refugees in Libya in 2014 were 150 thousand and 37 thousand respectively (ACAPS 2015) mainly registered in registered in Tripoli and Benghazi, and mainly Syrian (UNHCR 2015). Furthermore, migration towards Europe peaked in 2014, with 140 thousands (82% of the total) from Libya. Almost 3 thousand people died certainly (UN Security Council 26/02/2015). Yet the flow has increased in 2015 (IDMC 2015), and correlates with a general deterioration of living conditions (MSN 2015). For migrant workers, access to health services is precluded (Interagency Rapid Assessment 2014).

Mixed Migrants are legally vulnerable. Libyan legal system makes irregular entry and departure a criminal act – irrespective of the type of legal status; particularly the 2010 Law on Combating Irregular Migration foresees the indefinite detention and deportation of people accused of irregular status (Amnesty International 2015). Additionally, Libya has never signed the 1951 Refugee

Convention (Interagency Rapid Assessment 2014). Yet many amongst migrants travel undocumented (Amnesty International 2015).

Having weak legal status, mixed migrants are exposed to systematic abuses (DRC 2015). Daily simple routines attempts to satisfy basic human needs – such as getting access to water, food, or health, can expose them to abductions, kidnappings, detention, other abuses, or simply violence (DRC 04/02/2015), or to sexual or economic exploitation. All this is compounded by a general xenophobia towards (sub-saharan) migrants, (Amnesty International 2015). Several live in temporary shelters of urban and suburban areas (DRC 2013). Protection, access to basic services is severely constrained, and more constrained than those of IDPs (MSN 2015). On the top of this – if detained, they have limited legal safeguards (UNHCR 2015).

Deteriorating economic conditions have widened the lucrative opportunities around the movement of people. Networks of people involved in the recruitment, abduction, movement, transit and stationing, departure of migrants – voluntary or forcefully introduced into migration challenges – move great capitals in contemporary Libya, constituting a major political economic system. People's movements (smuggling and trafficking) can be start well before coming into Libya (Amnesty international 2015). The Libyan part of the commerce, moreover, can be seen as starting in Tchad, Sudan, Niger; There, migrants forcefully or voluntary pay traders to continue their travel towards Libya. There they are either handed over to Libyan nationals or transported into Libya and then passed to Libyan nationals. Libyan traders are of multiple ethnic proveniences, and consider livelihood – like other smugglers in Libya do – a commerce like others. Actually, such routes of people are not recent, and have been described as having long lasting roots in time. Migrants are first transported in southern Hubs – such as Sabha and al Jufra. Here – they already at risk. Being without documents puts them into the shadow economy of migration, which brings them into clandestinity and impairs their access to basic services, such as health: going to a hospital, from now on, is a serious security risk, as could cause their arrest (Amnesty international 2015). Security-wise also, there traders often become perpetrators of violence. From Sabha and Jufra, major routes tend to go either to Bani Walid and Tripoli or to the east – Ajdabiya and Benghazi. Some of them remain in Libya for years. This trend was more visible in the past – since Libya has been both a destination and a transit center. Not all of them, also, are caught from authority – though this is probably a minority. For the majority however – they can be caught and placed in detention centers run by the DCIM, by militias – or unclear. They can simply be placed in 'transit centers' (again – official, non official, or not clear), or they can simply stay housed in urban, or semi-urban areas, in unfinished buildings, trying to make a living and or waiting for their time to go (Amnesty international 2015).

In detention, abuses and violence, under nutrition or malnutrition, no restricted access to water, chronic precarious hygiene and health conditions prevail (UNHCR 2015; Amnesty International 2015). In 2015, 12 centers reported their affiliation to the DCIM, while it was known the existence of at least other 21 other centers run by other groups contesting the authority of the central government (ACAPS 2015). At least 2,600 migrants and asylum seekers were registered in DCIM facilities, mostly West Africans, as well as Somalis, Eritreans, and other citizens of east African countries (UNHCR 2015). The condition of non-DCIM detention center is currently unknown (ACAPS 2015).

Part 2

The Political Economy of Migration and Humanitarian Action in Libya.

Chapter 4

The Domestic Environment. Smuggling, Actors and Norms

4.1 Introduction

Organized illegal economies have flourished in the post-revolution Libya, through modalities determined by the relative weakness of the central authority, strong local interests, dispersed population – as well as economic and social factors that were either historical or caused by the revolution (Shaw and Mangan 2016). Connected with other illegal trades such as weapons, drugs and smuggled goods, human smuggling was at the forefront (Shaw and Mangan 2016, 7).

Human smuggling is nothing new for Libya. For decades, Libya has been both a destination and a transit country (El Kamouni – Janssen 2017, 7; DRC 2013). Both the economic opportunities, and the open door policy for migration that – between 1998 and 2007 – allowed Africans to enter Libya without visas, made Libya attractive (DRC 2013). At the same time, already under Qaddafi migration had its norms and regulations, often overly contradicting international human rights standards. Migration Law was enforced mostly as border management – applied only to the northern shores, while the southern border of Fezzan remained uncontrolled (El Kamouni – Janssen 2017, 7).

In the Fezzan – neglected from major economic revenues – networks of people moving migrants not only coalesced and consolidated, but also integrated into the local economic system of border towns. Exploitative practices – such as forced labour in exchange of credit to continue the travel – continued to be part of the reality (Shaw and Mangan 2014, 13). By the mid-2000s instead, Qaddafi started leveraging on Libya's position on the migration routes to obtain concessions, such as the 2009 deal with Italy. In 2010, the number of departures had dropped by 75% on a yearly basis. However, although restricted, the business of migration had remained under tight control of those who could boast closer ties to the regime (El Kamouni – Janssen 2017, 7). In addition, corruption of border management institutions, plus open door policies and economic opportunities have created and

cemented over time a strong system of movement of people connecting different points amongst neighboring countries, and managed by foreign brokers settled in Libya, Libyan intermediaries, and corrupt border officials (El Kamouni – Janssen 2017, 8).

4.2 Actors and Norms in the post-Qaddafi human Smuggling

Both continuity and change characterize the economy of smuggling in the aftermath of Qaddafi.

A first element concerns the actors moving the economy. Main operators in this market are the traders and the protection providers. Their presence characterize the economy since the Qaddafi era, although their role and relative functions have gradually evolved after Qaddafi. Smugglers realize the exchange on the market and implement the movement of people. While connected in large transnational/transregional networks, they are organized in “flexible coalitions managed through contractual agreements and repeated interactions among different local and transnational networks” (Aziz, Monzini and Pastore 2015, p 32).

In the southwest, contracts are mostly arranged by Libyan traders/businessmen – the Muharrib. Libyan nationals then collaborate with Non-Libyan nationals, which often – at chances former migrants – facilitate the recruitment. Clashes between smugglers do occur, especially in contested areas such as Sabha. Yet, even there, economic incentives provide common ground for cooperation, as complex network structures allow for the continuation of (in)direct business relationships between parties that otherwise compete on political matters (El-Kamouri-Janssen 2017, 33-34).

In the south, smuggling is organized along flexible and horizontal lines – being easy for smugglers to go in and out of the commerce – and works as a tool for economic empowerment. In the north instead, networks leverage on the magnitude of the revenues generated by migration to pressure political bargains with the central state. More layers are present – and an emerging small cast of “kingpins” directs smuggling and is reported to monopolize networks in their spheres of influence (El-Kamouri-Janssen 2017, 33-34). With tacit agreement of institutions, such players coordinate through national and foreign intermediaries that recruit and move their human cargoes (Molenaar and El Kamouni-Janssen 2017, 46).

The second element, characterized more by change with respect to the Qaddafi’s time, is the exchange of protection on the market, and its providers. The growth of the security market has been facilitated

by the by the breakdown of previous security institutions. Yet, the instable nature of the post-revolution oligopoly of violence also favors the relative importance of weapons in the functioning of markets – changing the terms of contractual obligations of all parties. With increased competition, protection becomes a crucial commodity sold from the Katibas to the smugglers, which in turn compounds the blurring lines between security and law actors-institutions (Molenaar and El Kamouni-Janssen 2017). The purchase of protection takes three forms in Libya (Shaw and Mangan 2014, 17). First, traffickers and smugglers contract for protection with external forces. They can thus hire a third party – such as security units – and would be armed themselves. This may take place in contested areas, such as at the western borders, where leading militias such as the Libyan Shield or the “Libyan Army” cannot halt the smuggling, and where smugglers contract hired guns. Secondly, traffickers exchange a fee for a safe passage. This usually takes place in spaces with tight control of a group, a tribe, and does not require the possession of arms. This is the case, for instance, of the goods smuggled within the Tebu-areas of al Kufra, where traffickers utilize Tebu routes. In Type 3 transaction, smugglers of specific communities bargain with adjacent communities for cross-border agreements. The cross-border community is contracted for a specific comparative advantage – such as contextual knowledge. This is the case of the Tuareg groups in southwest Libya – which continue in smuggling thanks to the knowledge of the networks and routes. In general, the trade requires “ensuring a transaction either with those who can ensure [...] the necessary firepower or with those who control specific areas and can thus ensure safe passage. Providing protection has thus become key to regulating both the criminal market and the broader Libyan economy” (Shaw and Mangan 2014, 19).

However, even if composed by the same types of actors – traders and security providers – the “nature and organization” of smuggling networks is diverse across different geographical areas – the south, the center and the coastal areas (Al Arabi 2018, 2). This is why in the next paragraphs I will divide the description of the political economy of migration in separate macro areas.

4.3 The political economy of migration – A Regional Analysis

Applying a regional focus on economy of human cargoes, the next paragraphs will describe the actors, the market and the institutions regulating smuggling along two of the four great routes operating in

Libya: the two routes who converge in Sabha from Niger and Algeria³, and the and the way from Sabha to the Coast. This selection is done for two main reasons. First, because the southwestern routes from central Africa have remained those operative in smuggling and trafficking of goods and people in the 2011-2012, during the conflict escalation of 2014, and in its aftermath. As such, they differ from the eastern routes – those that from Tchad move north directly in eastern Libya. Eastern Libya, in fact, has remained in a secondary position in the post-Qaddafi's human smuggling. Secondly, as the two major routes analyze are those who have seen the intersection with humanitarian aid in the post-revolution period.

4.3.1 Smuggling in the Fezzan

Libya's south – nominally from Kufra in the South East, to Ghat at the border with Algeria, passing from Brak al-Shati north of Sabha, is an area populated by different tribes and minority groups, both Arabic and non-Arabic. With the collapse of the institutional and security arrangements of the Qaddafi era, in the aftermath of 2011 these groups have taken contrasting political stances, competing for power and control over economic assets – such as oil, border posts, smuggling routes (Al Arabi 2018, 3).

In northern Niger and southern Libya, after 2011 the movement of people has become the most profitable sector of smuggling, and various towns and cities have long flourished as smuggling hubs. Cross-border communities have resorted to cross-border trade and smuggling for livelihoods purposes. The point of departure for Libya is the smuggling hub of Agadez, in Niger. Smuggling there is a functional part of the economy: “state security forces would not be able to function were it not for these bribes paid by smugglers and migrants”... “the migrant smuggling industry is a tremendous boon for an economy that is suffering from closures and stoppages of local mines, regional instability, and a decrease in remittances that used to come from family working in Libya” (Tinti & Wescott 2016, 12). Convoys then head north, moving – at request of the government – with paid military escorts, which end in Dirkou. From there, smugglers can continue only through their network connections, constituted by links between tribes and families (Tinti & Wescott 2016, 12).

³ While I here limit to the description of the last trait of the western routes – those which connect Niger and Algeria to Libya, a complete overview of the trans-sahelian smuggling connections – that link countries such as Senegal, Nigeria, Somalia and Eritrea to Libya is beyond the scope of this chapter. Nor it is relevant for the scope of this research. At the same time it has been already provided – see for instance Shaw and Mangan 2014, and Tinti and Wescott 2016.

An overarching issue characterizing smuggling in the Fezzan is that it combines with multiple, intertwined, post-revolution patterns. Along with the collapse of central monopoly over the means of force, political competition among groups at local level, demographic transformations together with restricting economic opportunities (Al Arabi 2018, 3) Due to the contraction of the capacity of official security bodies to control and sanction smuggling activities, armed groups and smugglers with tribal affiliation have taken over territorial control (Al-Arabi 2018, 4). The growth of the human beings market fed smuggling networks, that came to comprise also local institutions and state (or quasi-state) actors.

Two non-arab, (semi)nomadic tribes indigenous of that part of the Sahara have historically controlled the routes between Libya and neighbouring countries: the Tuaregs – residing in the area between northern Mali, South Algeria, and south west Libya, and the Tebu – occupying the area between south East Libya, Tchad and Niger (Tinti & Wescott 2016, 7-8). In late 2011, Tebu and Tuareg negotiated the control over border sites, routes and trade conditions – dividing the respective areas of influence that mirrored the demographic distribution of the groups. The Tuareg groups of the remaining “Libyan Army” and the revolutionary militias took control of the south western territory from Sabha, Awbari and Ghat, as well as of the routes that linked Algeri, Norther parts of Niger and South Libya. The Tebus, instead, would control the territory from Sebha, South and East. Nonetheless, the intervention of Tuareg militias linked to Zintan, and attacks from Tebu militias in the east signed the end of that deal, and fractured the Tuareg control over their areas (Tinti & Wescott 2016, 7-8).

Inter-group agreements regarded also the functioning of official institutions. The Tummo crossing point was guarded before the revolution by state police officers, immigration and passport control branches. With the revolution Tebus took over the control, collecting fees from smugglers. In fact, overseeing these forms of commerce is for authorities a licit business that matches the budgetary needs, even because state revenues interrupted in 2013. Similarly to Niger, “more often than not, it is these bribes [that] allow them to carry out their professional activities in the first place” (Tinti & Wescott 2016, 10). More in general, the role of central institutions – the border guard and the Anti-Illegal Immigration Agency (AIIA) – has thus weakened both because of their dependence on weak and fragmented central governments, but also because of the pressures mounted from the financial and military capacities of armed groups. Members of official authorities in the south choose compliant strategies with non-state armed groups (Al Arabi 2018, 4). Force – in this sense – is the norm regulating the transaction of security and protection, also with members of official institutions. Both border guards and AIIA members do not engage with smugglers and armed groups as they lack military capacity to confront them. (al-Arabi 2018,4). On parallel, partaking the smuggling economy

provides numerous economic benefits for members of official institutions. Being active part of smuggling activities or just collecting payments for non-sanctioning is a way for border guards and AIIA members to increase their low income (Al Arabi 2018, 4).

Through smuggling revenues, Tebu networks have monopolized the Agadez-Sabha route and extended their reach to Agadez, a traditionally a Tuareg Hausa and Arab stronghold, thus challenging power relationships between groups. Convoys entry through the border town of Tummo, now controlled by the Tebu militias that impose payments and taxes (El Kamouni-Janssen 2017, 10). Convoys are usually composed by pick-ups, while smugglers are mostly Libyan Tebu, or resort to Tebu “fixers”. Because of the insecurity affecting Fezzan, they stop south of Sabha, where they pass their human cargo to other smugglers, belonging to other tribal groups, which control the adjacent territory. Smugglers of the Magarha tribe predominantly control the route from Sabha north (Tinti & Wescott 2016, 10).

Yet, the logic of economic expansion coupled with competition for/cooptation of formal institutional settings have characterized the smuggling routes also in the urban areas of the Fezzan. Smuggling networks have expanded in the post-Qaddafi era in urban settings. The complex and fragmented social fabric, coupled with the politicization and militarization of society that escalated after 2014 have compounded their expansion (Al-Arabi 2018, 5).

The city of Sabha is a clear case. It is considered both the capital of the south, and the capital of (human) smuggling (Tinti and Wescot 2016). Three strategic routes converge in Sabha: a first ‘West-African’ transiting through Mali-Algeria – then through Ghat and Awbari. A Second – also ‘West-African’, mostly used for human smuggling, coming from Agadez and Murzuq. A third route moves through Tchad up to al Qatrun in Libya, also used for human smuggling (Tinti & Wescott 2016, 9-10). All major towns and border points of the Fezzan are connected with Sabha. The Algerian route is controlled by Arab traders in Sabha, and by Tuareg outside the city. The Tebu instead control al Qatrun and Murzuq (Tinti & Wescott 2016, 9-10). Its inhabitants reflect a mosaic of people of different origins, principally belonging to southern cities and tribes (Al-Arabi 2018, 5). Several armed groups are sheltered in the town, divided into different ideological and political orientations, while no single group is in the condition to control entirely the city (Al-arabi 2018, 5). Thus, the city is divided into spheres of influence, often contested by the competition amongst tribal groups. Within Sabha’s streets, the Tebus often clash with the Arab tribes controlling the northern routes (Tinti & Wescott 2016, 9-10).

Intergroup competition had negative effects both on the City's Municipal Council, and on the Committee regulating security affairs (Al-arabi 2018, 5). Although elected in 2014, both institutions have remained fragmented internally, torn by internal disputes that significantly reduced the institutional capacity to address governance needs and security issues – in a city that progressively spiraled down towards insecurity (Al-arabi 2018, 5). In this context, smuggling became a crucial market for economic revenues of groups inside the city, and the economic norms of profit maximization co-existed in the absence of credible sanctioning mechanisms. Armed groups in Sebha either partook smuggling, or ignored its existence – as contrasting it would have determined conflict escalation with other groups: “overall, [armed groups’] shared objective has been to safeguard their respective positions in the city and not to enter in open conflict unless sure that the outcome will be in their favour” (Al Arabi 2018, 5).

In addition to these relationships between security, political and economic aspects, demographic and social factors also contributed to shape the dynamics of smuggling in Libya's south. On the one hand, demographic change altering the relative proportions of populations within different cities/parts of the Fezzan have become a sensitive political issue. This is particularly true for Tebu and Tuareg communities. For both, after a nucleus of population that settled in the late 1990s, influxes of Tebus and Tuareg from near countries have increased over the last years (Al-Arabi 2018, 5). In particular, Tebus originating from Chad and Niger settled in the regions of Umm al-Aranib (south of Sebha), Gatrun and Murzuq. Tuaregs, coming from Algeria, Niger and Mali settled in Ghat and Ubari. Such movements provoked mirroring effects on Arab populations – who felt overwhelmed and migrated as a consequence (Al-Arabi 2018, 5). In this sense the influxes have altered the balance of power between groups in-southern Libya, contributing in making migration a sensitive political topic.

Newcomers of Tebu and Tuareg communities have contributed in expanding smuggling activities – both of migrants and of other products – from the neighbouring countries. As we have noted, the participation of these groups into smuggling precedes the fall of Ghaddafi. Tebu and Tuareg controlled – as we have seen – borders, routes, and somehow institutions. However, while during the Qaddafi times – the regimes resorted to their participation for specific purposes – in the aftermath of the collapse of previous agreements, there is now no supervising authority of their work. While communities control the area spawning from Egypt to Algeria – they are divided in terms of allegiance, some pledging it to the Government of National Accord (GNA), while others to the Interim government of Al Bayda. (Al-Arabi 2018, 5).

Members of non-arab minorities, which are either active part or passive beneficiaries of smuggling authorities, then tend to dominate the smuggling in a great part of the south. Importantly, however,

this has had an effect on the ways in which local authorities respond to smuggling and illegal migration (Al-Arabi 2018, 5). National institutional frameworks regulating migration and combatting smuggling found limited application.

If smugglers and local authorities belonged to the same community, local authorities have tended to ignore the issue. This is the case, for instance, of the cities of Gatrún, Murzuq and Umm al Aranib, in which Tebus dominate the demographics. Smugglers can be also of Arabic provenience – some of which belong to Megarha and Qadhadhfa tribes, but the majority is Tebu. In these areas – municipal councils and security coordination rooms – the two major official bodies, together with the border guards and AIIA sections – are composed and controlled by Tebu members. The strategy adopted by these bodies has been that of ignoring the magnitude and scope of smuggling. Instead, they operated a balance, favouring the economic opportunities deriving from the continuation of the business – for instance through the provision of cheap labour, and because of the restricting economic *legal* opportunities caused by the worsening economic condition of the south (Al-Arabi 2018,6). Similarly, though on a more limited scale, smuggling interested also the Tuareg-dominated areas of Ghat and Ubari. The dynamic is similar, with material (economic) and social interests between smugglers, members of official institutions (e.g. border guards) and informal institutions (armed groups acting as security providers) overlapping. This overlap translates in non-defiance strategies on behalf of official bodies such as municipal councils against smuggling activities (Al-Arabi 2018). While the volume of the activities in Tuareg-dominated areas is smaller, the challenge relates on the type of smuggling – characterized by lower volumes of human cargoes, and greater amounts of drug (Al-Arabi 2018,6; El Kamouri-Jansen 2017).

Lastly, protracted political confrontations related to the legal status of non-Arab communities, the economic dimension of smuggling and its intersection with the local organization of politics and society also had a role in public life in the Fezzan, and on how local authorities addressed smuggling and illegal migration (Al-Arabi 2018,6 El Kamouri-Jansen 2017).

Non-Arab communities have specific demands, such as the “establishment of a quota for representation in the legislative, executive and judicial bodies”, an interest in the “new division of provinces and municipalities” who could maximize their “control over local government bodies in their areas of influence and at a national level”. This makes responses from local authorities regarding anti-smuggling measures politically sensitive and difficult. At the same time, the economic situation has worsened since 2011, and became particularly difficult since 2014 due to the loss of purchasing power resulting from increased inflation and poor incomes. Prices of basic goods sharply increased, mostly for liquidity shortages in the financial system, and for a severe depreciation of the Libyan

currency (Dinar) (Al-Arabi 2018, 6). For instance, Qaddafi had restricted access to rights and economic resources for the Tebu. Yet, things did not change even after the revolution: rights such as freedom of movement, or education are still restricted – making educational and employment opportunities non-existing outside their areas (Tinti & Wescott 2016, 7-8).

This has made migrant smuggling a source of income for expanding segments of the population, a stable resource that allows many to cope with the uncertainties deriving from economic stagnation and unemployment (Al-Arabi 2018, 6 El Kamouri Jansen 2017). Many new-comers in the smuggling economy are young people – who see it as a predictable source of income providing salaries that are competitive with the civil service or the higher sector. Importantly, contrary to conventional salaries – that are paid through the banking system, that suffers for delays and interruptions, it is also a low-risk employment that provides quick returns in the form of cash (Al-Arabi 2018, 6, El Kamouri-Jansen 2017). In cities such as Murzuq and Al Qatrum, smuggling became a livelihood that granted self-sustainment to entire communities (Tinti & Wescott 2016, 7-8). Thus, both the potential profits and the low barriers of market entrance favoured the participation of Tebu in the smuggling, who consolidated their control over routes and networks between Agadez and Sabha (Tinti & Wescott 2016, 9-10).

More in general – migrant smuggling “normalized” as a source of income for a consistent number of families, youngsters and adult men in Sabha, Murzuq, Brak al Shati (El Kamouri-Jansen 2017). Further, it became the only source for some Tebu military personnel native to Chad and Niger – who do not hold Libyan citizenship even though they have moved to Libya during the Qaddafi’s regime and served in the Katibas established by the regime for its protection. These individuals have been suspended from work in 2011 since they lack Libyan citizenship, a fact that has excluded them from the access to public salaries, but they have resorted to their extensive experience of the desert routes to facilitate the growth of the business and the construction of network relationships (Al-Arabi 2018, 6).

More in general, the lack of crucial daily services such as education and healthcare is one of the major drivers for individuals in the Fezzan to diversify their sources of income outside the public sector. Smuggling, therefore, is one of the ways to secure their needs. However, an interesting trend found in multiple localities in the Fezzan is the re-investment of smuggling-derived resources into the productive sectors. Migrant smugglers in particular reinvest profits into the creation of local economic activities creating a twofold effect. On the one hand, it legitimizes smugglers in the eyes of local communities, tying themselves into the social fabric which increases its dependency on smuggling. On the other, it supports the creation of local economic activities which are legitimate *and* dependent

on the cash generated from smuggling. In cities such as Brak al-Shati smuggling cash accounts for approximately 50% of the available cash. In Gatrun this proportion peaks to about 70% (Al-Arabi 2018, 7)

In such examples, smugglers *launder* profits locally, creating shops, establishing companies, contributing to service delivery – particularly in the healthcare sector by opening pharmacies etc. According to some estimates, about 70% of smugglers in Sebha re-invest profits into different forms of economic activities. This close connection between smuggling and economics not only has a political legitimacy effect, but makes “broader smuggling networks” – those structures comprising traders and protectors – powerful merchants and inescapable counterparts for local residents (Al-Arabi 2018, 8).

So, with increasing investments in licit activities, smugglers have increased their involvement into the smuggling economy. Smuggling profits are simply too high, as compared to those deriving from any other activity. In the absence of a strong security apparatus, legal measures – such as the norms regulating migration inflows – are inapplicable (Al-arabi 2018, 8 El Kamouri Jansen 2017). The incentives and the rules of the market outshine the migration legal and law-enforcement frameworks.

4.3.2 Central Libya – Bani Walid, Shwayrif and Gharyan

Once left Sabha and Brak al Shati, migrants move north. Here they encounter one or two intermediate steps before arriving in Tripoli. Two major towns work as migration hubs on the road to Tripoli – Bani Walid and Gharyan (El Kamouri-Jansen 2017, Micallief 2017). Before going to discuss the peculiarity of Tripoli and of the coastal areas, I will first elaborate on the commonalities and differences characterizing the towns of central Libya

A common theme of the smuggling networks operating in the central areas – that of Bani Walid, Gharyan and Shwayrif – is that their social fabric is far more homogeneous and cohesive than that of the south or the north. Usually, the inhabitants of cities belong to a single tribe. This social characteristic has brought social protection to smugglers, where tribal leaders tend to accept the operations of smugglers either because of the force available to smuggling networks, or for the fear of fueling conflict between network factions. On the other hand, there is a weaker link between smuggling and licit economies in central Libya (Al Arabi 2018, 9).

Since 2012 Bani Walid has become one amongst the major smuggling hubs for migrants. It has emerged as logistic hub for all routes coming from the south, substituting Ajdabiya in 2016 for the

increasing insecurity in the area (Micallief 2017). It is the transit point of the routes that bring migrants north – to Garaboulli, which is operated also by Eritrean and Sudanese networks that bring migrants up from Darfour and al-Kufra (Micallief 2017, 20). However, the town is the haven of the Warfalla Tribe, who has not recognized any of the post-2011 executive or legislative institutions. The town has developed its own institutions – the Social Council of Warfalla Tribes (SCWT) – and a number of security actors. Libyan smuggling networks operating there divide along tribal, family and or political lines (Micallief 2017).

Even if all smugglers belong to the Warfalla tribe – the great ‘hat’ so to say – smaller sub-groups of smugglers operate in open competition. Operating in isolation amongst themselves, competition and hostility between sub-tribal groups is due to mixed political-economic motives, ranging from competition for resources and routes to political orientations. Within the Warfalla tribe, smugglers divide along the macro political fault line characterizing Libyan politics – pro-Qaddafi vs Revolutionaries (Al-Arabi 2018, 8). Yet, in Bani Walid the role of the smuggler often overlaps with that of the militia-man, and the SCWT is greatly focused on avoiding open confrontation among smugglers. Clashes break out – at chances – provoking killings and revenge-killings. Because of this sensitivity, both the SCWT and the local residencies tend to overlook at the business carried out by smugglers. In fact, the SCWT – finds itself in the uncomfortable position of managing how to remain able to defend the tribe from outside political interference, while still in need of support from its constituencies – therefore it is unwilling to antagonize smugglers directly. This is a perfect position for smugglers – who exploit the social cover provided by the SCWT and the absence of security controls, and purchase weapons to form their own armed groups. The SCWT has its own security apparatus – but it has been created in 2014 to protect the border of the town and combat crime, while the enforcement of anti-immigration laws is rarely conducted. Many of the smugglers have kinship connections with members of the unit, providing the necessary social cover to protect them (Al-Arabi 2018, 9). Lastly, while some of the profits are re-invested, the link between economic development and smuggling is far weaker in Bani-Walid than in the south (Ibid. 2018, 10).

In Shwayrif, the social fabric is similar to Bani Walid – being the city populated by one single tribe, the Megarha. Similarly to Bani Walid, the city is also detached from nation-level political processes, being them substantially ex-Qaddafi’s Loyalists. Autonomous armed groups emerged from Tripoli’s institutions in the aftermath of 2011 to protect the community, and gradually became more powerful than local security directorates. They are also usually composed by young men that are either controlling the smuggling business in the area, working in smuggling, or just providing security. Security Units responding to the local security directorate do not antagonize smugglers, since they

perceive to be outweighed by smugglers (Al-Arabi 2018, 9). Armed groups therefore dispose of the capabilities to threaten sanctions against deviations from the profit-making activities related to human smuggling.

While smugglers and armed groups divide their areas of operations within the territory surrounding Shwayrif, disputes among members of the same city tend to be solved amongst themselves. Violence, although occurring, is not the norm. In fact, through exchanges of material benefits, or through the intervention of local social committees, non-violent solutions are usually found. Violence is instead the norm for resolving disputes with smugglers, or armed groups outside the tribal territory. This is the case of the disputes that took place between Shwayrif and Bani Walid armed groups in 2016 – for instance. Being located at the intersection between the southern areas of Sebha and the north, Shwayrif is in a strategic location. At the same time, violence is the norm regulating issues between Shwayrif smugglers and central-institutions. For instance, in early 2017 an AIIA convoy from Sabha to Tripoli was stopped by smugglers in Shwayrif and forced to handle the migrants sheltered on the convoy. In this context, the Ministries of Interior and Defense only released press statements, without intervening directly in the re-enactment of the rule of law (Al-Arabi 2018, 10).

Gharyan is a third important hub for migrant smuggling, although for different reasons. Located at the crossroads between the coastal area, the Nafusa Mountains and the roads to the south, it is a strategic site. It does not have a homogeneous social fabric, but it has a strong military presence. The Shield Force – a coalition of militias responding to the Ministry of Defense that supports the GNA – has a unit there, and it can rely on substantial military and financial power. The Confrontation Unit, instead, responds to the GNA's ministry of interior. These forces are considered to have tribal constituencies, but the capacity of civilian bodies to influence them is restricted. The social acceptability of these military units is also apparently limited. Additionally, they do not have a law enforcement role in combating smuggling and migration. Furthermore, the Information Unit – part of the General Intelligence that works with the Rada Special Deterrence Force in Tripoli, is also present. Here too, the capacity of central institutions to enforce the law is restricted, as in the case of early 2017, in which 400 migrants were ousted from the City Detention Center (Al Hamra), without the knowledge and approval of the AIIA. Against the relatively strong military presence in town, smuggler networks are also operative in the city. On the top of this, the death in mid 2017 of the Colonel Abdul Razzaq al-Sadiq – then head of the Gharyan security directorate – has destabilized the local security directorate and the city writ-large. His replacement with Ali Shagroun, who is charged for being involved in killings and kidnappings in Tripoli has launched a strong signal to the municipal council, casting serious doubts on the relationships between armed groups and smugglers (Al-Arabi 2018, 11).

4.3.3 Tripoli and Tripolitania

After crossing the intermediate cities of central Libya, principally Gharyan and Bani Walid, migrants arrive in the wider Tripoli area. This extends between the municipality of Tripoli, and a number of surrounding cities/villages/suburbs in the area comprised between Misurata (200 km east of Tripoli) and Zwara (120 km west of Tripoli) (Shan and Mangan 2014, El-Kamouri Jansen 2017). This wide area comprises a number of transit points for smuggled people – cities, suburbs – in which individuals are (mostly forcibly) held (El Kamouri Jansen 2017, 16), such as Sorman, Zliten, and other ports of departure for Europe – such as Zwara, Sabratha, Zawya, Garabulli, Al Khoms and Misurata (Al-Arabi 2018, 12). When transit – new arrivals from the south are usually held captive in so called “safe houses” – barracks, houses, farms in which they transit for the payment of the next part of the journey (El Kamouri Jansen 2017, 44). However, ports of departure are often *also* transit zones – since individuals can be either spend time in captivity, either in detention centers or in safe houses – for the time necessary to collect money to pay the journey (El Kamouri Jansen 2017). Furthermore – in the Tripoli area is also present a part of migrant population that have either been smuggled since few years and remained in tripoli for working reasons, especially before the revolution and in the first years after (DRC 2013).

Tripoli has become a hub of multiple types of illegal economies especially after the conflict escalation provoked by the operation Fajr Libya n 2014 – with the ousting of Zintani Militias from the airport of Tripoli on behalf of Misurati militias, the subsequent institutional paralysis, and the collapse deriving from the creation of two competing governments (Al-Arabi 2018, 12). Smuggling has been facilitated by the extreme fragmentation of security – the proliferation of arms and armed groups, and their fierce competition (El Kamouri Jansen 2017, Micallief 2017 Al-Arabi 2018, 12). Katibas have increased their military competition in the background of political struggle and influence on political parties. A competition that has been exploited by smugglers – which have used it to acquire benefits and influence (Al-Arabi 2018, 12).

The central government – and now the GNA – has extremely limited capacity to control these areas, which in turn are divided in a multiplicity of spheres of influence – even at sub-urban/neighborhood level (Al Arabi 2018, 12, El-Kamouri Jansen 2017, 44). Yet – both of the Salvation Government and of the Interim Governments had enrolled in the list of its security apparatuses, namely the Ministry of Interior and Defence, most of the members of armed groups – which thus received salaries (al Arabi 2018, 12). Armed groups have emerged and organized, some becoming involved openly, others

subtly, others proposing themselves as anti-crime units. In fact, a growing armed presence corresponded to a growing number of armed clashes (El Kamouri Jansen 2017, 44). After 2016, however, the government run out of financial resources and interrupted some of the payments. Even if the economic situation of the Coast is on the overall better than that of the Fezzan, smuggling became the business in which some militias decided to be involved in order to exchange protection to smugglers for money. The Cities of Sabratha and Sorman are examples of this (Al-Arabi 2018,12). What is also different as compared to the Fezzan is the personal motivation of individuals involved in smuggling – i.e. accumulating as much capital as possible in the shortest possible time (al-Arabi 2018, 12).

Illegal markets are managed by both Libyan and non-Libyan smugglers who can buy protection through the increased profits, or they are managed directly from Militias. A common trend across these towns is the double function armed groups exercise. They both provide “law and order” on [formal] behalf of the GNA, combating illegal migration – being for instance guards of the prisons with pledge institutional affiliation to the Ministry of Interior – but at the same time they are also stakeholders in the smuggling of people (El-Kamouri-Janssen 2017, 16).

Sabratha is an example of this situation in which the security context plays a contributing role in the smuggling of humans. Smuggling in Sabratha has been present for decades, while human smuggling expanded after 2014 and particularly since 2016 – to the extent that it became the major hub for departure (Micallief 2017, 17). Sabratha’s territory is strategically located between the Mellitah Oil and Gas Facility at the border with Zuwara, and Zawya on the east. Militias are particularly involved in smuggling and protection activities. Although they are divided amongst competing factions that run along ideological and political lines, they often partner between themselves and with other groups of competing towns on practical issues – such as the cooperation required on embarking operations, or patrolling and security operations conducted at sea or on land (Micallief 2017, 17). Businessmen and Security personnel also favoured the creation of joint ventures with external networks: in particular, in October 2015, when Zuwaran human smugglers were forcefully pushed outside of Zuwarah they relocated in Sabratha. At first, their presence unbalanced the power relations within the city, but they eventually found their business space for their logistic and network expertise with the south-western and eastern routes (Micallief 2017, 17)

The Kataib led by Ahmad Dabbashi, the most powerful armed group in the city, and officially enrolled in the list of the government, was the main actor involved in the smuggling activities in Sabratha. However, the deal signed in late 2017 between the Italian government, Dabbashi and the GNA to cooperate in the fight against smuggling resented many powerful players in Sabratha (Al-Arabi 2018,

13). It was both negatively perceived by local officials and the wider public opinion – so that it costed the support of three powerful smugglers, who opposed the signature of the deal with the GNA and openly took arms against him. Abbashi was then forced out of the city by force.

A similar relationship between security and smuggling took place in Zzuara. While Zzuara used to be in the post-Qaddafi era a smuggling hub towards Italy, in October 2015 the shipwreck of a boat and the washing up of dead bodies on the city's shores generated widespread outcry amongst the local population. During that time an armed group called Special Intervention Squad emerged to curb smuggling activities. Smugglers perceived their space of maneuver within the city as shrinking – so they relocated outside to conduct business in the city and exploit the uncertain security situation there. In August 2017 security forces and the local population also cooperated for the arrest of Mr. Fahmi Salim bin Khalifa, an important smuggler based in Zzuara, who was then transferred to a prison in Tripoli (Al-Arabi 2018, 13).

Sorman and Zawya followed a different track, characterized by lower amounts of human smuggling activities due to greater insecurity. In these contexts, the presence of powerful groups with competing political positions outside the central government's control hinders the capacity of smugglers to conduct their operations (Al-Arabi 2018, 14).

Zawya, for instance, shelters several armed groups who compete for power and influence, engaging in frequent clashes (El Kamouri Jansen 2017). In 2017, for example, when the Ahnish and the al-Khadrawi groups engaged in armed confrontations, for several days the town center was isolated, services such as hospitals, and education facilities were shut down, and smugglers decided not to operate for the uncertainty that insecurity caused on the functioning of the business (Al-Arabi 2018, 14). Also, the local coast guard – which is supported by the central government – has been carrying out search and rescue operations, therefore intercepting migrant boats at sea and bringing them back to Zawya's port. This undermined the credibility of Zawyan smugglers in the eyes of migrants. Smugglers from other localities – who are interested in moving as many migrants as possible – also stopped working with Zawyans, as their clients wouldn't want to move to Zawya (Al-Arabi 2018, 14).

In Sorman, a stalemate between two opposing forces hindered the development of an extensive smuggling network. A balance of power between two armed groups had crystallized. On one side stood the Criminal Investigation Force, which enjoyed some form of social acceptance and was mandated by the Ministry of Interior to counter smuggling, kidnapping and corruption in the city. On the other side was the al-Aqabi group, who was in control of most of Sorman's territory (al-Arabi 2018, 14).

In Tripoli, re-location of the transitory government in 2016 provided armed groups with signals of potential benefits available for those groups who would drop the involvement in two businesses at the center of international and European concerns: terrorism and human smuggling. Some larger militias partially sanctioned those involved, so that human smuggling was displaced towards Garabulli and Al-Khums (Micallief 2017, 17). Garabulli has a long history of organized migrant smuggling, and its networks of smugglers, who were partially disrupted in 2009, came back in operations after 2011. However, much of the smugglers gradually moved elsewhere once the level of insecurity increased. Between 2014 and 2016 the network was partially displaced towards Zwuara and Sabratha. After June 2016 the Misurati militia who was controlling the migrant reception center and the road to Khoms – a group that had been colluded with smuggling activities – including also by releasing migrants without official approvals to be sold to smugglers or labourers – was ousted from the city (Al-Arabi 2018, 14). Moreover, the coastline of Garabulli came to be patrolled by branches of the Libyan coast guard operative in Tripoli, based in Tajoura, whose increased involvement made smugglers opt for other areas of operations (Al-Arabi 2018, 14).

Lastly, networks of smugglers have gradually restrained their operations in Tripoli. Up to 2017 armed groups in the city were not antagonizing smuggling business, being sometimes directly involved in that sector; after 2017, improvements in the local security has brought about a sharp reduction in the number of departures from the Libyan capital (Al-Arabi 2018, 14).

As a general concluding remark, a sharp difference in the functioning of the smuggling business in the north compared to the south is the relationship between smuggling revenues and the local economy (Al-Arabi 2018, 15). Caution and vigilance are higher – and smugglers prefer either to export revenues outside Libya, or they re-invest them far from their areas of operation, or directly reinvest revenues in bribery, protection, salaries for armed groups. Fahmi bin Khalifa, for instance, used to cover the monetary costs of medical treatments of wounded militiamen from Zwuara, while Dabbashi purchased arms and ammunitions to reinforce its own security force in Sabratha (Al-Arabi 2018, 15).

4.4 Norms, Actors and Policy issues in the formal Libyan Migration Governance

As a result of the protracting internal conflict environment, and the following large scale internal displacement the country is experiencing, migrants, asylum seekers and refugees have been

experiencing increasing exposure to arbitrary detention in extremely dire (“unacceptable”) conditions (UNSC 2014, UNHCR 2014, HRW 2014)⁴.

Libya’s lack of adherence to human rights standards, the corruption affecting migration governance institutions, and the rise of smuggling networks have been long criticized. However, European institutions and states have continued to negotiate deals with Libyan institutions, even before the revolution (HRW 2009, HRW 2014). At the same time, Libya has a long history of (im)migration. For much of its post-colonial history, Libya has been a country of destination for Arab and Sub-Saharan migrants. While the first signs of migration trends date back to the 1960s, in the late 2000s the population of migrants had reached substantial proportions. Estimates describe an immigrant population of two million (Against a Libyan population of six millions) in 2009, mainly composed by irregular workers. While in the late 1990s Qaddafi’s pan-Africanism had “opened the door” to economic migrants in Libya, his policy radically changed in 2007 – imposing a system of visas that would turn overnight thousands of migrants into irregulars (DRC 2013). Libya’s domestic policy regulating migration suffers from both the legacy of Qaddafi’s era institutional setting, and the ongoing conflict.

European institutions have long tried to inquire information about the regulatory framework, procedures and criteria for the detention of non-Libyan citizens; they have long observed also random detentions and deportation orders based on decisions targeting groups of nationalities, rather than individuals (EC 2004). In 2014, still the European Commission reported how Libya’s regulatory framework results to be “poor, fragmented, not harmonized”, as well as irregular migrants, refugees and asylum seekers are all considered to be “illegal migrants” that are subject to fines, expulsion or retention (EC 2014).

In particular, two major norms contain provisions regarding the deprivation of liberty of non-citizens for issues connected to migration. The Law 6/1987 Regulating Entry, Residence and Exit of Foreign National to/from Libya, as amended by Law 2/2004, and the Law 19/2010 on Combating Irregular Migration criminalize violations to migration provisions, which are sanctioned with fines and imprisonment. According to some, the article 6 of the Law 19 provides that “the illegal migrant will be put in jail and condemned to forced labour in jail or a fine of 1000 Libyan Dinars.. [and] must be expelled from Libyan territory once he finishes his time in prison” (GDP 2015,4). At the same time, it seems that the legal framework lacks of provisions unambiguously providing for administrative

⁴ Arbitrary detention and human rights abuses in prisons, to be fair, are reported not only limiting to the conditions of migrants. Libyans themselves suffer from increasing levels of crimes against the person, and for the breakdown of the rule of law. See e.g. OHCHR 2016.

forms of detention related to immigration. Also, observers note that detention for immigration issues not connected to a criminal process often takes place in a legal vacuum – which makes it resembling arbitrary procedures (DRC 2013), and that detention mostly occurs without a judicial order (EC 2013).

In particular – the Law 6/1987 as amended by the Law 2/2004, details visa and document requirements for all non-Libyans entering the country. Until 2004, all nationals of Arab States, as well with Sudanese, Ethiopians and Eritreans – were allowed to enter the country without a visa. All other non-citizens were obliged to obtain a valid visa through the General Directorate of Passports and Nationality, as specified by the La 4/1985 (EC 2004, 11).

Yet, according to article 11 of Law 19/2010 on combating Irregular Migration, all foreigners were obliged to legalize their stay in Libya within a period of two months after the entry into force – or they would have been considered illegal migrants subject to penalties. As a matter of fact, the Libyan migration legal framework criminalizes unauthorized migration without distinguishing between the status of migrants, asylum seekers and refugees. Article 17 of law 6/1987 establishes the possibility of deportation of non-citizens without a valid visa, if they overstayed their permit, had their visa revoked and/or have been sentenced to expulsion. Article 19 of Law 6(1987) prescribes immigration infractions that imply fines and/or imprisonment, such as providing false information, documents; entering and residing illegally, violating the conditions/regulation for visa and/or overstaying it, remaining in the country after being ordered to leave” (GDP 2015, 6). Moreover, Article 6 of law 19/2010 as seen above, provides for illegal migrants imprisonment and/or forced labour, with subsequent expulsion. Article 19 of Law 6/1987 provided imprisonment and fines for illegal migrants, and the amendment provided by law 2 of 2004 increased the fine to at least 2000 Libyan Dinars, and up to 20 years of imprisonment for illegal entry, crime aggravated if committed by an organized criminal network (HRW 2006).

Thus – the length of detention, according to article 6 of the law 19/2010 is not specified, which makes some observers – see e.g. Amnesty International (Amnesty International 2012, Amnesty International [b] 2013) – to say that indefinite detention, followed by deportation is implied and allowed. In fact, the Danish Refugee Council conducted a study on a non-probabilistic sample of one thousand foreign nationals residing in Libya, in which it emerged how consistent minorities of the sample had been arrested, most commonly when walking around the streets. Of those that reported to have spent a time in detention, 58% percent believed their arrest was related to their status as migrant. Time in detention ranged from few days to two years, while the majority reported a detention time between one week and three months (DRC 2013, 29-30).

Equally important is to consider not just the laws, but the actors and networks who are operating along the formal institutional spectrum of the domestic Migration Governance. Similarly to what said before, competences and responsibilities are fragmented, dispersed, sometimes overlapping between departments and ministries. Provisions contain gaps, or dispositions against human rights standards. Article 21 of law 6/1987 regulating Entry Residence and Exit of Foreign Nationals provides that “specified employees within the immigration authority are authorized to execute this law”. On parallel, article 17 established the grounds for the deportation by the Director of Passports and Nationality department. However, until 2011 immigration policies were a competence shared and managed by the Ministry of Foreign Affairs (MoFA), the Ministry of Interior (MoI), the Ministry of Justice (MoJ) and the Ministry of Defense (MoD), with the MoI working as overall coordinator. Under Qaddafi, the police had the task to conduct immigration controls, with the support of the armed forces. Since 2007, moreover, the navy provided assistance to the Coast Guard, while the MoI departments of anti-infiltration and illegal migration were tasked to investigate and process undocumented migrants (Frontex 2007, 8).

The outbreak of the conflict in 2011, and particularly its escalation in 2014 brought about further complications, in terms of actors involved, and norms enacted. The ministry of Justice and of the Interior reported to Amnesty International in 2012 (Amnesty International 2012) that weren't anymore involved in the arrest and detention of migrants and that the MoI – who had the mandate of oversight over detention centers – had no resources and capacities to continue to do so. The Justice system has been severely hindered due to insecurity; courts have not been able to function (OHCHR 2016, 12). Judges have been threatened and sometimes killed (ICG 2013). Against the collapse of the formal justice system, which impedes victims to seek for remedies and spreads impunity, Armed groups have taken over functions of law enforcement, and direct control of official detention facilities – sometimes creating new unofficial ones (OHCHR 2016, 13).

On the one side – by law – a set of procedural safeguards are indeed provided by the legal framework against undue restrictions of liberties and abuses. For instance, article 14 of law 20/1991 prescribes that no person may be deprived of freedom – unless charged with an act punishable by law, or by order of a competent judicial authority”; “Preventive detention shall be at known place with the relatives informed”. Other measures include the requirement of security officers to have a warrant of competent authorities when arresting or detaining (Art.30), the requirement to detain suspects in “prisons designed for that purpose” (Art. 31), the right of detainees to challenge the legality of their detention (Art.33), the right to the presence of lawyers during interrogations, and or to be assigned lawyers (art 320, 321) (Amnesty International 2012).

On the other, in fact, immigration detention regularly occurs without a judicial order (EC 2013), without access to consular assistance or to UNHCR services (Amnesty International [b] 2013). Means of communication – such as phones are confiscated, so that communication with embassy personnel or families is compromised. Detainees cannot challenge deportation decisions on the grounds of their prosecution, they are usually not brought against judicial authorities, have no access to lawyers and interpreters (Amnesty International 2012, Amnesty International [b]2013).

This background is further complicated by the direct involvement of armed groups – military gangs and networks, smugglers and traffickers, along with members of state institutions into the detention and movement of migrants (OHCHR 2016, 12). State and non- state armed groups provide essential services for the economy – such as security. Throughout Libya, armed groups often take this function with migration detention institutions (OHCHR 2016, 12).

As the United Nation Office for Human Rights for Libya reports (2016, 12), these networks of individuals “cooperated and competed in the smuggling and trafficking of migrants through Libya, while carrying out serious human rights abuses and violations against migrants. UNSMIL [the UN Support Mission to Libya] has also received credible information that some members of state institutions and local officials have participated in the smuggling and trafficking process. Exploitation and the buying and selling of individuals have taken place frequently. Such individuals are often subject to labour exploitation”.

During the Qaddafi regime, the Passport Investigations Department – under the General People’s Committee for Public Security – used to direct most of detention facilities which held captive individuals incriminated of irregular stay, including refugees (OHCHR 2016, 12). The revolution determined a partial re-structuring of the migration detention institutions, as the post-revolutionary governments created in 2012 the Department Combating Illegal Migration (DCIM). This in theory replaced entirely the Passport Investigation Department; however, according UNSMIL, at least two detention facilities in western Libya were still under direct control of the Passport Investigation Department in 2016 (OHCHR 2016, 13).

The DCIM operates as a branch of the Ministry of Interior, and is mandated to manage the migrant detention centers, representing a key institution linked to national frameworks working with migrants in Libya. On parallel, the Libyan Coast Guard, part of the Libyan Navy and operating as a branch of the Ministry of Defence, is a second ‘national’ institution operating on migration, being responsible for search and rescue operation (OHCHR 2016, 13).

However, in the context of Libya, state/formal migration governance institutions – such as those mandated to conduct search and rescue operations or to administer detention facilities interact closely with a plethora of de-facto institutions, such as non-state security providers in a complex web of competing/cooperating network relationships. As the OHCHR reminds us, both institutions (DCIM and the Coast Guard) “are subjected to pressure from armed groups, which have proliferated since 2011, and appear to be the most powerful actors in the system of smuggling, trafficking and abuse” (OHCHR 2016, 13). On the one hand, it is reported, “armed groups have threatened Libyan Coast Guard and the DCIM to hand over migrants”. On the other, “UNSMIL has received reports indicating the Libyan Coast Guard and DCIM staff members have worked with armed groups, smugglers and traffickers to exploit migrants for profits” (OHCHR 2016, 13).

“Armed groups, smugglers, traffickers, private employers, police, the Libyan Coast Guard, and DCIM staff have brought migrants into DCIM detention facilities, with no formal registration, no legal process, no access to lawyers or judicial authorities”. Migrants are “stolen of their documents and belonging”, held captive even if in possession of required documents such as work permits, passports, visas – for indefinite periods and arbitrarily, thereby contravening international human rights standards (OHCHR 2016, 15). Release from detention is conditional upon monetary payment – often extorted to migrants after exposure to violence on behalf of guards of Detention facilities (OHCHR 2016, 16). Malnutrition is widespread across centers – and UNSMIL acknowledges that according to some estimates, 50% of detainees found in detention facilities in 2016 suffered of malnutrition. Hygienic conditions are dire, and diseases spread easily amongst the detained population (OHCHR 2016, 15). Vulnerable segments of the migrant population, such as Unaccompanied Minors (UAM) and women are amongst the most at risk of labor and sexual exploitation, with no specific safeguards provided by the Libyan legal and policy framework (OHCHR 2016).

Militias often provide guards, while the DCIM manages the administration – such as catering and maintenance. Some militias have set up their own detention facilities, such as in Sabha, where the Third Force from Misurata has played a role until the end of 2016 in providing security on behalf of the Government. A major driver of such involvement is the economic and political value of the humans held. Through facilities militias can extract resources from migrants, sell them, and access salaries due to institutional affiliation, or because of the legitimacy implied in the participation to migration control efforts promoted by international partners (El Kamouni Jansen 2017, 23-27). In the lack of a strong legal base for provisional authorities, particularly the internally fragmented and conflictual GNA born after the Shikrat Agreement, , “smuggling” serves militias as “a means to

legitimize themselves and consolidate their position in Libya's political economy" (El Kamouni Jansen 2017, 27)

The revolution has provided the opportunity for armed groups to organize, and some have "utilized the rising tide of migration to carve out a role for themselves in the management of migrants". Detention facilities thus become strategic. Often "they are located in areas where the government (GNA) control is lacking, but where militias are calling the shots". Militias such as "al-zwaya Brigade, the 9th brigade and the militia of Abdul Razag – a former intelligence officer who controls parts of Tripoli – have taken the opportunity to expand their power (El Kamouri Jansen 2017, 26-27). Detained refugees are a "valuable commodity and a political bargaining chip" for militias, "not only in financial terms of selling detainees to external parties, but also to align with the power holders at the national level and pick up state revenues". On parallel, "Libyan authorities have also contracted [militias] to secure shores and stop illegal crossing to Europe" (El Kamouri Jansen 2017, 27).

4.5 Conclusions

Looking first at the description of smuggling in the post-Qaddafi's era, the political economic approach seems fruitful for explaining its functioning. It allows an in-depth description of its dynamics that highlight a market logic, in which multiple institutions regulate the behaviour of its agents. Here I refer to the supply side of the market, namely the way in which non-state actors (armed and non armed) organize the movement of people and the interaction with other supply agents.

An overarching theme emerging from the secondary data relates to the changes in the functioning of the business provoked by the breakdown of centralized systems of control and power, in the aftermath of Qaddafi's regime. Smuggling used to be a lucrative and regulated market also during Qaddafi's regime. Yet, with the collapse of the pre-revolution institutions, the market has re-organized.

Against a background in which the economic incentives have attracted an increasing number of operators, both armed and non-armed, the evidence suggest that the market is regulated by multiple rules – some of which are in open mutual conflict. In particular, there seem to be a tension between cooperation and confrontation rules that shape the behaviour of armed and non-armed operators.

Non-armed operators have gradually created network relationships between different areas. Some of these span across national boundaries – such as those between Libya and Niger, and Libya and Algeria. Others connect operators active within territories in Libya that are controlled by opposing military

state and non-state actors. Yet, the evidence also suggests that the line between armed and non-armed actors operating in the networks is often blurred.

A first dimension that emerges from the data is the functioning of the market as business platform for cooperation between (opposing) groups. In such regard, the evidence suggests the presence of strong economic incentives that favour the establishment of a structure of contractual agreements regulated by the pursuit of economic profit, and by the observance of the territorial specialization of different providers. In addition, there seem to be other “second level” rules at play in specific localities. For example, in the south, profit re-investment in formal economy seems a habit pursued by different operators as a coping mechanism for chronic under-investment and scarce opportunities. Here smuggling becomes a social protection net, in which both individuals can invest for livelihood purposes, and as a multiplier of wealth that can be re-invested.

Furthermore, if the evidence is clear in stating that the market functions across areas that are controlled by opposing authorities, this should imply that the economic incentives provided by the revenues of partaking the market allow for the establishment of contractual agreements between factions or intermediators that belong to opposing groups. This in turn suggests the existence of complex nets of relationships whose purpose is to make this economic cooperation possible. Yet the evidence is not entirely clear in specifying how this takes place, or which conditions make it more likely.

At the same time, the evidence seems to suggest that the behaviour of actors is also disciplined by confrontation rules. Smuggling has become with time one of the most lucrative business in contemporary Libya. Both non-armed and armed groups then behave as common enterprises. They intend to increase their relative quota of revenues. When this regards armed groups – in particular – this means that armed groups seem to behave as monopoly-seeking actors. They are interested in monopolizing the business over the territory they control, if not to expand it at the expenses of other actors, in order to maximise both their wealth – through which they can finance themselves – and their legitimacy as rulers. Also, this implies that actors constantly confront amongst themselves, in order to achieve a tighter control on strategic sites. Thus, for instance areas in which a higher number of actors is present, are also characterized by higher insecurity, while more it could be researched on the role of social variables. For example, whether the presence of multiple social identities leads to the improvement or detriment of institutional (security) arrangements. In other words, for example, whether single-tribal smuggling nodes are safer than multi-tribal smuggling nodes, or not.

More in general, however, the discussion above brings to the fore the second major theme contained into data – the strong interconnection between informal smuggling actors and the actors operating in

the formal Libyan migration governance. This is in fact disciplined by a complex system of institutions that favour a punitive approach to migration, whose management is partitioned confusedly between a plethora of actors. On the one hand, thus, norms codified prescribe detention for all those migrants caught without valid documentation, with weak judicial safeguards and scarce alternatives to detention. On the other, probably inheriting the institutional confusion of Qaddafi's time, Libyan post-revolution institutional system fragments, overlaps and/or dubiously assigns competences between multiple ministries and agencies.

Amongst other things, the system assigns judicial functions to extremely weak judicial authorities – that in fact have no sanctioning capacities against powerful militias. At the same time, it assigns patrolling, controlling and custody functions to the security sector, whose behaviour seems far from being adherent to norms of human rights. Instead, the very security sector is composed by a constellation of armed groups that have – overall – mostly unclear and competing relationships with central authorities. And, as the evidence suggest, it is composed also by the same armed groups that either provide protection to smugglers or directly engage in the movement and stationing of human cargoes.

The authority of state institutions then is extremely weak, and seems to blend into shades of grey in which part of their enforcing apparatus is formally competent in enforcing state regulations of migration control, but in fact respond to the market-led institutions of human smuggling. This fact seem to be cross-cutting across in Libya. From the borders between Libya and Niger to the north shore, although with varying intensity, agents on the ground confront a multiple institutional system. But they mediate between them in an opportunistic way, and those institutions that provide better short-term rewards – thus those that regulate the smuggling economy – seem to prevail.

The AIIA in the south, thus, is formally competent in controlling access to border posts, but it functions not hindering the business of smugglers, it is composed by militias, or is not capable to sanction their decisions. It selectively sanctions smugglers, although this seems more to be connected with local dynamics, rather than to the enforcement of general rules. The Coast Guard in the north is supposed to control movements and combat against smugglers, however, it selectively enforces the control over coasts, and is reported to have tight connections with those that on-land manage the smuggling. Similarly, the DCIM is also supposed to manage detention facilities and provide services to the detainee population. However – the same security actors who partake the smuggling business compose part of its ranks. On the overall thus – the central offices of the Ministry of Interior, who is supposed to oversee the implementation of the institutional migration framework, is not capable of enforcing it.

Chapter 5

The international Environment

5.1. Introduction

While chapter 4 defined the contours of the political economy “from below”, looking at the political-economic nexus that intertwines state & non-state, formal & non-formal actors, as well as the priorities they identify and the norms that regulate their behavior, this chapter moves the focus “upward”. Chapter six is thus devoted to reconstructing the international part of the political economy of migration in Libya.

In particular, it will describe the international structure of Libya’s governance of humanitarian aid in migration. Similarly to chapter 5, it will thus describe the evolution of the (inter)actions of a set of agents, the priorities they have identified and the norms that shaped their behavior over time – i.e. between 2012 and 2016.

In terms of actors listed, I will limit this discussion to four major ‘international players’. Namely, the United Nations Support Mission to Libya (UNSMIL), the United Nations High Commissioner for Refugees (UNHCR), the International Organization of Migration (IOM), the European Union. To these, I add one of the major bilateral European donors interested in migration – the United Kingdom. Other donors could have been analyzed, but either for the restricted scope of their migration portfolios, or because of challenges encountered in obtaining interviews they have been excluded from this analysis.

Looking at the actors mentioned, instead, I will describe how the programme managers reconstruct the norms relevant while developing programmes, which priorities are identified within the organization or amongst organizations, how these priorities relate with the codified system of norms, thus how they decide to interact with (and with which) Libyan institutions on migration.

This will allow me to stress out achievements and emerging issues of international programming on migration responses in Libya. Drawing from the reconstruction provided by interviewees, I will

highlight the role played by (inter)national institutions throughout the programming process at field level.

Through this focus I will reconstruct the institutional setting regulating international engagement, the institutional multiplicity that international organizations face, and the “balancing” exercise played out within organizations to mediate between different institutions. In this balancing process some norms prevail over others. On parallel, I will stress out how the negotiation process through which this balancing exercise takes place, the arena characterized by cooperative/competitive relations between actors.

This discussion is indeed relevant to understand the international conditions of the governance structure that contribute to frame the realm of possibilities for NGO programming. Structural conditions both regard the policy options prioritized by international agencies, and the funding opportunities provided to NGOs. However I do not deterministically argue that structural conditions determine the outcomes of programming – and to this point will be given space in the next chapter.

Yet, at least two sets of institutional frameworks seem to collide in international programming: on the one hand the norms of international state-building, accompanied by an understanding of Libya as a post-conflict environment which – since 2011 – has drawn the attention of international organizations towards developmental actions. This has attracted mostly developmental donors to the arena, donors which have given priority to state-supportive initiatives on migration, unfolding the norms of state-support as codified in their mandates. Examples of this are the multiple sets of “supportive” programmes, “capacity-building” initiatives. The second framework is instead proper of humanitarianism, particularly as represented by the norms of human rights and human security, codified in the mandates of some of the actors – although in differently ways. However, the humanitarian institutional framework emerges as systematically subdued to state-building one, through the repeated calls to the legitimacy of domestic institutions, to the type of engagement the internationals should aim at delivering, and to the impact these norms would have on the state-building process.

5.2 The United Nations Support Mission to Libya (UNSMIL)

The creation of a United Nation support mission to Libya is closely linked to the course of the international engagement during the Libyan Revolution. From its inception, the institutional

framework through which international engagement was concretizing referred clearly to the international norms of a post-conflict state building.

Just after the uprisings in eastern Libya in spring 2011, multiple stakeholders within the United Nations system launched a set of meetings to analyse key prospective challenges for post-conflict engagement (Martin 2015, 129). At that time, the outcome of the conflict was still uncertain, and the UN engagement with Libyan counterparts was politically sensitive. Some – including the Government of France – were among the front-liners in their support for the emerging Benghazi-based National Transitional Council as the sole legitimate Libyan authority; others, however, conferred the NTC different forms of legitimacy, and some – in particular few members of the Security Council – considered this move as premature (Martin 2015, 129).

The position of the United Nations was somehow following a twofold objective: On the one hand, the United Nations took part to the Contact Group on Libya – which supported the NTC. On the other, the formal position of the UN Security Council aimed to mediate between a ceasefire agreement and a political solution that could match “the legitimate aspirations of the Libyan people”. On parallel, the Special Envoy Khatib sought to mediate the short term ceasefire with a long term power sharing agreement between the representatives of the NTC and the former Qaddafi Loyalists (Martin 2015, 129). A widespread feeling among Libyans was the overall skepticism towards foreign interventions, as Libyans were adamant in controlling the transition, and were wary – remembering the Iraqi experience – of post-conflict situations guided by external actors. In addition, Qaddafi had been successful in spreading mistrust towards foreigners, a condition that permeated amongst Libyan institutions – including the same NTC that was aiming for international support (Martin 2015, 129).

Before the end of the conflict, the Special Representative for the Secretary General of the United Nations to Libya defined the principles for post-conflict engagement of the Security Council and the Contact Group in Libya. The first and most important was that of national ownership: the United Nations should guide and support, helping Libyans to realize their aspirations. Second, to respond quickly “with proposals of early UN engagement beyond ongoing humanitarian efforts, whenever political developments required”(Martin 2015, 129). Third, coordination of international assistance, avoiding to “overburden” transitional authorities with multiple uncoordinated assessments or missions. Fourth, understanding the institutional uniqueness of Qaddafi’s Libya – which combined “national wealth with institutional poverty”. Fifth, “humility” – i.e. taking into the highest consideration the mixed record of the UN experience in post-conflict support (Martin 2015, 130). On their side – all Libyan interlocutors were adamant in demanding a light approach in the design of the UN engagement, particularly avoiding “boots on the ground” (Martin 2015, 130). On parallel,

interlocutors of the NTC identified three areas of assistance: support for democratic elections and promotion of democratic transition during the drafting of a new constitution, a constitutional referendum and then the elections. Secondly, advice in re-designing public security through security sector reforms, integration of militias and control over ammunitions and armaments. Third, assistance in transitional justice, human rights protections and re-asserting the rule of law (Martin 2015, 130).

Thus – as the former SRSR Martin reports – to balance the need of quick responses and national ownership, the Secretary General decided to advance for phases, deploying in September a small team of officers for three months for “immediate support, while exploring the UN’s role with the new Libyan authorities and civil society (Martin 2015, 130). In September, the victory of the NTC appeared more likely, so the NTC requested the assistance of the United Nations through a letter of the Prime Minister of the NTC Mahmoud Jibril to the Secretary General – in order to implement the stabilization plans of the NTC (UNSC 2011). In response – the UN Security Council adopted the Resolution 2011, which established the United Nations Support Mission for Libya (UNSMIL) (UNSC 2011). This was designed as a political support mission under Chapter VII of the UN Charter, led by the Department of Political Affairs (DPA), and tasked to support the NTC in a number of tasks – such as the re-establishment of the rule of law and security (UNSC 2011).

The DPA is not usually tasked to oversee the deployment of Chapter VII missions, since it usually works with Chapter VI missions occurring before, after or instead of Chapter VII missions led by the Department of Peacekeeping Operations (DPKO) (Tuft 2018). Instead, in the case of Libya, the mission probably acquired this specific institutional configuration both as a result of the fact that the major use of force had been taken over by NATO during the conflict, and likely because the UN had no institutional interest in deploying a DPKO mission. This second aspect could be explained, in turn, both in terms of divisions among major international players over the intervention in Libya (TUFT 2018), and because the international community underestimated the challenges of the transition and overestimated instead Libyan capacities to initiate autonomous institution and state building processes (Varvelli 2013, 4).

The official mandate came on September 16, and started working with the NTC Executive Committee and Stabilization team. However, since the beginning of their deployment, the mission encountered multiple “governance vacuums” in the Libyan counterparts. UNSMIL received a three months mandate – later extended for other three months. (Martin 2015, 129). On the one hand, the short term horizon of the initial mandates created an institutional hurdle preventing the mission to develop long term goals and objectives; on the other. It reflected the optimism placed by the international community on the capacities of the NTC, particularly on its ability to promote initiatives for stability

in the country (Tuft 2018). Unsurprisingly, the original mandate focused on providing political support to the re-construction of national institutions. The mandate contained provisions such as “assisting national efforts to extend State authority, strengthen institutions, restore public services, support transitional justice and protect human rights – particularly those of vulnerable groups”, and others such as “taking steps required to initiate economic recovery and coordinate support that may be requested from other multilateral and bilateral actors” (UNSC 2011).

As said, on December 2011 the UNSC adopted the resolution 2022 (UNSC 2011b), and extended the mandate of the mission for an additional three months – up to march 2012. At a closer look, the mandate was expanded to include “assisting and supporting national efforts to address the threat of proliferation of all arms and related material” (UNSC 2011b). This expansion reflected a growing (inter)national concern towards the widespread diffusion of small arms, as well as the general lawlessness in the region after the death of Qaddafi (Martin 2015, 131). More broadly – the primary goal UNMIL set for its initial deployment was the support to the preparations for the national elections that the NTC – lacking of legitimacy as a government – set immediately for the summer of 2012 (Martin 2015, 133-135).

However, already in 2012, discontent prevailed amongst opposing Libyan militias and armed forces regarding the track of progress in political agreements achieved by the NTC. This led to a stalemate, an “armed peace” in which armed factions refused to be disarmed and demobilized. The security situation started to deteriorate, spreading a sense of dis-trust amongst Libyan actors towards progress in democratic transition (ICG 2012). Against this backdrop, the mandate of UNSMIL was broadened in 2012 to include “assisting the Libyan authorities to define priorities and matching their needs with offers of strategic and technical advice, as well as supporting Libyan efforts to manage the transition of the country to an inclusive democracy, promote the rule of law, protect human rights, restore public security, counter illicit proliferation of weapons, coordinate international assistance and build government capacity across all relevant sectors including by supporting the coordination mechanism within the Libyan government, [...], advice to the Libyan government to help identify priority needs for international support,..., facilitation of international assistance to the Libyan government and establishing a division of labour and frequent communication between all those providing assistance to Libya, promote national reconciliation and hold free, fair and credible elections” (UNSC 2012).

In 2013, the Resolution 2095 extended for additional twelve months the mandate for UNSMIL, reiterating much of the responsibilities already stated. Interestingly, the Resolution is one of the first examples of the institutional dualism inherent in the integrated character of the UN Mission. In fact, on the one hand, the mission poses itself as a supporter of a state-institution building project: it

reaffirms repeatedly the centrality of Libyan institutions in defining priorities, needs, as well as being the primary actor of institutional construction and change – of which UNSMIL claims to be a mere supporter. On the other, UNSMIL poses itself as a warrant – as monitor for the respect of human rights and international humanitarian law (UNSC 2013). In particular, it states that “Acting under Chapter VII of the UN Charter”, the Mission “Supports the establishment of a single, inclusive transparent national dialogue and constitutional drafting process, and reiterates the need for the transitional period to be underpinned by a commitment to democratic processes and institutions, good governance, rule of law, national reconciliation and respect for human rights”. At the same time, it “Calls upon the Libyan government to promote and protect human rights, and to comply with its obligations under international law, including human rights law”. Moreover, the mission “Condemns cases of torture and mistreatment, [...], in detention centers in Libya, calls upon the government to take all steps to accelerate the judicial process, transfer detainees to state authority and prevent and investigate violations and abuses of human rights, [...], calls for immediate release of all individuals arbitrarily arrested or detained, including foreign nationals, and underscores the government primary responsibility for promoting and protecting human rights, particularly those of African migrants and other foreign nationals” (UNSC 2013).

Unsurprisingly, under the mandate section it is stated that “as an integrated special political mission, in accordance with the principles of national ownership, [the mandate] shall be to support the Libyan government to 1) as immediate priority ensure transition to democracy, promoting facilitating and providing technical assistance to the national dialogue, the electoral process, and the process of preparing drafting and adopting a new constitution”. On the other hand, at the same time, “promote the rule of law and monitor and protect human rights, in accordance with Libya’s international legal obligations”, and “build governance capacity, as part of a coordinated international effort, by providing support to ministries, the national legislature and local government”(UNSC 2013). Such institutional dualism is re-iterated in the same language in the resolution 2144⁵ of 2014 (UNSC 2014).

However, the operation Fajr Libya (Libya Dawn) in 2014 interrupted any effort of national reconciliation and it provoked an institutional paralysis in Libya – creating a plethora of conflicting institutions fighting for legitimacy (see e.g. Lacher and Cole 2014, Toaldo 2017, 63). The operation in itself consisted in a targeted attack to a strategic infrastructure – which however changed the

⁵ For instance – the resolution “Underlin[es] the importance of agreement on immediate next steps for the democratic transitions,..., reaffirm[es] the centrality of credible elections, an inclusive and transparent constitutional drafting process,..., and national dialogue. Welcom[es] the efforts of the SRS to facilitate a Libyan-led national dialogue, reaffirm[es] that the UN should lead the coordination of the efforts of the international community in supporting, in accordance with the principles of national ownership and national responsibility, the transition and institution building process” (UNSC 2014)

political and economic balance of powers between actors and marked the beginning of a process of conflict polarization. Principally, but not exclusively, the military operation restricted to the ousting of a brigade of the city Zintan operated by a brigade from the opposing city of Misurata (Lacher and Cole 2014). Most commentators suggest how this specific move triggered an escalation of the conflict between relevant power holders, whose consequences persist today. Institutionally, however, the major consequence was the creation of parallel and conflicting institutions, with the relocation of the elected House of Representatives (HoR) into the east, and the political paralysis after that.

As a response, the end of 2014 and much of 2015 saw an increased effort undertaken by the International Community to renew the political dialogue (Toaldo 2017, 60-63). The UNSR, Bernardino Leon, focused on facilitating a mediation process between political factions, which could make the House of Representatives – elected just before the escalation of the conflict in June 2014 – more inclusive (Toaldo 2017, 63). At that time, a consistent group of elected representatives boycotted the HoR; while Leon’s primary task was to facilitate the return of these boycotters into the HoR, a group of representatives of the dissolved General National Congress (GNC) – the parliament elected in 2012 and dissolved in the aftermath of the second elections – had re-created the assembly. They prepared a lawsuit stating that the amendment of the Constitutional Declaration who had created the HoR had been approved without the required quorum. In November 2014, the constitutional court of Tripoli ruled the amendment as void – thereby exacerbating the institutional crisis (Toaldo 2017, 63).

Against this backdrop – Leon’s primary task became that to induce the two rival parliaments – the HoR in Tobruk and the GNC in Tripoli to strike a comprehensive political agreement. However, endless negotiations, intermitted by conflict escalations, paralyzed this endeavour, and 2014 ended without any substantial progress. (Toaldo 2017, 64).

The first months of 2015 – although marked by substantial changes in the balance of power between political and military factions in western Libya, and by the appearance of ISIS in Sirte, see also initial convergences between some exponents of the two representative bodies. Delegations began to meet regularly under the aegis of UNSMIL in Morocco, and the first drafts of power sharing agreements started to circulate. Libyan factions met multiple times during the spring and summer of 2015. In this political environment, the UN Security Council re-proposed, in the Resolution 2238 of September 2015, the integrated institutional framework for UNSMIL. While on the one hand the resolution reaffirmed the duty of conducting human rights monitoring and reporting, supporting in securing arms and ammunitions, and generally supporting Libyan institutions, the mission was primarily mandated “as an integrated special political mission,..., *as immediate priority* [emph.added], through mediation and good offices on support[ing] the libyan political process towards the formation of a Government

of National Accord and security arrangements, through the security track of the UN-facilitated Libyan Political dialogue” (UNSC 2015).

However, although European capitals became increasingly optimistic of an immediate signature, a finalized agreement was never reached. Instead – in the fall of 2015 – the overall legitimacy of the UN led mediation process became increasingly weaker. The Delegations who participated to the political dialogue had elected Al Serraj as president of the future Presidency Council, and expanded the number of the Council’s members to nine – in order to accommodate the different factions involved in the process. Yet, the two representative bodies never signed the draft of the agreement (Toaldo 2017, 64). The position of Bernardino Leon himself was put under attack – thereby undermining its legitimacy, in a moment in which the rise of ISIS in Sirte escalated the pressures of European capitals towards an agreement. Also – the UN-led mediation channel was contested, since the HoR created a parallel initiative called “Libyan-Libyan dialogue” (Toaldo 2017, 64).

Leon’s successor, the German Martin Kobler, came into office in November. He started in an historical moment where European pressures were extremely strong, and there was no space for altering the mediation process. Also, Libyan partners who had sustained the UN-led mediation – the Libyan Political Agreement (LPA) – were suffering from the competition of the Libyan-Libyan dialogue, and were adamant in signing. This was, in sum, the political background against which the Shikrat Agreement was signed in December 2015 (Toaldo 2017, 66). None of the two parliaments adopted the agreement; rather this was signed by individual MPs of both assemblies, some mayors and exponents of the Civil Society. As such – the LPA suffered of weak national legitimacy (Toaldo 2017, 66). Instead, the UN Security Council Resolution 2259, adopted in December 2015, provided international legitimacy sanctioning the process (UNSCb 2015), and to date it represents one of the few legal bases legitimizing the Presidency Council (Toaldo 2017, 67).

The issue of national legitimacy remained pervasive along all 2016. The LPA had created a complex institutional system, where the Presidency Council – a collective body – could act as head of state, while the Government of National Accord (GNA) played the role of a cabinet. The GNC was supposed to become the High Council of State, having both consultative and co-appointing powers. The HoR – however – never approved the LPA, particularly since the LPA foresaw at article 8 the restructuring of the chain of command of all military leadership. This implied that General Haftar, the major leader of the eastern military forces, should have given up its leadership role, and should be put under civilian control. Unsurprisingly – most of the pro-Haftar members in the PC soon boycotted the institution, and the HoR rejected twice the list of the proposed ministries of the GNA (Toaldo 2017, 67). Weakened by this sequence of events, the legitimacy of the UN mediation process

was further undermined by the military successes of Haftar during the summer of 2016, which created serious fractions within the coalition who was supporting the LPA (Toaldo 2017, 67).

In June 2016 – the UNSC re-proposed the usual institutional framework for the UNSMIL mission, providing it with its usual multifaceted mandate. UNSMIL was tasked to pursue goals as diverse as the monitoring of human rights, the coordination of humanitarian assistance, the support of the implementation of the Libyan Political Agreement, the Government of National Accord, the formation of its security arrangements, and the “next steps” of the transition (UNSC 2016). In the autumn of 2016 the UN mediation efforts was seriously questioned amongst European capitals – although Kobler remained focused on seeking an inclusive mediation amongst different stakeholders (Toaldo 2017, 68). This UN policy vector was sustained by the mandate renewed in December 2016 by Resolution 2323 (UNSCb 2016). In this text, the primary tasks for UNSMIL remained “the implementation of the LPA; the consolidation of governance, security and economic arrangement of the GNA; the subsequent phases”. At the same time, UNSMIL should have worked “with operational and security constraints: support to key Libyan institutions, support on request, for the provision of essential services and delivery of humanitarian assistance in accordance with humanitarian principles; human rights monitoring and reporting, [...], coordination of international assistance, and provision of advice and assistance to GNA-led efforts to stabilize post-conflict zones” (UNSCRb 2016).

This institutional stance has been summarized as the “purpose of providing indications to the Libyan government, aiming at re-constructing the rule of law and institutions”. Furthermore, it had as primary objective that of “seeking reconciliation between various revolutionary groups” (Varvelli and Mezram 2017, 18). Functionally, the mission was structured with the deputy head of mission also appointed as humanitarian coordinator (UNSMIL 2018). This approach has remained also in the last resolution – UNSCR 2376 of September 2017 which, copying the dispositions of resolution 2323, extends the mandate of the mission up to September 2018 (UNSC 2017).

5.3 The International Organization of Migration (IOM)

The International Organization of Migration (IOM) has been operative in Libya since 2006 (GDP 2015). Its mandate clarified that the organization's area of intervention focuses on migration management with governmental authorities⁶. The primary data collected with the protection programme managers are clear in identifying a link between the mandate and the historical institutional commitment of the organization. In particular – the interviewee establish a link of continuity between the pre-war and current engagement on migration.

The institution building framework has been clearly established in the programme management its inception, when the organization has begun to support national authorities – at that time those of Qaddafi's regime – in improving their institutional capacities on migration management mostly through training and mentoring⁷. However, since at least 2009, the IOM has cooperated with Libyan NGOs to operate medical clinics of multiple detention centers (Amnesty International 2013). Such initiatives can be seen as pursuing two parallel objectives. Transferring knowledge regarding human rights, or facilitating access to life-saving services, on the one hand; and improving the capacities of national authorities to control and counter illegal immigration on the other. Beyond any doubts, however, IOM's pre-2011 engagement with Libya focused on irregular migrants and detention. For instance – the United States had funded the “enhancing the protection of irregular migrants”, while the European Union had funded the programme called “stabilizing at risk communities and enhancing migration management to enable smooth transitions in Egypt, Tunisia and Libya”. In both cases the IOM was interested in accessing detention centers, providing assistance to irregular migrants and potential victims of trafficking, assisting cases for Voluntary Returns (GDP 2015). On parallel, the IOM received funds from the government of Italy and the European Union to implement the Sahara-Med project, whose main objective was to “prevent, detect and manage irregular migration flows” – interrupted in 2011⁸.

Data collected in Tunis report a substantial continuity between the pre-war and the immediate aftermath of the conflict. Coherent with its mandate, and recalling an institutional capacity of the governmental bodies to undertake (some of) their functions, the interviewee frames the intervention of IOM before 2014 as a relatively small engagement in support of fragile-but-capable institutions. These capacities regarded both the command and control, the undertaking governmental prerogatives

⁶ Interview by the author in Tunis with anonymous source

⁷ Interview by the author in Tunis with anonymous source

⁸ Interview by the author in Tunis with anonymous source

and functions, and the capacity to grant access to third parties in competing areas: “it was a small project before 2014 because the government was there”. In this sense, the programme was composed of a set of capacity-building initiatives [trainings, skills development] to make more state institutions more efficient, less distant from basic human rights standards. Secondly, the programme intended to address specific gaps in service provision, as identified by governmental counterparts⁹.

In general – institutional capacities between 2011 and 2014 were recalled as dysfunctional but existing. For example, referred to the issue of paying for charter flights for humanitarian repatriation [nowadays a function undertaken by the IOM] the interviewee recalls that “the government was doing the deportations, the government was there, and IOM was doing migration management, administration, advocating for not to have deportation, people need to return voluntary”¹⁰.

The problem – as identified by the source – was that while on the one hand the MoI of Libya was capable of enforcing some of the norms related to the national legislation (for instance controlling facilities, paying for personnel and catering, and having some affiliated groups tasked to enforce rules of immigration control), on the other hand the government was far from adhering to the international standards of human rights. IOM attempted to find a place in this gap, mixing advocacy with positive incentives. For instance, its action consisted in the rehabilitation or renovation of governmental detention infrastructures, which could pave the way for soft-ware activities such as trainings: “human rights trainings in the detention centres [...] not in Tripoli, or in hotel, or in Italy, no. In the detention centers”¹¹. The organization could sign an agreement with the MoI, particularly with the DCIM and the DCIM would be capable of granting access to centers – particularly in Tripolitania¹².

Through this access, the modalities of delivery could be tailored to the different types of service providers into detention centers. “This is where we build trust, in the detention centre. So you know for instance this is the manager, this is the deputy, this is the cleaner this is the cook; this is the guard. And with each training you target them differently. For the human rights you don’t need the manager, you need the guards, then you start with the training”¹³ Thus, IOM advised for arrivals and food assistance or medical assistance: “We were doing migration management and small-scale assistance. At that time...they were controlling all detention centres”¹⁴.

⁹ Interview by the author in Tunis with anonymous source

¹⁰ Interview by the author in Tunis with anonymous source

¹¹ Interview by the author in Tunis with anonymous source

¹² Interview by the author in Tunis with anonymous source

¹³ Interview by the author in Tunis with anonymous source

¹⁴ Interview by the author in Tunis with anonymous source

Related to one of the most critical aspects of working in detention centers – access – the interviewee describes a pattern of institutional relationship between IOM, the Libyan DCIM and the multiple detention centers in the 2012-2013, that can be termed controlled disfunctionalism. The interviewee recalls that the relationship with the DCs was based on an “agreement [signed] with the government“ dating back to 2005¹⁵. This granted the formal institutional authorization to enter detention centers across the country. At that time, when the IOM had to visit detention centers, they would contact the head of the DCIM, and “they [would] organize trips, give escort, give their permission”¹⁶.

Yet, the authority relationship with centers in the Fezzan was, already at that time, problematic. Centers in the Fezzan – the interviewee seems to highlight – had already a blurred authority structure. So that when visiting “the ones that are far [from Tripoli], for example like Sabha or Barak Shati, actually IOM needed their permissions because they *are far from the center* (emph. Added). But for the ones in Tripoli IOM had access, because they need IOM and they are closer”. Although located in the territories controlled by competing armed groups, the interviewee recalls a de facto capacity of the DCIM to grant access to detention centers, as well as the capacity of IOM to visit daily multiple sites¹⁷.

The interviewee is very clear in establishing the hierarchy of norms followed by the IOM. The institution/state-building imperative, thus the choice to work in support of Libyan governmental institutions supervenes the humanitarian imperative of improving immediately the level of service delivery for migrants. For example, taking up the case of the provision of health services in detention facilities, the interviewee recalls the bargain between IOM and the governmental authorities. The government asked for the direct support in the delivery of health services, but IOM placed more weight to the question of long-term institution building and sustainability. Thus, the work undertaken by IOM was to focus on the existing institutions to facilitate the achievement of new local institutional arrangements who could match the needs identified. The interviewee in fact recalls that “They [DCIM] wanted to establish a clinic. Then you go to the ministry of ‘health’ and then you ask them for medical doctors, [...] because you want to introduce sustainability. If there is no medical doctors being paid by the government, then our program will run tomorrow, the day after tomorrow [and then will interrupt]. So, to insure responsibility you talk to the ministry of health and they give you the staff, you sign an agreement, you establish the clinic”¹⁸.

¹⁵ Interview by the author in Tunis with anonymous source

¹⁶ Interview by the author in Tunis with anonymous source

¹⁷ Interview by the author in Tunis with anonymous source

¹⁸ Interview by the author in Tunis with anonymous source

Another example in which institution building measures and humanitarian imperatives are extremely intertwined was the support to the creation of inter-ministerial committees to address the question of national legislative framework. Similarly to other international actors, the programme management of IOM devoted part of the initiatives to promote a change in the national regulations on migration. Thus, the ‘support’ declined in facilitating the occurrence of meetings, which could ‘help’ the government drafting new laws. Laws that could for instance facilitate the de-criminalization of migration: “And then we also had an inter-ministerial committee, [whose] responsibility [...] together with IOM [was] to develop recommendations for migration legislations”¹⁹.

Although consistent with the work undertaken at that time by other actors – such as the NGO DRC (See next chapter), the interviewee recalls a substantial difference between the work conducted by IOM and that of NGOs, which could probably indicate how at the end of the day a hierarchical order was created with the primacy of institution building initiatives. “So the NGOs advocate, [...] you do advocacy with other colleagues, but then with the government, IOM *developed* [emph. Original - recommendations]” – working with the inter-ministerial committee²⁰.

The migration management component of institutional support, besides for what said, consisted also in the increase of institutional “registration” capacities for migrants, asylum seekers and refugees. In this case, institution-building measures overlapped clearly with humanitarian norms, without necessarily implying a curtail for the latter. To overcome the humanitarian issue of lack of legal documentation, that implied a lack of “identity” IOM created a pilot project in six detention centers to register migrants . “IOM trained the staff who is in charge of this and then this was linked to an interface installed into the ministry of Interior” and linked with “the ministry of labour”²¹.

This is also a long rooted initiative, done purposely to facilitate the integration of illegal migrants into the national labor market, providing at the same time legal alternatives to detention. According to the source – “the national legislation that the MoL has to follow compels to recruit [foreigners] internationally. So what IOM agreed upon within inter-ministerial committee is to have this, the possibility of having this [labour] from within Libya. [through this interface] when someone in Libya wants labor, they found them in the system. And then they go and they conduct interviews on the spot [in detention centers]. Then they link up to the ministry of health and they issue the medical check, according to the rules and regulations, and then they issue medical check for everyone. And then the

¹⁹ Interview by the author in Tunis with anonymous source

²⁰ Interview by the author in Tunis with anonymous source

²¹ Interview by the author in Tunis with anonymous source

ministry of Interior issues a residency card, the person is brought out of detention and has access to work and to live regularly in Libya”²².

Clearly – this would address one of the biggest problems outlined by international reports – arbitrary detentions for irregular stay. In fact, the interviewee links this initiative to the need to address one of the major problems affecting migrants, the lack of documentation, which implied their irregular status punishable with detention²³.

While so far we have seen the articulation of the work undertaken by the organization into national migration networks, now I turn to look at the international side. Interestingly, what emerges from the interview is the substantial isomorphism of perspectives regarding migration issues and policy responses. Data do not provide insight on whether within international networks different agencies competed or bargained amongst policy objectives and priorities. However, in terms of policy responses the interviewee recalls how before the Fajr Libya, IOM UNHCR and DRC had a common understanding of the humanitarian concerns regarding migrants in urban and detention centers, and had specialized in their responses²⁴. In 2013 the development of service delivery was facilitated in this context by the first experiences of coordination platforms – such as the migration working group. However, interestingly, the shared understanding between 2012 and 2013 in the network of officers working on migration was that “the migrant situation in Libya was not humanitarian. Why? Because they have food, they have doctors you take them out of the detention centres, you return them if you want to. It was not humanitarian, they have houses”. Although he admits that “for refugees it was different when they were outside; [form migrants] they [militias] were not attacking them, there was no killing of migrants, so it was totally different”²⁵.

This understanding was developed by the joint work of UNHCR and IOM, although “in terms of accessibility to the detention centres it was IOM”. This allows to highlight the role of IOM in developing this shared understanding across international migration networks, as it implied – in the words of the interviewee – two things. First, it meant that the accessibility of IOM to detention centers contributed to shape the understanding of the issues regarding the humanitarian needs of migrant detainees in the international community. If UNHCR wanted to work on migration with Libyan institutions responsible to manage migration issues in Libya, for example, they had to consider – if not accept – the understanding of the issues and priorities developed by the IOM²⁶.

²² Interview by the author in Tunis with anonymous source

²³ Interview by the author in Tunis with anonymous source

²⁴ Interview by the author in Tunis with anonymous source

²⁵ Interview by the author in Tunis with anonymous source

²⁶ Interview by the author in Tunis with anonymous source

At the same time, however it was also the weak legal operational basis of UNHCR that contributed to impose the agency a low profile: “when you don’t have a legal basis [to work] what impact can you make?”. IOM’s legal agreements with Libyan institutions, on the contrary, are seen to have contributed to increase the legitimacy of IOM both towards Libyan institutions, and towards international actors by virtue of the good relationships the organization had developed. “When you have [...] you could tell them: look I am supposed to give you a technical advice on this according to our agreement, but the deportations that you are doing are horrible. IOM is not against the government to do deportations, this is your prerogative and we respect that. But make it more humane. Address the root causes of migration, rather than put them on a truck and bring them in the desert. See if they want to return, investigate on that, and if they want to return give them the opportunities. IOM helps you to give them the opportunity here. Let them find a job, if someone wants to. If organizations do not have binding agreements with the government, then they are even in a weaker position”²⁷

The understanding of migration in international networks is thus co-produced and mediated from different angles – NGOs (DRC) IOM and UNHCR, the government “because this is what we are supposed to do we are supposed to coordinate”²⁸. Yet, actors may have had different perspectives, roles, priorities etc. What emerges from this picture, however, is that organizations may have had different capacities in terms of “agenda setting”, of identification of priorities to be mainstreamed into international networks. Within the framework of institutional support, and considered the general (international) interest in increasing migration management capacities, IOM seems to have had a greater capacity to influence policy networks due to the legitimacy granted by Libyan institutions.

This equilibrium between International organizations and Libyan governmental counterparts, as well as the programmatic responses undertaken by IOM, changed with the operation Fajr Libya in 2014. The operation is reported to have caused three major contextual changes – which in turn forced the IOM programme management to re-adjust its routines.

First – according to the interviewee – Fajr Libya had severe financial consequences on state-budgets and on the level of inflation. It caused the financial disruption of state budgets and, particularly, restricting the budget of the DCIM devoted to the provision of essential services – such as catering. The national counterpart, “[before] the DCIM had a budget of 115 million and now it has a budget of 6 million dollars. And it is only salaries now.[...] I think that this explains everything”. With the following months – a severe inflation affects the Libyan dinar – restricting the purchasing power of all state employees. “The average salary used to be of 800 Libyan dinars which is 500/600 [US]

²⁷ Interview by the author in Tunis with anonymous source

²⁸ Interview by the author in Tunis with anonymous source

dollars, now the salary equals 100[US dollars].” Thirdly – the interviewee seems to hint at changes in the smuggling and trafficking political economy. “The militias became more in control than governmental institutions. The number of detention centers increases, but why?”²⁹. This seems in agreement with the increasing role of non-state actors in smuggling and their permeation into national institutions, as highlighted in the preceding chapter.

Second – Fajr Libya brought financial insecurity also from the “donor side”. With increased uncertainty regarding the conflict dynamics, and on how such dynamics would have impacted on the political process, the interviewee recalls that IOM’s programme management encountered increased restraint from the international developmental donors to finance state-supporting projects in Libya. “Before 2014 [...] when IOM needed the money [...]the donors would tell you Libya is a dollar company, why give you money? And Libya was before that time in July they were having money, money was not a problem in Libya. After June [2014] it became a problem, because people were milking the cow. But also the money that donors give you end in 2014”. So, the interviewee elaborates: “the problem was, after the evacuation it was very clear that there are more than one government. And that was very clear, that the EU which was the main donor for Libya, we are not giving money to anyone because you can be Haftar today or tomorrow you could be whatever. [...] the option was no funding to international organizations”³⁰.

Thus, the interviewee acknowledges that financial uncertainty drove the programme management to seek for financial support else than that provided by developmental donors. It countered pressures of organizational survival anchoring its budget to the presence of the few international institutions present, and particularly the European Civil Protection and Humanitarian Office (ECHO). Yet, the magnitude of funding from this agency was essentially lower than the other institutional donors, and they were programmatically interested in expanding the support to local communities displaced by the conflict – the IDPs. Thematically the organization was financed on “pure humanitarian” projects, such as NFIs distributions, emergency health etc”³¹.

Thirdly, the interviewee recalls how in July 2015 IOM received ECHO funding for the Displacement Tracking Matrix (DTM) to expand the knowledge base of how the conflict impacted population movements. This is an important theme to be elaborated further. The interviewee hints to a substantial lack of knowledge permeating the humanitarian and donor community regarding needs across different localities, local dynamics regarding displacement and societal coping mechanisms. Such

²⁹ Interview by the author in Tunis with anonymous source

³⁰ Interview by the author in Tunis with anonymous source

³¹ Interview by the author in Tunis with anonymous source

lack of knowledge could be probably due to the fact that after July 2014 all international staff of UN and NGO agencies evacuated out of Libya, and thus lacked direct experience. This can be deduced from the way in which the interviewee re-constructs the creation of the DTM.

“The DTM is son of the or the product of the Humanitarian Response Plan (HRP). Before you do the HRP, the first one in Libya was 2016 you do something humanitarian you do the Humanitarian Needs Overview (HNO). Before the Needs Overview, when you do not have any baseline, you conduct a needs assessment [a research to collect information against which to ground the response]”. Thus IOM contributed with all international partners to commission to Reach-Acted to carry out a baseline research on the humanitarian needs caused by the conflict. “The result of that one was that there is no evident based research on the situation in Libya. And that is why we applied for ECHO to give us eh money for the establishment of DTM”³².

The DTM collects data based on the information provided by local partners, which may be methodologically controversial. Local partners may have some interest in misleading the information provided in order to manipulate the flow of funds designed for that area. However, the interviewee points to the need to consider at the historical and environmental constraints for the organization. “you need to start something out of the blue [...] We forget that, this thing right now it has to start like this (making a fist on the table) and this is the only way! [...] When DTM it was created out of the blue. Out of the blue, there was nothing, there was no information”³³.

In 2015, the routines envisaged by the programme management started to change. The programme management developed a different perception regarding conditions of mixed migrants, particularly in detention centers “Before [Fajr Libya] you don’t do anything in detention centers because the government was covering that. Maybe in late July, or no maybe late may 2014 that started to happen. However IOM remained focused the management assistance, in support the department of immigration. So IOM was not doing migrant assistance in that time”³⁴. Instead, in 2015 IOM began with direct individual support to migrants in detention centers. “NFIs, Hygiene Kits, psycho social support, medical support, humanitarian repatriation”. The interviewee places primacy to the changes in the national/local that migration context as driver of programmatic change. Migration conditions and flows start to change dramatically as compared to former years. Thus in 2015 with funds from

³² Interview by the author in Tunis with anonymous source

³³ Interview by the author in Tunis with anonymous source

³⁴ Interview by the author in Tunis with anonymous source

the Swiss government for humanitarian assistance IOM starts to support people in protection need, to leave the country”³⁵.

Yet, right the increases in the numbers of departures [and drownings] from Libya taking place between mid 2015 and the beginning of 2016 put mounting pressures on the programme management to elaborate new routines aiming to address that. From this initial pressures, the programme management inserts the last substantial programme component for the period covered (ending in 2016). As the interviewee reconstructs “We did not decide to work with the coast guard, we decided to understand what was happening with the coast guards because Libya the number of migrants were high and then the numbers of migrants death at sea were growing. And then you need to understand what is happening”. At first, the organization resorted to internal fundings. Then, it reached out the donor community, and to the other international partners³⁶. IOM’s supportive mandate, however re-appears as a driver of engagement, in terms of intention to provide legitimacy to some institutional partners within Libya on the international scene. In the words of the interviewee, “there is also an idea behind that, [...] the General Director of the DoI said ‘Look, we are all [aware] about Libya [and its] destruction. But we also know that Libyans are rescuing migrants at sea, why you are going to talk about the European part, let’s talk about the Libyan part that is rescuing migrants’³⁷. “So all that was put together and then we invited the coast guards. Who were technically working there with UNHCR, IOM was having the fund and we were the biggest organisation in Libya and also our colleagues didn’t have access to government so we needed to support them”.

This brings to life the set of international actions that start targeting the ‘departure-side’ of Libyan migration. “So we brought the coast guards and we brought the DCIM and we started to understand how they work and which of them is responsible”. Through this the organization starts developing coordinating platforms between multiple institutions responsible of SAR under different angles. “So we conducted four workshops to define the needs. And to decipher how it all operates and works and then what are the needs to deliver in every point. And how can we make it better. And what are the problems of each point of this and then re-develop projects to address those points”³⁸. “All of these workshops, held in July 2015, represent the nucleus of the current involvement of internationals with the Libyan coast guards, [...] that now grows and grows”³⁹.

³⁵ Interview by the author in Tunis with anonymous source

³⁶ Interview by the author in Tunis with anonymous source

³⁷ Interview by the author in Tunis with anonymous source

³⁸ Interview by the author in Tunis with anonymous source

³⁹ Interview by the author in Tunis with anonymous source

The programme management was aware of the sensitivity of the topic treated, for the pervasiveness of the smuggling and trafficking political economy into the networks of formal-informal institutions in Libya. The major issue for them seem to have been to construct trust-based relationships, and legitimize themselves upon local partners in a manner to be perceived as third parties. In the words of the interviewee “[during workshops IOM worked on] clearly discussing that, as an international community actor, IOM is not giving support to boat robbers or how to combat migration or who goes to sea and who is leaving when. IOM needed to be looked as something in the middle. In Libya if you start the ask questions, that you are not supposed to ask, then you are considered a spy”. Thus – workshops focused on the SAR practices undertaken by different institutions: “how you rescue migrants at sea, how many migrants do you save at sea a day, how do you get the information that there are migrants at sea? How do you respond to that information? When you bring them ashore what happens after that, do you bring a doctor? ”. And then we listed that, and then they listed the needs here and the needs here and the needs here. And then we applied for funds. IOM and UNHCR together. And then when we got funds”⁴⁰

The understanding in IOM was one mixing the need to understand how official institutions worked in the aftermath of the conflict, how they worked in a changing context of smuggling and trafficking but also to re-create institutional links in a situation of institutional blockage and polarization – “to put it together: like you are the government, talk to him [other institution]. Because in this period time – this is the end of 2015 for the record – then we have already a fragmentation of the institutions”⁴¹, and political polarization caused by Fajr Libya.

Lastly, but interestingly, the interviewee elaborates on the cognitional changes elaborated by the programme management in response to the local institutional dynamics as taking place in 2016. In particular – while we have seen how the organization has got (financial) support for state-building initiatives with humanitarian spill-overs from international donors – the programme management confronts multiple institutional challenges emerging in the national/local institutional networks.

First – as background knowledge – the programme management has developed a cognition of a inverse relationship between the “political, economic, and security status of Libya” and the humanitarian needs of the migrants since 2015. This is coupled with an increased perception of an explosion in the smuggling and trafficking economy built around migration. “This is the situation of migrants in Libya in July 2015. This one goes here, this one goes there”; pointing on a map, the interviewee shows the movement of migrants moving from one city to another city not necessarily

⁴⁰ Interview by the author in Tunis with anonymous source

⁴¹ Interview by the author in Tunis with anonymous source

on a direct move south-north, but as a broken line with multiple stops and back-and-forth movements. “So, a worsening for security, economic and political situation, the presence of militias. [...] We have an increase in the number of migrants attempting to go to Europe. More in general, the situation of migrants [...] their vulnerability in Libya worsens. If all Libyans were secured, if they had money, political stability, then why should they harass migrants? Why do they take migrants money? So when this one goes up [insecurity in Libya, financial crisis] this one also goes up [vulnerability of migrants]”. This particularly refers to “the exposure to very vulnerable situations – that number [of migrants affected by severe vulnerabilities] has increased radically. This is why we are now calling it humanitarian”⁴².

Formally, it is possible to observe the usual trait of institutional engagement. IOM programme management designed a routine in which there was one formal institution as sole interlocutor, granting access. With the usual considerations regarding the crucial factor of not giving legitimacy to factions that can compromise the international effort to support the establishment of a unified government and institutional apparatus⁴³. In particular, the response “concentrated on detention centres – covering a very small fraction of the number of migrants”⁴⁴. This is due to a two-fold reason, according to the interviewee: “because it is easier to work in detention centers than it is to work with the others [migrants in urban centers]. But also you expose migrants when you address their needs in the urban setting. You distribute today and they [militias] come see them tomorrow. You can not actually in terms of ‘do no harm’ address those needs”⁴⁵.

Yet, what is considered by the interviewee as a driving principle in the context of IOM’s programme management routines is the relevance of “informality” in developing institutional agreements and arrangement in contemporary Libya as means to navigate an uncertain terrain in which formal and informal institutions co-exist, compete and/or cooperate. In a context in which formal institutions have formal chains of command, although complicated, but that in fact are non-functioning, and when non-formal institutions acquire a primacy, informality allows to create partnerships, although shifting the balance of institutional arrangements down-ward, far from formal institutions: “I believe in lobbying in Libya, [...] there is no way of addressing things formally, it has to be informal”. Taking the example of institutional relationships for migrants in detention centers, “there is not that area where I go to the ministry of Interior and we exchange and tell them: ‘look, that detention centre is illegal. Are you going to close it?’ (laughs). The institution is the DCIM, now it is under the ministry

⁴² Interview by the author in Tunis with anonymous source

⁴³ Interview by the author in Tunis with anonymous source

⁴⁴ Interview by the author in Tunis with anonymous source

⁴⁵ Interview by the author in Tunis with anonymous source

of interior whereas the response is actually coordinated with the DCIM itself. [But] In the context of institutional fragility such as that in Libya you need to go under on the operative base. IOM works at the executive level. You may need the formal approval of you working with the Ministry of Interior for that to authorize to work with the DCIM or whatever is the procedure, but then forget about working if you don't have very good working relationships on a daily basis, not only with the head of the DCIM but with the managers. Even below the managers"⁴⁶.

5.4 The United Nations High Commissioner for Refugees (UNHCR)

Mandated by the Statute adopted by the General Assembly with the UN Resolution 428 of 1950 – to “provide international protection under the auspices of the United Nations to refugees [...] and of seeking permanent solutions”, the United Nations High Commissioner for Refugees (UNHCR) (UNHCR 2018) is the third organization that has been operative in Libya working on mixed migrants before and after the fall of Qaddafi⁴⁷. Its mandate “applies in both emergency and non-emergency asylum seekers and refugee situations, as well as in situations of emergency and non-emergency mixed movements involving asylum seekers and refugees” (UNHCR 2018), it was established under the authority of the UN GA with the aim of providing the organization with the degree of independence and prestige necessary to perform its functions. Moreover, paragraph 2 of the statute foresees the non-political (impartial), humanitarian and social character of the organization. Lastly, the original mandate is complemented by the 1951 Refugee convention and by the 1967 Protocol, and the latter gives formally UNHCR a monitoring and supervising role on the application of the 1950 convention by States parties, while states parties accept a duty to cooperate with UNHCR (UNHCR 2018).

However, Libya represents a challenging environment for UNHCR, with a legal vacuum on matters of asylum (GDP 2015) that have (operative) consequences to the extent to which the organization is able to provide protection and related services. On the one hand, Libya is party in the 1969 Convention governing the Specific Aspects of Refugee Problems in Africa, and it also endorsed the 1965 Protocol for the Treatment of Palestinians in the Arab States. Interestingly, the Libyan 1969 Constitution prohibited the extradition of “political refugees” ex article 11, as well as the

⁴⁶ Interview by the author in Tunis with anonymous source

⁴⁷ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

Constitutional Declaration of August 2011 promulgated by the NTC also prohibited the extradition of political refugees, guaranteeing the right of asylum ex article 10 (GDP 2015, 8). On the other hand, neither has Libya ratified the 1951 Geneva Convention on Refugees and the 1967 Protocols, nor has UNHCR ever been able to ratify any form of agreement or memorandum of understanding with the Government – although it as been deployed in Libya since 1991⁴⁸.

This is the context of institutional fragility for UNHCR against which the agencies has begun to work (and still does). In the period between 1991 and 2011, it was a “typical UNHCR presence: to undertake registration, self-determination, resettlement programs for refugees and asylum seekers. It was 100% in urban context. The mixed migration problem is an old one, but before 2011 it has being dealt mostly by the Libyan government and IOM”⁴⁹.

The outbreak of hostilities provided the programme management with greater room of maneuver. First, the emergence of the presence of IDPs as a result of hostilities, to which mixed migration is coupled⁵⁰. Broadly speaking – in the programme portfolio after 2011 – “irregular migration” was one of the major sectors of involvement for UNHCR, although it touched migration *incidentally* as a by-product for working with potential populations of concerns “under the assumption that the situation of irregular migration may contain population of UNHCR concern”⁵¹. The immediate aftermath of the revolution is recalled by one senior UNHCR Protection officer as a moment in which the programme was concentrated – particularly in 2012 – in responding to the movement of Syrians crossing the borders to Libya; “This was the number one priority. Because we had an influx of Syrians coming to Libya, and then the numbers were completely unknown”⁵².

What is equally interesting, however, is the reported capacity enjoyed at that time to create institutional agreements with a multitude of formal-informal actors at national-local levels. This seems in fact both responding to the need to be impartial politically – as provided by the mandate – and reflective of an organizational posture in which state-building and humanitarian norms are mutually balancing. As a consequence, the governance structure regarding the provision of international protection to mixed migrants was flexible and inclusive. As interviewees recall, at the national level, UNHCR had a counterpart – the “government”. At a sub-national level, UNHCR had established institutional relationships with a panoply of formal-informal actors with which it operated to accomplish its organizational mandate’s goals. The organization had a greater operative space and

⁴⁸ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁴⁹ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁵⁰ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁵¹ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁵² Interview by the author in Tunis with UNHCR protection officer 23/03/2017

could undertake multiple missions in multiple parts of the country – in the East, the West and the South⁵³. Through the institutional arrangements achieved with multiple authorities, with reported relevance of the informal institutions – they could conduct registration activities through mobile teams throughout the country, and the Libyan capital. “At that time DCIM was not established [it came only in May 2012]. Before that, our engagement was more or less with local and local-military councils. Because most of detentions were handed by military councils, that implied local militias. That period was a bit tough. Given that, whenever we were given any information, we would get in touch with the military council and local council. I went several missions to Gharouli, to Gharian, Qheisha, Tajoura etc”.⁵⁴ Importantly for the organization, UNHCR could conduct “most of the protection activities – such as registration of refugee and asylum seekers inside detention centers” through their own staff”⁵⁵

This form of informal institutional arrangements, in which the organization negotiated centrally and locally the types of norms it intended to follow – exchanging the enforcement of a minimum of international human rights for the legitimacy of the oligopoly of violence ruling the specific locality – was the strategy chosen by UNHCR in the first 12-18 months after the Libyan uprisings.

At that time, Local Military Councils across and within different cities exercised security functions and administered prisons. “Their rule [was] not to detain illegal migrants, but what happened right after the revolution, everyone – every military council – they saw as a duty – you know Qaddafi in 2011 used African mercenaries – as the country was now liberated, they started to detain everyone”⁵⁶. Although not explicitly mentioning, but consistently with the idea of local military authorities exploiting human smuggling for profit-making, the interviewee furthermore continues; “Even after the revolution, [military councils] established a preventive security council, which had – amongst other tasks – that of mixed migration. But there was no fund allocated for them for covering this issue. They went randomly arresting migrants”.⁵⁷

At the same time – the relationship between “peripheral” (non-formal) institutions with central institutions was not easy, complicated by a political conflict that was plaguing the country writ-large: “They [military councils] didn’t have the means or support from the government. They cannot sustain the needs or required services to those who are detained. For instance, they would say, we don’t have the means to feed them, to treat them. We need NFIs. The need was there, they were not given support

⁵³ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁵⁴ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁵⁵ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁵⁶ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁵⁷ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

from the government to cover that gap”⁵⁸. Likely, this conflict connected to the broader legitimacy conflict between old regime and new actors.

Institutional arrangements were reformed when Libyan institutions – particularly the Ministry of Interior – created the DCIM in 2012. “When it was established, they requested officially [our presence]”, and suggested that “the UNHCR presence in detention was essential”, in supporting the DCIM in filling some gaps identified by the government at that time”⁵⁹

Thus, the immediate aftermath of the revolution sees UNHCR programme management establishing the routine of international support to migrants into detention centers, which forms the original nucleus of institutional relationships between international organizations and national-subnational civilian-military organizations that are still in place. In the words of the interviewee – “in 2012-2013 Detention Centers for migrants were already in place. And [UNHCR] could not go there without providing something”⁶⁰.

At the same time. UNHCR’s struggle to extend to DCs the coverage of the international norms provided by its mandate clashed with another set of norms, which in 2012-2013 regarded the institutional obligations of host states, or ruling authorities. In particular, a very sensitive issue for the government has been – since the end of hostilities until today – their request of international support to provide services in detention which are governmental prerogatives. This theme is elaborated by the interviewee as one of “supplementing the duty of the state”, which was “there already at that time”. “if you look at the period right after the establishment of the DCIM – at least in 2012-2014 – most of the needs, especially food, let’s say 50% of the needs were covered by the government. [...] There was a system in place, even if that system was not that strong, with lots of gaps”. So picking up the example of health – “Today they would send a delegation of doctors from the ministry of health, and tomorrow doctor doesn’t come because there is not cash”. At the same time – the DCIM “could not sustain [the provision of services] except for food. And food is a lucrative business, we know that, it’s not only feeding migrants. Food is always given priority in detention. Food and Repatriation. [...] So they allocated money only for those two purposes. They knew there were other actors on the ground”⁶¹.

Although presenting some clear issues of human rights respect and fragmentation/fragility, the Libyan institutional framework for the administration of migration detention is described here in similar

⁵⁸ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁵⁹ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁶⁰ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁶¹ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

terms to what emerges in the data collected at IOM. In the 2011-2013 period, the programme management had a cognition of the institutional framework as fragile but existing. “there was a certain government, political fragmentation did not happen. [...] the money flow still coming from the central bank, from that it was allocated to DCIM. Yes, there was corruption – but still, the money flow was there, chain of command was there⁶²”. Another interviewee stresses out that “the money flow came straight to DCIM and DCIM was in the position to take over those detention centers who were run by militias”⁶³

In 2013, UNHCR programme management decides for an expansion of its programme components, agreeing on a DRC project proposal which could incorporate under the aegis of UNHCR the routines of protection monitoring undertaken by DRC in urban setting. Through their contractual agreement, UNHCR attempted to institutionalize the extension of international protection to segments of populations of concerns out of their reach at that time. In the words of the UNHCR protection team, the programme management “realized there was a gap in the Mixed Migration component, and DRC was there in the field doing outreach activities to mixed migration, and then we said ok – we have Detention Centers covered by UNHCR – let us resort to DRC to cover urban settings”. Because of this, they developed a programme to provide legal assistance to migrants, identifying extreme vulnerabilities through outreach activities, and connecting the beneficiary’s need to existing service providers through referrals⁶⁴.

The creation of a contract with DRC can be interpreted as the intent of extending further the institutional coverage of human rights protection in Libya, beyond its usual focus on Syrians. The institutional intent was to create a system of legal assistance for migrants in Libya and the two parts agreed on establishing a mechanism of legal assessment, identification of vulnerable cases⁶⁵.

This expansion phase of 2013, which coincides with a period of mounting donor interests both on political settlement, and on increasing capacities of multiple stakeholders in Libya to manage migrations, coincides also with the establishment of an additional component of UNHCR programme on mixed migration in Libya. The creation of the first Community Development Centers (CDC) in Tripoli – centers in urban settings open to mixed migrants in which they could receive different kinds of assistance in urban settings, such as medical check-ups conducted with IMC, cash assistance in partnership with CESVI and access to legal support, registration with DRC⁶⁶.

⁶² Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁶³ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁶⁴ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁶⁵ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁶⁶ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

However, 2013 marks also changes in the practice implemented as a consequence of important institutional changes, and with re-adjusted equilibria between norms. Practice changes related both to the detention assistance and to the legal assistance component of UNHCR programme portfolio.

For the first, as we have seen before, the practice of visits to detention centers consisted in obtaining both a formal authorization from the DCIM (once established), and local and informal deals with local military councils. The latter grounded on the recognition of the local ruling entity in exchange of the permission to conduct the less sensitive part of the activities contained in its mandate. Namely, these regarded the legal support – via for instance the registration for asylum support, the issuing of provisional identity cards – not necessarily recognized – and the screening of immediate and direct vulnerabilities. To physically access the centers – however – the organization had to provide some material benefits, such as the provision of basic services, which could lift some of the burden of the management. Typical example is the provision of hygiene kits. While in theory the maintenance of minimum standards of hygiene in detention is a governmental prerogative, the delivery of basic hygiene boxes for detainees was undertaken by UNHCR in order to increase the trust of the management, the guards, the military groups controlling the area, and be granted access.

In the second half of 2013, however, there are at least two critical changes. The first regards how the evolution of the national process of institution building process permeates the practice implemented by UNHCR, changing the equilibrium between institutional frameworks within the organization. In particular, with 2013, it is possible to observe the nightfall of the duty to provide impartially international protection on the one hand, and the rise of conditional provision of services to authorities in accordance with state-building initiatives. The programme officer reconstruct this change elaborating on the change of the organizational cognition: “in “2012-2013 some of the Detention Centers were under the authority of local militias, and we as an organization did not differentiate at the time – we just go, support and assist, as long as there are protection concerns there, fine”⁶⁷. Instead “in 2013 we receive as international organization – I think this was addressing everyone working with UNHCR – [the DCIM communicates] you guys stop dealing with these detention centers, because they see us supporting the detention centers to continue what they do. It was an official communication to us and to everyone, IOM and other partners. To put pressure on these local militias to hand it over to the DCIM”⁶⁸. The interviewee frame thus this as an imposition coming from the national side of the migration networks. However, it is not possible to ignore the question of isomorphic understanding permeating the international side of the networks – as exemplified by the

⁶⁷ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁶⁸ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

mandates of the UNSMIL and IOM missions explicitly authorized to support official institutional frameworks.

As a matter of fact, the organization found itself confronting the dilemma of taking a stance in terms of competing institutional arrangements. Whether to continue giving primacy to unconditional access to human rights – thus attempting and/or struggling to keep access opportunities with multiple stakeholders, or balance this with the governance/state building imperative, thus advancing the norms implied in the institution-building process. Libyan institutions were – in fact – in the middle of a competition for legitimacy, a struggle whose outcome would have provided consequences for their very existence.

As a response to this changing institutional environment, UNHCR identified as a priority working only with official institutions. A common theme emerging within UNHCR interviewees is the legitimacy fragmentation problem – which one interviewee summarizes saying “you cannot empower a militia – I mean like Sirt. Sirt was outside the humanitarian aid, because if you are dealing with Sirt you are kind of giving them a recognition, as an entity”⁶⁹. Instead, UNHCR adopted the stance of focusing on the Libyan institutions who could be legitimate for belonging to an official institutional system: “we work with DCIM detention centers [...] dedicated to illegal migration. This means that people inside detention centers have not committed any other crime against national law but – according to the Libyan authority – they went against article 19, which is illegal arrival”⁷⁰. Yet, the same interviewee continues elaborating on the political considerations which exercise pressure on the organization, urging it to curtail some of the international human rights norms which in theory it is dedicated to advance, and to forge institutional arrangements with Libyan authorities more limited in scope and pragmatic. “The policy [of UNHCR]” the interviewee adds, “is not to work in non-official detention centers because we do not want to impact our relationship with the DCIM”⁷¹.

The second change occurring between 2013 and 2014 was deadlock the organization encountered in its efforts to create an institutional framework facilitating the access to legal protection mechanisms for migrants. DRC had thought they could work on improving the institutional system, but “they realized it was really difficult to start speaking about legalization”. According to the interviewee – Libyan authorities are reluctant to let international actors working on advocacy and legislative frameworks. It is not really welcome in Libya. It is a fact. [DRC] faced a lot of challenges”. Thus –

⁶⁹ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁷⁰ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁷¹ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

the interviewee continues – “cases referred came back to UNHCR. It was probably too early [...] to speak about legal rights to migrant population”⁷²

At the same time, UNHCR has tried since at least 2009 to work on the drafting of an asylum law, although this initiative was paralyzed by the revolution. UNHCR then renewed it in 2012 with the Ministry of Justice, and formed a special committee for human rights issues to draft an asylum law. “This committee was composed by different ministries and local NGOs selected by the government” and arrived “at a final draft that UNHCR submitted in 2013. They reviewed it, sent it back, and we did our review too, trying to amend what they asked”. By that time – however – it was already 2014⁷³

The operation Fajr Libya in June 2014 impacted both on the operational capacities and on its institutional arrangements. Starting from the former, the organization evacuated the international staff, although the it kept parts of the programme components operative through their [or of its implementing partners’] local staff – such as the Community Development Centers in Tripoli⁷⁴

Regarding the second, the organization remained on stand-by for much of 2014 in order to understand how the conflict would have ended, and which room of maneuver it would have had in its aftermath. 2015 marks thus a turning point, one in which the organization was forced by environmental changes to revise its priorities and therefore, the institutional agreements it intended to realize⁷⁵. Interviews hint to the increased insecurity, the uncertainty regarding the institutional trajectory, the polarization/deterioration of relationship amongst Libyan factions and within Libyan institutions in preventing the organization to expand the institutional arrangements regarding the protection of human rights⁷⁶. But they are often unclear and/or unable to systematize the magnitude of each factor on programming.

In fact, the programme management developed a project that contained an official partnership with the DCIM and the Ministry of Interior, in which it intended to increase the access to basic health services for mixed migrants. To do that, it contracted one international organization – International Medical Corps (IMC) – to conduct medical screenings in disembarkation areas, in detention facilities, and in community development centers.⁷⁷

⁷² Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁷³ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁷⁴ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁷⁵ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁷⁶ Interview by the author in Tunis with UNHCR Protection Officers March 19th; Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁷⁷ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

What interviews highlight is how, in the post-Fajr Libya governance structure in Libya, UNHCR has found itself in the position to downscale the level of ambitions regarding institutional agreements on the extension of international protection to migrants. Therefore, it has focused on the provision of basic forms of support – threatened at gunpoint of being sealed off from operative areas.

The interviewees recall for instance how restricted the protection component of the post 2014 was – “Let’s not say providing protection [to detainees in detention centers], because providing protection is to have them outside detention centers. [Rather it is] being able to reach out this population, to provide assistance and then advocate for protection. Because the protection that we could provide inside detention centers is preventing them [refugees and asylum seekers] from being forcefully returned⁷⁸. Hence – to reach out to detention centers they “provide some material support, NFIs, wash assistance and food recently”⁷⁹. Through this, UNHCR reaches out the centers, and ask the management the nationality of their detainees. “This is the current situation of not yet having a structured government, it’s not I would say an official mechanism, but it is an ad hoc working relationship where they operate with us and they release these people, sometimes⁸⁰.

Even for the implementation of basic institutional provisions for UNHCR, such as the production of legal documentation for its population of concern – e.g. asylum certificates – they are at risk in the post-Fajr Libya. They emerge as not relying on force of institutionalized cooperation agreements between UNHCR and Libyan Institutions, rather on their ‘good will’ grounded on informal agreements. Libyan institutions are ‘selective’ in the recognition of the papers produced by UNHCR⁸¹.

The sub-contracting of IMC responds to a risk & cost externalization logic for UNHCR, since UNHCR safety and security procedures require higher standards than those of NGOs⁸². The externalization of functions also generates a specialization of functions: “IMC provides information [regarding detention conditions] while we maintain our relationship with authorities⁸³.

Thus, since 2015 – the previous engagement on top level policy making was downscaled into more operative forms of institutional arrangements. The pre-Fajr Libya organizational interest in policy change – such as through the support in change to migration law – was substituted in access

⁷⁸ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁷⁹ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁸⁰ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁸¹ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁸² Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁸³ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

guarantees: “we [now] work at the executive level, we do not work at the ministry level, but at the DCIM level⁸⁴.

Yet, a layer that was added in 2016 is the set of capacity building activities conducted with members of DCIM, the Ministries of Interior, of Foreign Affairs, and Justice. In this, UNHCR integrates into the broader international effort to address migration issues understanding the functioning of Libyan institutions, and enhancing their border control capacities.

In 2016 UNHCR conducted 10 workshops in Tunis with this purpose, delivering trainings topics that include human rights, fair treatment and international refugee laws. However, the same interviewees note with skepticism the challenges implied in complex operations such as those of changing the operative practices of Libyan institutions. When asked how they perceive the impact of the knowledge transfer they undertake during workshops, one interviewee responds “Hmmm. I mean. (laught – silence). This is something that you cannot see immediately after you conduct the training. You build up something for the long run. Capacity building is a useful tool – as interaction”⁸⁵. The second interviewee intervenes: “yeah, as interaction. You invite them, you have a forum, you can sit and discuss. And interact enhancing relations, being able to deliver key messages”⁸⁶.

Two relevant themes that emerge as part of the organizational cognition driving programme development are the challenges provoked by the consequences of the conflict escalation ignited by Fajr Libya on the strength of the national institutional migration administration on the one hand, and the changes in the political economy of smuggling on the other. Regarding the first, while interviews agree on highlighting national institutional setting as fragmenting, they also vary in the extent to which they reckon it.

One interviewee for instance noted that DCIM has not been impacted by the fragmentation , but at the same time she added that “internally, we don’t know”⁸⁷. Another interviewee is clear in outlining the organizational perception of how 2014 has impacted the institutional context against which UNHCR develops its programme: “First, Fajr Libya has provoked a split of the government, the collapse of financial institutions and no more budget. No one knows who to refer to when it comes to interact with the DCIM⁸⁸. The interviewee further elaborates on how Fajr Libya has impacted the internal structure of the DCIM through the disruption of financial resources available: the Money

⁸⁴ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁸⁵ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁸⁶ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁸⁷ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁸⁸ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

Flow [within the ministerial budget] cannot really go through DCIM, so they started losing part of their power in some of the detention centers⁸⁹.

Regarding the second, the organization is aware of the existence of the smuggling/trafficking business in post-2014 Libya, as well as the presence of links between non-state armed groups and officials of different branches of state institutions. Against this background, the balancing between different norms is resolved in the creation of an institutional framework downscaled to the minimum required to guarantee presence. “At the time being” – on interviewee summarizes “ we hear all these things, we need to be very careful because, what is our priority? Our priority is to remain able to maintain access to these centers and deliver assistance, and see if there are extremely difficult and compelling cases – pregnant women for instance – to refer. So we don’t deal with the kind of who is who, because we don’t want any impact of this type, and things are not clear over there – to risk our activities. Some of the DC sell some people? We hear everything”⁹⁰. Another interviewee stresses more explicitly how the figures in detention centers have never been stable: “You have one day 1000, tomorrow 800, the day after 100 [...] I give you an example, I visited one Detention Center – there were 900 detainees. A week later I did another visit and I found 61 detainees [...] . They just say they escaped, deported, we know from fact that nothing happened, they were not deported. This is a common fact”⁹¹. As a result, in her own words, “DCIM had no authority over – I mean the power is not really [sentence interruption in the original transcript]”⁹².

According to one interviewee – the programme management has developed the cognition of migration as a lucrative business. Many armed groups which were registered in the lists of the governments to receive payments, after the collapse of financial institutions turned to migration as a revenue⁹³. After 2014 “we have increases in the number of migrants [the reference here is unclear, probably is connected to departures to Italy] – but also an increase in the number of detainees. Increase in the number of crossing attempts – deaths – thus increase in the interest of donors. [2014] has changed totally migration in Libya, making it more difficult to speak about migration. It has increased the politicization of migration in Libya”⁹⁴ .

Moreover, the post 2014 financial crisis in Libya, coupled with the political polarization, played an important role. The money flow has continued from the central bank to the MoI – which then allocates

⁸⁹ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁹⁰ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁹¹ Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁹² Interview by the author in Tunis with UNHCR Protection Officers March 19th 2017

⁹³ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁹⁴ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

some to the DCIM for salaries. So the salaries have not been interrupted. What has been affected is the money allocated to services and catering per se. So every extra-money but salaries. As long as you are in the system the salaries won't be affected"⁹⁵.

However – the interviewee continues – the “political fragmentation was a main issue. Right after Fajr Libya, even the DCIM started to vanish in some of the parts of the country. For example in the South, there is no DCIM. It is there as a structure, as people receiving money, but on the ground they are not them. Some of them report to the east of Libya, not to the west, therefore they see not as an obligation e to do anything. For example, Barak Shati, Sabha, Ubari, Murzuk, Ghatrun”⁹⁶.

In addition, according to the interviewee, the financial crisis changed behaviour of individuals also below the level of institutions, at the individual-micro level, particularly in the south. With the collapse of the financial system, liquidity became scarce in Libya. Therefore, activities with migrants became a lucrative business. With the failure of the state to provide salaries and investments, it is not culturally or legally condemned. You can put migrants in the car no one will tell you anything. “They see it as a lucrative business – you can do it, people will give you support to make it happen, it is part of the culture, fine”⁹⁷.

The intervening effect of the financial crisis on the institutional strength and on the micro-level interlocked with a changing role of formal and non-formal security institutions. According to the interviewee, the role of local militias changed radically from 2012-13. The same presence of government forces along the border got different: before 2014 there still were “patrolling guards along the borders, [...] a DCIM in function, trying to combat illegal migrants, [...] the Kufra detention center operating, Ubari Detention Center operating, Sabha, Barak Shati. Now you can easily, easily take a hundred, a thousand migrants, put them in a truck, drag them from Gathrun or Ghat up to Sabha and then to Bani Walid, nobody would tell you why are you doing that”⁹⁸.

To conclude, what emerges from the interviewees is UNHCR institutional posture characterized by fragility and immobility. At first, UNHCR was in a fragile institutional position, which affected its negotiation capacities with National authorities, possibly, because – amongst other things – there were weak institutions regulating the relationships between the two spheres. Libyan institutions interested in migration are not only officials, but comprise a set of formal/non-formal actors and norms who contribute in determining the functioning of the migration sector and – by extension – the

⁹⁵ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁹⁶ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁹⁷ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

⁹⁸ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

international response. This mixture of (Sub)national institutional systems seems to force UNHCR in a corner – with extremely restricted avenues for intervention. The escalation provoked by Fajr Libya has further compounded this institutional context. In such regards, the approach undertaken by UNHCR to address asylum seekers and refugees needs in detention centers punches below its weight against a political economy of smuggling and trafficking.

These probably encapsulate most of the major contextual changes against which UNHCR – if not all international actors – had to navigate in the post-2014 Libya. Yet, their evolution coupled with a persisting (and pre-existing) political resistance permeating different levels of Libyan institutions regarding the role of UNHCR. One interviewee clearly stated that already in 2014 there was a perception among Libyans about the stabilization of migrants. Many exponents of the GNA repeatedly reported this to UNHCR officers. The GNA – which is appointed by the UN, as the Ministry of Foreign Affairs stressed in more than one occasion – , is not willing to combat the migrants and any deal will be neglected⁹⁹.

5.5 The European Union (EU)

The interest of both the European Union and of its member states on Libya's migration dates at least back to its early 2000s, and has historically concentrated on pressuring Libya's national institutions, facilitating the creation or the strengthening of governmental capacities and thus favouring the restriction of migration routes towards Europe (GDP 2015, 10). As such, the pre-conflict European institutional engagement consisted in a number of capacity-building contractual agreements with Libyan national institutions, which led in turn to the adoption of more restricted migration policies – including the creation of detention centres (GDP 2015, 10). On parallel, Human Rights Watch recalls how, since 2004, the Council of the EU has trained and equipped Libyan border management institutions in order to strengthen their capacities to conduct patrols at sea and on land (HRW 2009, 31). European funding was also proposed for the construction of accommodation centers for asylum seekers, as well as for the implementation of migration management projects in Libya's Fezzan. Programmes focused, amongst other things, on changing administrative procedures for the screening of migrants in detention, improving access to basic services and to the local labour markets (HRW 2009, 32).

⁹⁹ Interview by the author in Tunis with UNHCR protection officer 23/03/2017

From the interviews conducted at the European delegation in Tunis, this long-term state building logic – aimed at curbing migration flows, while at the same time improving basic standards – is seen as persisting in the aftermath of Qaddafi’s death¹⁰⁰.

Broadly speaking, between 2011 and 2014 the European involvement in Libya was aimed at sustaining both to the political and to the electoral processes – in particular, through the support to some specific Libyan institutions such as the House of Representatives (HoR). To fulfill these aims, in the 2012-2013 period the EU followed two channels. On the one hand, there were funds in favour of the internally displaced people and, particularly, the minorities at risk. On the other, there were funds for migration¹⁰¹.

Regarding the first, the EU intended to support programmes of access to basic services to vulnerable segments amongst the IDPs, particularly some minority groups who had been severely affected by the conflict, such as the Tawarghas. More than the details on the project, the relevance of this data is twofold. First, because the European support in terms of projects financing access to services for Tawarghas beneficiaries, and facilitating dialogues for their return from displacement is also in support of the broader national reconciliation process. Clearly, facilitated in primis by UNSMIL, this is an institution-building process, whose primary aim was the drafting of a constitutional chart¹⁰². Therefore, like other international actors, the logic driving the European Union was one of creating more favourable basic conditions which could facilitate the inclusion of minorities in the political dialogue, as well as the inclusion of constitutional safeguards of minority rights. On the other hand, the perception prevalent in Brussels in the 2012-2013 period was one in which European Institutions should just provide “gaps filling support”: Libya was seen as a rich country. Thus, the European Union as a donor sought for itself a limited role, one restricted to filling the gap in those areas in which there were substantial and evident needs, or towards groups not served by the government”.¹⁰³

This involvement encountered political resistance from existing Libyan institutions. In 2012-2013, the EU supported – through international organizations – the access to basic services and return of the Mashashiya and Tawargha minorities, who had to abandon and evacuate entirely their cities¹⁰⁴. This involvement was challenged by the political resistance expressed by the factions dominating political and security institutions. As one interviewee recalls, “when you as international actor intend to propose yourself to help these niches of population, with improved access to services, you meet

¹⁰⁰ Interview By the Author in Tunis, EU DG NEar Officer 16_03 2017

¹⁰¹ Interviews by the author in Tunis with DG NEar Officer and XXX

¹⁰² Interviews by the author in Tunis with DG NEar Officer EU Delegation officer

¹⁰³ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹⁰⁴ Interviews by the author in Tunis with DG NEar Officer EU Delegation officer

the resistance from the side of who is the dominant actor in that moment [...] This “implies a great negotiation, touching upon humanitarian issues”¹⁰⁵.

Regarding Migration, the European Union has committed resources in terms of institution building along two major directives. The first, that I will only briefly overview, is related to the continuation of border management capacity building efforts. A clear example of this is the establishment in 2013 of an ad hoc European Union CSDP mission – denominated EUBAM. The European Union Border Management Assistance Mission had a clear institution building focus, being it mandated to support “Libyan authorities in developing border management and security at the country’s land, sea and air borders” (EUBAM 2013). To this aim – between 2014 and 2015 – the EU was also directly involved in curbing migration flows, attempting to stop smugglers in international waters off Libya’s western coast – as well as in Niger (ICG 2017, 21).

For example, in 2014 the EU launched the European Union Naval Force Mediterranean (EUNAVFOR MED), which tried to disrupt networks of smugglers operating between Libya and Europe while conducting at the same time Search and Rescue operations. The original mandate allowed the mission to operate in international waters, gathering information, rescuing migrants and destroying boats. In 2016 the Council expanded its mandate by adding the capacity building component to the Libyan sea border authorities, including an arms embargo enforcement component. In Niger, the EU pressured Nigerian authorities to adopt new anti-smuggling laws that could provide judges and police to take action against smugglers. In exchange of this, Niger became beneficiary in 2015 of the EU Emergency trust fund for Africa, designed to address migration flows from the continent. Niger also received military training from the CSDP Sahel Niger Mission with anti-smuggling functions. Notwithstanding this engagement, European efforts fell short of achieving their aims of halting migration flows; these, in turn, have — continued to increase until 2017 (ICG 2017, 21).

The second dimension of the European action in the immediate aftermath of Qaddafi’s death related to a set of migration management projects financed through the Migration and Asylum sector of the Commission’s development Agency DEVCO¹⁰⁶. As specified in the “Cooperation with Third Countries in the areas of Migration of Asylum 2011-2013 strategy paper”, the commission placed international migration as a top priority for the EU and its partners. It grounded the implementation of the portfolio of projects on migration under the regulation (EC) 1905/2006, which established a financing instrument for development cooperation. The agency clearly framed the developmental nature of its approach, being its “general objective [...] to support third countries in ensuring better

¹⁰⁵ Interviews by the author in Tunis with DG NEar Officer EU Delegation officer

¹⁰⁶ Interview by the author in Tunis with DG Near officer

management of migratory flows in all their dimensions”, such as “migration and development, labour migration, irregular migration, trafficking,” (EC 2011, 1). Interestingly, for the 2011-2013 period, the paper identified as priority areas of intervention for Libya the “measures to curb irregular migration flow into the EU, to support migration management capacities promote the respect of migrants’ rights and support protection of refugees and asylum seekers” (Ibid. 2011).

Within this policy framework – in the aftermath of the end of armed hostilities, the Asylum and Migration Programme of DEVCO was interested in implementing projects, which could have both an emergency and a capacity-building component.¹⁰⁷ For example, the programme financed a DRC project based in Tripoli and Sabha regarding in-kind and legal assistance to refugees, asylum seekers and mixed migrants in urban and detention settings¹⁰⁸ [see for details next chapter].

The same developmental approach remained in the period 2013-2014, with the programme expanding its financing support to third organizations. The institution-building character of the EU agenda was maintained, with DEVCO supporting the design of two projects. The first one had a two-fold objective: “protection in detention centers, thus purely humanitarian, and work with the ministry of Labour, in the attempt of seeking to regularize, to find a niche, to migrants”¹⁰⁹. This was given to the IFRC (International Federation of the Red Cross and Red Crescent)¹¹⁰, and implemented by the LRC¹¹¹. This was “really pragmatic” – according to one interviewee, being it focused on finding labour market gaps to be filled spot by migrants¹¹². The second was a “purely capacity building project” with the Ministry of Interior and of the legislative processes. The intention was to influence the law-making process, in order to favour the creation of regularization processes for migrants”¹¹³, and was assigned to the International Center for Migration Policy Development (ICMPD)¹¹⁴.

As the former paragraphs have shown, the intervention logic of the EU has been framed, in the immediate aftermath of Qaddafi’s fall, through the institutional framework of state-building norms. Libyan formal institutions should have been helped to sustain themselves in the long term, in ways that could take better care of migration flows, including through increased access to services and rights for migrants, and diminishing cross border movements.

¹⁰⁷ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹⁰⁸ Interview by the author in Tunis DG Near Officer

¹⁰⁹ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹¹⁰ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹¹¹ Interview by the Author in Milano with DRC Protection Manager.

¹¹² Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹¹³ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹¹⁴ Interview by the Author in Milano with DRC Protection Manager

Hence, it is not casual to see the EU programme portfolio developed and administered by EU developmental agencies. It actually seems to reflect a balancing of institutional imperatives in which the norms related to state-building take primacy over those of international protection. One interviewee is clear in elaborating on this, as she notes that from a humanitarian perspective, the funds available at that time were funds of the European community, DEVCO – i.e. a developmental actor with an institution building logic. As such, then, the objective is more properly development rather than humanitarian action. Moreover, in 2013 Libya was not considered as a *real* humanitarian crisis. Libyans were relatively fine, but in 2017 there were approximately two million Libyans who did not have regular access to basic services – such as electricity. And even for migrants, in 2013, despite the beginning of a general worsening of the living conditions, those who could leave left the country, and those who remained had a job¹¹⁵. From this perspective, the EU aligned with the action implemented at a field level by the major international organizations.

However, the implementation of the projects designed in 2013-2014 met several challenges. In particular, what emerges from the interviews is a friction between institutional frameworks which impact on the efficacy of the international actor. In the words of one interviewee, “the [ICMPD] project on the legislative changes never started; it was supposed to start but it was frozen [in 2014 with Fajr Libya]. In a situation of complete confusion it was not the appropriate time to start legal reforms. The other [IFRC] started with the detention assistance component, but the component of [migrants’] insertion in the job market never started. For many reasons. But [also] because in practice in this moment it remains illegal to put someone out of jail”¹¹⁶.

Also, the information provided by NGOs who were already working on the regularization of migrants in Libya (e.g. DRC) provided the European Commission with information regarding the political intractability of the matter with Libyan institutions. At the end of 2013 the Danish organization confronted in a meeting in Brussels European counterparts and suggested that it would be premature to discuss legal reforms with Libyan institutions¹¹⁷.

However, the escalation of the conflict in 2014 severely impacted on European Programming. Fajr Libya not only provoked the dislocation of European personnel with their evacuation, but it also generated a repulsion effect on European institutions. As one interviewee elaborates, “I was in Libya until 2014. With 2014 there was a neat cut [in financing disbursements for projects in Libya]. Many of the projects of the EU were blocked. Not quite those really humanitarian – protection related – but

¹¹⁵ Interview with DG Near Officer

¹¹⁶ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹¹⁷ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

the others. Especially those with a great component of capacity building on the government. Because there was this disputed authority. We didn't know who we should have done capacity building to. For one year it was Limbo"¹¹⁸.

The organizational blockage on funds for Libya was removed in 2015, not casually with the signing of the Shikrat agreement and the creation of the Government of National Accord in Morocco¹¹⁹. Following the reconstruction of the interviewees, with the GNA the European Union mandated the Delegation to open many projects to support the GNA. The EU decided to re-locate the operations from Brussels to Tunis. There was a general optimism, which gradually switched off. The Delegation, aiming to support the renewed interest in Libyan politics, opted for re-opening the suspended projects, like the one on the legalization [of migrants] and another on the health reform in 2016¹²⁰.

While the overall institutional framework remains state-building, the imperative becomes to support the legitimization of the newly established government, choosing it as institutional partner and implementing projects to sustain its institutional capacity to deliver services. "We were saying [in 2015] that there would have been a donor conference, and that we should have been there with programmes ready in our hands to support the political dialogue in a positive way. This donor conference never happened – because the government moved to Tripoli without the endorsement of the parliament, and then all the rest. [...] the peak in this enthusiasm maybe has been February-March 2016. Even when they moved to Tripoli [in April 2016], everybody was saying it was a positive thing, as they gathered the initiative alone. Then, from June [2016] enthusiasm ceased. The European Union is a slow institution. Thus, with 2016 we re-opened the projects: that of the sanitary reform (8.5 million Euros with GIZ, German Federal Development Agency). The legal reform on migration (ICMPD). Then, there [was] Expertise France, with Small and Medium Enterprises (7.7 Million)"¹²¹. More related to the humanitarian field, the delegation reduced its involvement on the internally displaced people, but it had a giant portfolio on Migration: 17 millions as the sum of the different multi-annual projects, which became 25 in 2017¹²².

It was the greatest component of the Libya portfolio, accounting for approximately 50% of the whole funds. Like for any other country – where the EU usually has two or three focal sectors – the focal sectors in Libya in 2014 were governance, health and youth¹²³. "Governance, for reasons discussed

¹¹⁸ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹¹⁹ Interview by the author in Tunis with EU Delegation Officer 18/01/2017; Interview with DG Near Officer.

¹²⁰ Interview by the author in Tunis with EU Delegation Officer 18/01/2017; Interview with DG Near Officer.

¹²¹ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹²² Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹²³ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

above. Health, since the EU had a long history in this respect – from the Bulgarian nurses onwards. And youth, since it was seen as a way to leave the door open to many activities – from vocational training to de-radicalization and so on”¹²⁴. The focal point system is used in order to improve the coherence and having an added value. But in Libya, according to one interviewee, it was decided to abandon the focal points system, and opt for a more flexible need-based one. As a result, the migration portfolio grew so much to account for 50% but it could grow further, being the remaining sectors just ancillary¹²⁵.

This preliminary view of institutional continuity – the developmental character of the EU action in support of national institutions in ways that also address humanitarian needs – is confirmed in the words of another interviewee, when he elaborates as follows: “our strategy – us as DG near – we follow the development guidelines taken from DEVCO. Thus, mid-long term development. But, right for this situation, our programmes – the majority of our projects – also cover humanitarian needs”¹²⁶

The set of EU initiatives regarding migration actually expanded since 2015. Coherent with this institution building nature, they have focused on incrementing capacities of national institutions. Project launched in 2016-2017 have been attentive to migrants outside detention centers, which led to the question of rescue at sea, which in turn led to the question of the Libyan coast guard and so forth. This works through capacity building trainings with the Libyan Coast Guard¹²⁷.

However, the institutional support set up proved unfit for the post Fajr Libya, since several contextual conditions were different. First, interviewees highlight the gap between the institutional support approach undertaken by the EU and the consequences provoked by Fajr Libya on Libyan institutional capacities. According to one interviewee, while the EU was still focused on cooperating and financing projects who could enhance the capacities of institutions such as the DCIM, since 2014 DCIM gradually lost control of its centers¹²⁸. The situation at the time of the interview was that of the more than 30 detention centers spread across the country only 18 were managed by the DCIM, sometimes from militias. Moreover, the authority of the DCIM is far more contested in the east and in the south, than it is in the west”¹²⁹. In addition, politically it has gradually become more intractable to treat migration issues with Libyan institutions: “since the beginning of the liquidity crisis, [migration] it is not priority neither for the government, nor for Libyans. The more [the lack of access to basic services

¹²⁴ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹²⁵ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹²⁶ Interview with DG Near Officer

¹²⁷ Interview by the author in Tunis with EU Delegation Officer 18/01/2017; Interview with DG Near Officer.

¹²⁸ Interview with DG Near Officer

¹²⁹ Interview with DG Near Officer

such as water and electricity] is an issue for Libyans, the more migration is a marginal problem”¹³⁰. Finally, here is an increasing cognition within the organizational branches of the EU of the deep-rooted connection between migration and a political economic system based on the movement of migrants, in which militias operate in agreement with smugglers. And where militias are either ignored by official institutions, or are colluded with them¹³¹.

Nevertheless, the EU remained focused and limited its action to support official institutions. In fact, “all the international community – with perhaps the exception of MSF – moved to work into DCIM structures. The idea is that if you work with the others you contribute in expanding the smuggling criminal network. In fact – this division from a personal point of view is ridiculous, since as [source anonymous] reports these Detention Centers are like franchises, thus it is written DCIM but there is always behind a militia”¹³².

The theme of institutional multiplicity is thus clearly emerging from interviews with EU representatives. EU programmes are developed against an existing cognition of such multiplicity, and are designed with an awareness of its limits. In interviews, in fact, the multiplicity is often declined in terms of clash between competing institutional frameworks. The EU response was the (re)production of institution-building programmes that do not fit with the empirical reality of Libyan institutions, and that bring the restriction of access to humanitarian aid to beneficiaries motivated for political reasons (e.g. legitimacy conferred top-down to national counterparts).

For example, according to one interviewee, the division between those the EU works with and those who do not was done for self-justification: “We do not contribute to the criminal network, we are on the other side and help the conditions of migrants in detention. [...] it is a choice done for despair, since what is the alternative?. Working with some militias along this line is ok, since these guys have the DCIM tag. [...] there is a desire to have some counterparts. Even the GNA is the same thing. It responds to the desire to have counterparts, since the international community and donors do like this. They are not capable of doing otherwise. But this has some negative aspects. It was the same thing in Somalia – there was a puppet government [...] which would have signed anything you placed on the desk”.¹³³

EU officials are aware that their capacity building efforts are struggling to achieve their goals: “we have met the head of DCIM several times, but the question is, does this person have an enforcement

¹³⁰ Interview with DG Near Officer

¹³¹ Interview with DG Near Officer

¹³² Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹³³ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

capacity on lower levels?”¹³⁴. Similarly, according to another interviewee, “many migrants remain out of our reach. But of them, nobody knows anything, thus if you don’t see... no? there is that much pressure – that pushes to do something. And something then becomes this. Because we are pushed to do something, but the problem is that big that will never be resolved at this level, doing capacity building at DCIM. Maybe there will be detention conditions a little more humane – this is the best case scenario. But the problem is way higher and will not be solved at this level. But it is the institutions *that throw money at the problem*, because we do not know what else to do”¹³⁵.

Interestingly – in conclusion – a potential solution identified by a EU interviewee reports “last week MSF said something really clever, the solution is a market based solution. If there is this smuggling network, we should create a legitimate competitive market. A market who could offer the opportunity to people to reach Europe. Those who have the right to that. One that offers palatable opportunities to the consumers of this system. This is perhaps a solution, but it is not politically palatable at the moment”¹³⁶.

5.6 The United Kingdom

The United Kingdom deserves consideration in our treatment of the international community’s involvement in Libya, for being one of the major donors regarding migration in the post-Qaddafi era. Yet, due to data collection limitations during interviews, it was not possible to gather information on projects regarding the pre-Fajr Libya period on migration. The following paragraphs will thus discuss only the escalation’s aftermath (e.g. since 2015 onwards).

The British government does not implement directly projects of humanitarian aid, rather it provides funding for third parties – mostly to NGOs or International Agencies. As a matter of fact, the large scale arrivals of migrants, refugees and asylum seekers into the European Union in the recent years has gradually turned migration into a subject of political interest for the British Government. For example, In the 2015 Aid Strategy, the British Government maintained a commitment on tackling the root causes of mass migration (ICAI 2018)¹³⁷. British aid is disbursed through the aid-spending departments – mandated by the UK aid Strategy and the National Security Council Strategies –

¹³⁴ Interview with DG Near Officer

¹³⁵ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹³⁶ Interview by the author in Tunis with EU Delegation Officer 18/01/2017

¹³⁷ <https://icai.independent.gov.uk/html-report/uks-aid-response-irregular-migration-central-mediterranean/>

focusing particularly on reducing irregular migration into Europe and ensuring protection to those in need (ICAI 2018).

In terms of policies, the UK Aid Strategy mentions migration as a global challenge, a direct threat to British interests alongside terrorism, climate change. The strategy consists of a portfolio of quick answers to reduce significantly and quickly the number of arrivals into Europe (ICAI 2018). The second policy paper – which governs the cross-government work – is not public instead, but reportedly sets out a number of goals that include improving access to asylum and returns process, reducing unmanaged migration and addressing root causes and enablers of forced displacement and illegal migration. More specifically, this document sets out as priorities for the Central Mediterranean Route “reducing departures from Libya and North Africa through better management of land and sea borders, the provision of adequate protection and assisted voluntary returns” (ICAI 2018).

Most of the funding on migration world-wide is spent through the Department for International Development (DFID), the Foreign Office and the resources of the cross-government Conflict, Stability and Security Fund (CSSF) (ICAI 2018). One interviewee from the British embassy confirms the roles DFID and CSSF played as major institutional mechanisms of aid delivery. He further elaborates that DFID is for the funds disbursed in humanitarian aid – where there is an *effort* to remain neutral. In particular, DFID has a migration funding, which enters into this grey area between humanitarian aid and institutional support, and constitutes as an organizational network within DFID in which they tend to be independent. Then there is the Stability Fund, which is substantially not humanitarian, but it is focused on stabilization, which is a really political concept¹³⁸.

According to ICAI (2018), migration from Libya became a priority for DFID only in September 2015, when it became officially an objective, although its implementation has started only later on. Projects have focused on “humanitarian support for refugees and irregular migrants in detention centers”, including through in-kind distribution and water and sanitation facilities, “training of the Libyan coast guard to conduct search and interdiction operations, and support for a number of activities delivered by IOM, including assistance for irregular migrants to return to their country of origin” (ICAI 2018). In particular, ICAI lists the following projects on migration for the post-Qaddafi. First, DFID provided finances through the regional programme *Safety, Support, and Solution Programme for Refugee and Migrants in Europe and the Mediterranean*. Of the total amount of 38.3 Million over a 14 months period (2016-2017), 5.1 million were for Libya. These were directed to migrants and refugees through a contribution to a UNHCR appeal, and a 1.5 million contribution to support IOM

¹³⁸ Interview by the author in Tunis with British Diplomat 16/03/2017

data gathering (the Displacement Tracking Matrix), capacity building to the coast guard and direct support to migrants in detention. Second, the DFID humanitarian programme for Libya – amounting to 2 million pounds for the 2016-2017 period – included a component to provide health and related services in migrants detention centers, as well as human right training for guards. Third, a CSSF Contribution (approximately 100.000 pounds for 2016-2017) for a EU programme on capacity building to the Libyan Coastguard. Fourth, a CSSF project funding IOM (1.7 million pounds for 2016-2017) to improve conditions in detention centers, provide capacity building to Libyan staff and support “assisted voluntary returns” to countries of origins (ICAI 2018).

What thus emerges from this picture, and in accordance with the developmental mandate of DFID, is a focus on supporting migration management institutions. Such support may also be appropriate for the humanitarian language, and indeed deliver humanitarian assistance to specific niches of the migrant population. Thus, the focus on the support provided to detention assistance is not casual for the British government. The interviewee frames the policy adopted by DFID, in accordance with its developmental mandate, as the response to a field level policy shift emerging in 2016 ¹³⁹: “a change in the positioning of the major international NGOs and IO. [Before] the positioning of major International NGOs and IOs were aligned in non-intervening in detention centers, for instance. Then there was a shift, in which NGOs and International Organizations decided to intervene”. Let’s make three examples – purists like MSF, DRC and IOM. I believe the shift was determined by two factors. The awareness of the need on the ground, but also a greater donor propensity, a greater interest in financing a certain type of activities. There has been the scandal of the detention centers, the conditions of the detention centers, all started to come to the surface. From the spring 2016 onwards, there has been an increasing appetite – from a European perspective – of finding ways to manage migration in Libya. Then, there has been more light on these elements, more interest in intervening. The first to capitalize was IOM: for instance, they were the first to do, propose projects to support migrants in detention centers. Criticized at the beginning, and then followed to a certain extent by the Danish Refugee Council, Cesvi, IMC; criticized since intervening in detention centers is seen as supporting ideologically the fact that migrants are... I mean it is an understandable critic. These organizations have been moving – we are talking about significant financial resources, and that I believe has had a role in the shift” ¹⁴⁰. The interviewee elaborates on the balancing between advocacy and pragmatism by saying “[these organizations] have tried to keep a focus on the alternatives to detention, thus – the attempts to improve living conditions notwithstanding – part of their project has

¹³⁹ Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁴⁰ Interview by the author in Tunis with British Diplomat 16/03/2017

been devoted to promote alternatives to detention. Before[2016] there was not such focus”¹⁴¹. The institutional engagement for the UK came only in late 2015. As confirmed by the interviewee, “for us migration came as an element in the cross-government strategy for Libya only in late 2015. And at that time we noticed this shift”¹⁴².

The question of the extent to which to provide institutional support through material support is an open issue for DFID as a donor: “we are trying to keep now the red line of not increasing the capacity of centers”¹⁴³. Regarding the mechanism of isomorphism of practices denoted above, the interviewee elaborates on the observed discrepancy adopted by one international actor: MSF has not aligned to this general trend. MSF does not depend on funding in the same manner. Thus, this organization remains more critical of the interventions. MSF is also active in detention centers, but to give medical support to migrants or improving living conditions for detainees. They remain a critical voice, which was considered by the interviewee really useful¹⁴⁴.

Interestingly, the interviewee elaborates on the process through which the delegates of the British Embassy have designed their project on migration for Libya. A balancing exercise between institutional commitments within the policy framework outlined in the strategy above, such as the imperative of extending the covering of human rights while increasing the capacities of an institutional system which is not quite sensitive, at best, over human rights concerns. Yet, the mandates of the organizational branches delivering British aid to Libya were mostly pending towards the developmental end of the spectrum. Looking at his own past exercise of project design, the interviewee continues saying that it is possible to “look at migration as a spectrum [of potential policy responses], we have seen that the support provided by the international community spawns from protection, to law enforcement, to the socio-economic drivers. Thus, I started from this [ladder – the drivers], then all the theory has to match the political context beyond the Mediterranean [in Europe]. But then – looking just to those sectors, the choice of the types of activities vary from the support to Coast Guard, SAR, support to disembarkation points, to detention centers, and what inside detention centers, repatriation, support against trafficking and smuggling, until you get to the south in which they ask for border control”¹⁴⁵.

¹⁴¹ Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁴² Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁴³ Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁴⁴ Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁴⁵ Interview by the author in Tunis with British Diplomat 16/03/2017

Stakeholders at the local level “claim to want border control support – then what it comes is a list with helicopters, pickups, which can be used for different scopes”¹⁴⁶. Since monitoring challenges increase the more south aid is delivered, the UK opted to stay out of the south. But the problem of accountability is reported to be a major driver for decision-making on aid allocation¹⁴⁷. Then, the interviewee specifies that the UK finances an IOM project in supporting migrants into detention centers. And adds that working in the post-Fajr Libya institutional setting is challenging, since the authority of central institutions over peripheral branches is weak. Taking up the case of the DCIM, since “there is no direct hierarchy in the DCIM or direct control, if something that shouldn’t happen happens what is the consequence? If there is a consequence”¹⁴⁸. So, the implementation of UK programmes is not only based on the policy directives, but also from a consequentialist logic deriving from a risk averse approach.

It grounds on an institutional knowledge that is aware of the multiple institutional pressures permeating the actors working on the Libyan side of the governance – in which to the weakness of formal institutions corresponds the strength of the informal institutions regulating the political economy of smuggling and trafficking. “if we look at any small village of southern Libya [...] we have a minimum presence of officials of the Ministry of Interior, a police force in the local base, and various militias. Potentially – the same people are part of the smuggling network. If something happens – someone from the local police is part of the smuggling – I wouldn’t be surprised first of, second of – what power would Tripoli have to sanction the policeman? This is part of our choices”¹⁴⁹.

Within such multiple institutional context, DFID allocates funds and support for projects intending to strengthen the capacity of some of non-state institutions upon which rest the top-down legitimacy conferred by the formal affiliation to state structures. Even if there is the concrete risk that support is provided to institutional settings of migration management permeated by smuggling and trafficking networks¹⁵⁰. The interviewee elaborates further saying “we are aware that some of the detention centers have a label that gives them statual legitimacy, but that on the field the reality is different – that security to detention centers is provided by militias. This awareness is further compounded by the fact that most of the militias do receive a salary – as a result of the decisions taken in 2012. “Thus

¹⁴⁶ Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁴⁷ Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁴⁸ Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁴⁹ Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁵⁰ Interview by the author in Tunis with British Diplomat 16/03/2017

us – as donors – must ensure that our monitoring and evaluation is sufficiently strong to individuate when this balance is beyond acceptable limits”¹⁵¹.

Yet, as the interviewee clearly states, “our real discrimination is institutional – we work with institutions. This debate continues, but we are aware that when we work as donors, in a project financed by a European government, this per se gives legitimacy to an organization. For these reasons, the project financed by us target the centers acknowledged and managed [by the DCIM] with the caveats discussed before, it is for these reasons. This connects to the fact that we are not in a purely humanitarian context. In purely humanitarian context there are organizations that are active in every center – MSF Holland for instance. Instead, for the type of activity that we do, we are active only in the DCIM centers, since these anyhow pledge allegiance to the GNA. IF the DCIM were not aligned with the government supported by the international community, honestly I wouldn’t know in which situation we would be now”¹⁵².

Questions of institutional multiplicity have affected the programming of the donor also in relation to the decisions on the involvement with the Coast Guard. There is an awareness regarding the questions of legitimacy of formal/informal institutions – particularly in the relationship between the coast guard and the militias. Taking the example of the Coast Guard in Sabratha and Zawya – and the relationship with the smuggling business “it is one of the conundrums to be handled – we have abandoned the training to the coast guard, even though we support Operation Sofia [which trains the coast guard and conducts rescue operations]. I try to manage risks – through sofia – principally the treatment of the migrants rescued at sea and brought back to Tripoli. If they improve the capacity of the coast guard, maybe they [LCG] stops sinking the boats with people onboard. However – the local dynamic counts more and more as we get far from Tripoli, not the allegiance. There may be the case in which the coast guard does not do its job and does other, but the problem more commune is when it becomes selective in doing its job. I don’t say when they facilitate, but when they do not hinder [smuggling]”¹⁵³.

5.7 Conclusions

Looking first at the norms guiding international engagement on migration, it is possible to suggest the existence of multiple norms regulating the behaviour of international actors: it seems clear from

¹⁵¹ Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁵² Interview by the author in Tunis with British Diplomat 16/03/2017

¹⁵³ Interview by the author in Tunis with British Diplomat 16/03/2017

interviews that international organizations shape their programming in accordance to the provisions detailed by a hierarchy of norms. According to the data, it could be perhaps possible to place at the top of this sequence the state-building and stability norms institutionalized into mandates, as broad framework-principles of engagement. Two amongst the most relevant actors make explicit reference to that into their mandates. UNSMIL is mandated to support political dialogue, reconciliation coordinate international assistance. IOM is a migration management institution, mandated since 2006 to support the government in increasing its technical and managerial capacities on managing migration.

An exception to this would be UNHCR, which is mandated to extend the international protection in an apolitical manner. However, the organization's attempts to extend international protection to the population of UNHCR's concern are challenged. Libyan institutions perceive the organization as a source of stabilization of migrants in Libya. Moreover, because Libyan institutions never signed an institutional agreement with the organization, UNHCR is deprived of legal bases to ground its activities upon, undermining the grounds of its governance position. In turn, the organization relies on informal arrangements and ad hoc relationships. In addition, the organization has gradually moved towards the positions of the other organizations, through a practice-isomorphism mechanism.

The example of migration-donors reported here also display a guiding role in supporting state-building initiatives. The EU has had a role in supporting the establishment of a governance structure interested in supporting Libyan institutions. This role presents elements of continuity between the pre-revolution and the post-revolution Libya with major elements of interest being Libyan stability and migration.

European involvement started from the perception of Libya as a rich country, in need of support to "fill the gaps" in its service provision, and therefore promoted the establishment of institutional agreements between implementing partners and Libyan institutions that could proceed in that direction. Thus, while the EU has different institutional branches that can provide assistance in the field of migration, those who were mostly active were developmental actors that aimed to increase the capacities of service delivery of Libyan counterparts. The British Government follows the exact path of the European Union. There are a number of institutional branches disbursing financial support for third parties (IO and NGOs) in Libya, but none of them is purely humanitarian. Some are clearly state-building/Stability branches, others are developmental.

State-building and stability are then unfolded through the norms regulating developmental action, thus the state-support and capacity building. Financial opportunities provided by developmental donors make contractual agreements with third parties possible, and International organizations thus

attempt at institutionalize such norms with governmental counterparts. In this sense, humanitarian norms come at play, often through a functional logic of state-building, always in a un-balanced power relationship.

European post revolutionary engagement thus concentrated both on supporting the political process as well on migration management. Its developmental agency – DEVCO – in particular, was amongst the forerunners in financing migration related projects. DEVCO’s post 2011 projects on migration, therefore, concentrated on stabilizing the Libyan migrant population, promoting legislative change and on favouring access to basic services. Although encountering resistance from Libyan institutions – this overall framework shapes the European response in the years immediately following the end of hostilities.

For the British Aid, all of the financial channels available respond to institution-building logic, if not directly with stabilization aims. On migration, the Donor is DFID – the British developmental agency – through which the British government has financed over time in the post-Qaddafi –financial support for organizations interested in establishing institutional arrangements with Libyan authorities and – through that – increase access to international protection of mixed migrants. UNSMIL – the integrated mission instituted by the DPA of UN - promotes the re-construction of political institutions in the framework of national reconciliation.. IOM was among the pioneers of working on migration law drafting and on detention management through training and mentoring, as well as on providing technical support for governmental bodies. It was amongst the proponents of an understanding of the government in the immediate aftermath of the conflict as ‘dysfunctional-but-present’. This contributes to frame the discussion in developmental terms, displaying the government as present but dysfunctional in human rights standards. Thus – making it just a manner of increasing its capacities. IOM conquered great legitimacy amongst Libyan institutions – as their services are particularly useful for Libyan institutions and perceived as functional to national political priorities (e.g. support in returning illegal migrants, increasing administrative capacities). Long lasting interaction with Libyan institutions made IOM well positioned into (sub)national migration related networks (although only mentioned official institutions).

IOM places clear priority, in accordance with its mandate, with norms of international state-building and stability over international protection. It is not a protection agency, but it appropriates of humanitarian language of the international protection in manners functional to its mandate. This meant for instance that – through a consequentialist logic that gives primacy to government legitimacy – each initiative promoted by IOM also had spillover effects on humanitarian needs, but were having the government as primary target. Humanitarian considerations, from this perspective,

may have never had acquired primacy over state-building efforts. For its good positioning, and for the mainstream character of the norms endorsed and proposed amongst international donors and agencies, IOM seems to have had a leading role in shaping the international agenda on migration in the immediate aftermath, particularly into the coordinating platforms in which international institutions interacted.

UNHCR's pre-2011 programme concentrated on basic functions in urban settings. After the revolution – the organization converged along with the international attention on mixed migration, as well as it started working on detention. This could be explained, although not confirmed, by a strategic move between programme possibilities within the realm of what is provided by the institutions codified in the mandate, in order to meet the organizational security needs provided by the funds available at that time. In fact, such governance move is an isomorphic change in the practice, towards what already implemented by IOM. However, the organization reportedly perceived to have a room of maneuver to deal with any kind of detention facility in the period between 2012 and 2013. At the same time, the reported interest in support-type of activities seems marginal as compared to the need to extend the norms of international protection to the population of UNHCR concern. Actually, UNHCR considered crucial to balance the need to provide protection with the need to ensure the host state to take his responsibilities up. While this theme emerged also with IOM interviews, IOM is also reported to have chosen to adopt different red-lines regarding institutional support as compared to UNHCR.

Things changed in 2013. After a first phase of programme expansion, with the creation of new partnerships and projects to extend the protection on human rights through legal advise, research, and community development centers, the establishment of the DCIM poses the organization at a cross road. Whether to continue to provide detention assistance to all of the centers ruled by military councils, or to limit to those centers identified by the DCIM. The answer, is to abide to the identification of the DCIM – acquiring isomorphic traits with the practices of IOM, and in agreement with the general intent of UNSMIL to support the consolidation of a national institutional system.

In this context, the conflict escalation initiated by the operation Fajr Libya in summer 2014 is reported as a moment of rupture of institutional equilibria. The first months are thus described as an operative stalemate for organizations, which was overcome only at the end of 2015 with the creation of the GNA.

Looking at donors, the uncertainty of 2014 generated a risk averse approach amongst European institutions, which in turn closed their financial channels. This “limbo” ended with the creation of the UN-supported GNA and brings the re-opening of financial channels. However – the overall approach

undertaken by the EU remains one in which institutions promoting the establishment of capable national institutions prevail over international protection ones. Starting from 2015, however, the EU has become more interested in migration. Thus, new financial opportunities are opened for international organizations and NGOs, yet remaining conditional to the support of those Libyan institutions responsible to manage it. This, regardless of a spread cognition regarding the permeation of the informal institutions regulating smuggling into the formal institutional set up regarding migration management. Similarly, British programming is aware of the permeation of non-formal institutions of smuggling into the formal migration management system. Thus – can be seen as typically risk averse: aiming both to increase the capacities of institutions without exposing the British support to the risk of aid diversion, or backfire in humanitarian and/or security terms.

The evidence on UNSMIL suggests that to an increasing awareness of the negative impact of Fajr Libya, particularly generating a stalemate in the political dialogue, the UN organization responds in accordance with its mandate. Thus it concentrates on supporting the re-vitalization of the political dialogue. Such support concretizes with the creation of the GNA.

The evidence on IOM suggests an organizational awareness of the changing contextual conditions of both formal and informal institutions provoked by Fajr Libya. The military operation not only brings the collapse of the financial capacities of state institutions, but puts at the fore the role of non-formal institutions and their economic incentives. This, coupled with the increasing polarization of the political conflict, is seen as restricting the room of maneuver for IOM programme. At the same time, the increased political significance of migration for international donors, as well as their lack of knowledge of internal dynamics gives IOM the space to develop new programs that can even increase the relative importance of the agency amongst international actors. They increase their programme portfolio appropriating of the humanitarian frame, in a manner that that can answer the calls of interests of major operative donors. Thus – in the post Fajr Libya – this means mitigating the dire humanitarian conditions into detention facilities managed by “state” actors, and increasing the capacities of patrolling bodies of the north shore. At the same time, the organization seems to have a cognition that such actors follow agendas that are – at best – equally ‘predatory’ and profit riven, as much as they are institutional.

Fajr Libya had effects on UNHCR programming similar to that of IOM, but the way in which the organization came out the crisis is different. The polarization of political conflict, as well as of the migration issue in Libya imposed the organization to downscale ambitions and scopes of programming. Probably because of this, coupled with its weak legal position into the migration governance structure, UNHCR opted to concentrate on the provision of basic services to migrants in

2015. This was realized through the realization of contractual opportunities for third parties – NGOs like IMC and CESVI. At the same time, it downscaled the level of engagement with Libyan institutions, from top level dialogues for legislative change, to the relevance of working relationships with ground level formal and informal institutions/actors. In 2016 the organization conformed to the international interest in increasing the capacities of Libyan stakeholders, particularly partaking international efforts of trainings to Libyan detention and border (e.g. coast guard) institutions.

Thus – as a general picture – it is possible to note the tendency of all international organizations to ground increasingly on international institutions of state-building. Programming amongst donors and international organizations tend to isomorphic practices – particularly to some sort of “ordering practices” in which international aid is conditional to the support – or the “non-incoherence” as framed in one interview – with the broader efforts to support the legitimacy of national governments and, in particular, the GNA. In terms of migration, this means setting the boundaries of institutional support to nascent institutions lacking respect for human rights and international protection, who have shady relationship with violent actors and smugglers, and are amongst the primary drivers of the humanitarian dire conditions of migrants in Libya

Chapter 6

Three Case studies of NGO Decision-Making: the Danish Refugee Council (DRC), Mediciens Sans Frontiers (MSF) Holland, and International Medical Corps (IMC)

6.1 Introduction

Three main international humanitarian aid organizations have developed programme trajectories on migration in the post-Qaddafi Libya. DRC has been working in Libya on mixed migration since 2012; International Medical Corps, operative in migration since 2015. MSF Holland decided to intervene in Libya as recently as May 2016. The next paragraphs will first identify the routines set up by the organizations. Secondly, they will trace the decision making process through which these routines have been set up. A fourth organization – the Italian CESVI – could have been added. CESVI has been partner of UNHCR in the aftermath of the revolution. However, the organization did not give the availability for interviews.

I will here proceed as it follows. This paragraph continues by summarizing projects and practices developed by each of the selected NGOs over time. Then I devote a paragraph for each of the selected NGO – in order to give the necessary space to the analysis of the decision-making through the lenses of the proposed framework. Hence, starting from DRC in section 2, I move to MSF in section three and then to IMC in section 4. Section 5 then concludes this chapter, summarizing the findings comparing the evidence of the three organizations.

DRC is a multi-mandate organization that covers multiple crises worldwide. It works by delivering emergency relief although it also operates in post-emergency settings supporting the resilience and development of local communities. It has international protection as major sector of involvement, and thematic platforms on mixed migration. Between late 2011 and early 2012 DRC submitted a project proposal to the European Community, in which it was proposed to work on mixed migration at a twofold level. Essentially, “In terms of donor framework” the aim of the project was “an improvement of the legal status and basic access to services”¹⁵⁴. Thus – it would consist both in delivering in-kind life saving assistance, through basic goods distributions to individuals or segments of the mixed migrant population, it would provide basic legal assistance – through individual support in the assessment of legal conditions for migrants – and it would target Libyan institutions in order to promote a process of legislative change regarding migration laws¹⁵⁵. The project was designed to

¹⁵⁴ Interview by the author in Tunis (former DRC Senior Protection Program Manager)

¹⁵⁵ Interview by the author in Tunis (former DRC Senior Protection Program Manager)

target migrant communities both in urban settings and in detention centres, located both in the wider Tripoli area and in Sabha¹⁵⁶. It was “classic protection monitoring as most would do”¹⁵⁷; thus, DRC hired international experts on mixed migration and protection monitoring, who were assisted by the logistic and administrative teams. In addition, the organization hired and trained multiple teams of national staff who would speak different languages, to be deployed in different locations between Sabha and Tripoli, in order to assess reach out to migrant communities, assess the psycho-social wellbeing of individuals and their legal status.

DRC then had a pre-existing protection monitoring tool developed for mixed migration in other contexts – a format who would contain essential individual or household biodata that would contain relevant information on the beneficiary. This protection monitoring component was then complemented by the referral mechanism established with IOM and UNHCR for matters of their relative competence, such as AVR and Refugee Status assessments¹⁵⁸. Thus – the organization became interested in mapping both existing governance structures, but also governance gaps¹⁵⁹.

More in detail, DRC obtained in 2012 the support of the Asylum and Migration programme of DEVCO for three years. Through this financial support, the organization set up a routine that combined outreach, assistance and referral. With the first: “Assisting migrants requires first and foremost getting in contact with them”. This could be complicated as migrants not only live at risk of abuse, but they often live underground”¹⁶⁰; On the one hand, thus, mobile teams mapped and covered areas that were though having more dense proportions of migrants populations. On the other, the organization opened community centers in different urban locations in Tripoli – in which migrants could find a permanent presence. Second, assistance: the NGO staff would screen cases, assessing specific needs concerning access to basic services; they would also identify the most vulnerable, the most appropriate service provider, and perhaps provide some in-kind donation. Legally wise, protection staff evaluated the documentation status of the migrant, and their potential eligibility for asylum request¹⁶¹. Third referral – NGO staff would contribute addressing individual needs by referring the case to the specific service provider¹⁶².

¹⁵⁶ Interviews by the author in Tunis and Milano [DRC head of mission, former DRC Senior Protection Program Manager, former DRC Protection Project Manager]

¹⁵⁷ Interview by the author in Tunis (former DRC Senior Protection Program Manager)

¹⁵⁸ Interview by the author in Tunis (DRC Protection Project Manager)

¹⁵⁹ Interview by the author in Tunis (former DRC Senior Protection Program Manager)

¹⁶⁰ Interview by the author in Tunis (former DRC Senior Protection Program Manager)

¹⁶¹ Interview by the author in Tunis (former DRC Senior Protection Program Manager)(DRC Protection Project Manager)

¹⁶² Interview by the author in Tunis (former DRC Senior Protection Program Manager). For instance, when the organization finds un-registered migrants eligible for registration into the UNHCR lists of refugees and asylum seekers, the organization would refer the individual to the international agency. In general, the most commonly referred cases regard healthcare (DRC Protection Project Manager).

Importantly, amongst the duties of the international experts hired in the original project – the experts were supposed to conduct policy oriented research on mixed migration in Libya, in order to contribute to the creation of a conducive institutional environment for legislative change¹⁶³. This represents the first of the two avenues designed for working on legal assistance. The second component consisted in a partnership agreement with the national NGO International Organization for Cooperation and Emergency Aid (IOCEA). IOCEA is one of the few organizations that was allowed to operate already during the Qaddafi time, and was reportedly linked to the regime before the revolution. IOCEA thus had the task to provide daily assistance concerning legal status to individuals, as well as at advocating for a change in the migration laws the national level¹⁶⁴. It was also introducing the organization to some of the remote areas, when national institutions would not be so proactive or capable ¹⁶⁵.

All of the DRC programme components grounded on a number of institutional partnerships. First - the organization had to get the accreditation from multiple institutions – such as the ministry of interior, and particularly the DCIM from 2012 onwards, the Ministry of Foreign Affairs, the Ministry of Social Affairs, multiple embassies at a Tripoli/national level. At a local level – thus relating to the daily operations in urban settings - the organization needed to establish contacts and agreements with a multiplicity of formal/informal institutions, from the baladiyat (the local municipal councils), to elder councils, to “delegates” of embassies belonging to specific communities, to military councils¹⁶⁶.

An initial change in this practice comes with the end of 2013. During the first project phase, after a series of internal workshops and meetings in Brussels, the organization amended its project agreement, dropping the component of legislative change, and inserting – instead - the implementation of a number workshops, as well as of human rights curricula for students of the Tripoli University. When it came the time to renew the agreement with the EC, the legal assistance component was not inserted.¹⁶⁷

Further changes at field practice level came with the changes in the institutional environment deriving from Fajr Libya. First – the organization was forced to interrupt temporarily the activities and evacuate to Tunisia. It followed a period of institutional confusion, in which the organization didn't have neither sufficient security guarantees, institutional support to reprise activities and struggled to keep the mission open. This interruption lasted until mid 2015, in which the organization found the

¹⁶³ Interview by the author in Tunis (former DRC Senior Protection Program Manager)

¹⁶⁴ Interview by the author in Tunis (former DRC Senior Protection Program Manager)

¹⁶⁵ Interview by the author in Tunis (former DRC Senior Protection Program Manager)(DRC Protection Project Manager)

¹⁶⁶ Interview by the author in Tunis (former DRC Senior Protection Program Manager)(DRC Protection Project Manager)

¹⁶⁷ Interview by the author in Tunis (former DRC Senior Protection Program Manager) (DRC Protection Project Manager)

support of the Swiss Development Cooperation (SDC). Yet – this new project proposal had been downscaled both thematically - to comprise only the protection monitoring and referral components 168 – and geographically: area visits were eventually restricted to the Tripoli Area, limiting only to the detention centers. Since 2016 - the field practice did not substantially change – and still bases on the same field level contacts, institutional relationships and project components. It has changed only with regards to the insertion of a capacity building element. In fact – DRC is now also part of the wider efforts to increase the capacity of Libyan Tripoli-based institutions – particularly through trainings to the Libyan Coast Guard and the DCIM, again with the support of the EC169.

After an assessment phase initiated in October 2015, MSF Holland began its inception phase for Libya in December 2015, and became operative in May 2016 MSF Holland (MSFH) – with a project aiming to assist migrants in Detention Centers. The inception phase for MSF initially was aiming to start operations in Sabha. In fact, when MSF Holland started the planning of operations – it was intending to complement the work already done by other branches of MSF in Libya. In particular – MSF France was already providing medical assistance to front-line clinics into different parts of western Libya, following the conflict dynamics in locations that included Sirte¹⁷⁰. After few scoping missions in Sabha, MSF Holland realized it was not possible to operate in the short term. Thus – it re-scaled the operations on the at-that-time considered second best location, Tripoli¹⁷¹. The programme thus consists of the provision of basic medical support provided directly to migrants. With mobile clinics and international doctors, MSFH visits regularly 8 DCs in the Tripoli Area, reaching out to a population of 2.000 migrants. While medical teams are composed by international staff, the organization recruited other support staff locally. The international team is thus complemented by local doctors, drivers and support staff – although the recruitment process went on amongst multiple difficulties¹⁷². For instance –one interviewee recalls “finding qualified nurses is very hard in Libya, the majority of qualified nurses who have worked in Libya in the past came from countries such as the Philippines – but they left after the revolution. There are some remaining but they are really competed for as a resource”¹⁷³. Medical Teams screen the detainee population and provide treatment and recommendations to international and local actors on the health implications of current detention conditions. Of the 8 detention centers visited by the medical teams, only 3 have “significant

¹⁶⁸ Interview by the author in Tunis (former DRC Senior Protection Program Manager and DRC Head of Mission)

¹⁶⁹ Interviews by the author in Tunis and Milano [DRC head of mission, former DRC Senior Protection Program Manager, former DRC Protection Project Manager]

¹⁷⁰ Interviews by the author in Tunis (Head of Mission MSF Holland, Head of Mission MSF France)

¹⁷¹ Interview by the author in Tunis with MSF Holland Head of Mission January 15th 2017

¹⁷² Interview by the author in Tunis with MSF Holland Head of Mission January 15th 2017

¹⁷³ Interview by the author in Tunis with MSF Holland Head of Mission January 15th 2017

populations”, while the others may host “twenty two here, only five there”¹⁷⁴). Detention Centers have “different compositions”, with some being transit centers: transit center is for instance the one visited in “Tajoura” where people “are received directly from the Libyan Coast Guard”, and then transferred here [points during the interview to the map location of the DC], they are processed for a week or so and then moved to a different location”¹⁷⁵. According to the interviewee – the frequency at which medical services are provided by health teams is functional to a number of factors – amongst which the number of actual detainees in each detention center: “sometimes we see a lot of people, and then we go quite regularly, but other times we see only few people, so we go a little bit less”¹⁷⁶. Most of the DCs are under some governmental (DCIM) control, although not all of them¹⁷⁷. Being financially independent – the organization does not need partner with any international actor working on migration in Libya and implements directly. Nor does it receive funds from governments involved into the political or security dialogues¹⁷⁸. Locally – it reports to have institutional arrangements with formal institutions such as the MoI and the DCIM¹⁷⁹.

The American International Medical Corps is instead a multi-mandate organization, but it specializes on the provision of medical services. It works in emergency and post-emergency settings worldwide, providing both relief and long term developmental – or “resilience” – support to beneficiaries. Although provided with some internal financial resources – the organization primarily relies on external funding for implementing its activities.

The approach taken in post-Qaddafi’s Libya in the period 2012-2014 was one close to the developmental end of the spectrum. In fact – projects implemented before 2014 – the organization had two sectors of intervention: “health projects and protection”, with activities implemented in Tripoli, Misurata and Benghazi, “enough country wide”. Health projects consisted in the support, with the national health service, while protection projects consisted in Gender Based Violence reduction projects. All of its activities were financed at that time mostly by institutional donors of the United States, in particular the USAID – the US Government Developmental Agency and by OFDA – the emergency donor institution of the United States Government. In the health sector – the organization had international experts supervising the development of managerial skills of Libyan health professionals, facilitating the creation of protection practices – such as the GBV helpline with

¹⁷⁴ Interview by the author in Tunis with MSF Holland Head of Mission January 15th 2017

¹⁷⁵ Interview by the author in Tunis with MSF Holland Head of Mission January 15th 2017

¹⁷⁶ Interview by the author in Tunis with MSF Holland Head of Mission January 15th 2017

¹⁷⁷ Interview by the author in Tunis with MSF Holland Head of Mission January 15th 2017

¹⁷⁸ Interview by the author in Tunis with MSF Holland Head of Mission January 15th 2017

¹⁷⁹ Interview by the author in Tunis with MSF Holland Head of Mission January 15th 2017

the Ministry of Social Affairs and the Ministry of Health. Libyan citizens were thus their primary target¹⁸⁰.

Later in the years up to mid 2014 – this work was complemented to the direct provision of medical material to health structures in Misurata, Benghazi, Tripoli, Zintan - such as through the import and distribution of drugs to hospitals. It worked in a logic of close institutional partnership with the ministries of Health, and of Social Affairs¹⁸¹.

This governance positioning was then interrupted with Fajr Libya in mid July 2014. On an operative level – the organization had to interrupt the direct provision of services and re-locate to Zarzis (Tunisia). At the same time from a financial security perspective, the conflict escalation provoked an interruption of the financial disbursement of donors, thus placing some question marks on the survival of the mission’s very existence. In this climate of technical challenges imposed by remote management, plus financial scarcity – the organization interrupted its capacity building involvement¹⁸².

By 2015 – found financial resources from a project agreement signed with UNHCR. This marks a change in the type of practice implemented, with IMC pausing its institutional support activities, and shifting towards emergency relief provision to disembarkation areas, UNHCR community development centers and detention centers, through health screenings¹⁸³.

With 2016 instead, the organization applies for other fundings from US Donors, and re-approaches the sustain to the health sector, mostly in the West of Libya¹⁸⁴.

6.2 DRC

The mandate of DRC is broad if compared to other humanitarian aid organizations such as MFS. It consists of providing “direct assistance to conflict-affected populations – refugees, internally displaced people (IDPs) and host communities in the conflict areas of the world; and by advocating on behalf of conflict-affected populations internationally, ..., on the basis of humanitarian principles

¹⁸⁰ Interview by the author in Tunis with IMC Libya Head of Mission

¹⁸¹ Interview by the author in Tunis with IMC Libya Head of Mission

¹⁸² Interview by the author in Tunis with IMC Libya Head of Mission

¹⁸³ Interview by the author in Tunis with IMC Libya Head of Mission

¹⁸⁴ Interview by the author in Tunis with IMC Libya Head of Mission

and the Human Rights Declaration. We understand "durable solutions" as any means by which the situation of refugees can be permanently and satisfactorily resolved, enabling them to live normal lives (DRC 2018)

The organization was present in Tunisia during 2011 to assist the flow of displaced people crossing the border caused by the hostilities. From there it moved inside Libya to Zintan, the consolidation of security conditions due to the retreat of Qaddafi, and providing support with other international organizations to internal displaced people. However – as the fighting ceased and the situation gradually normalized, the end of the existing humanitarian projects was not followed by the signing of new contracts, thus financial scarcity was structural hurdle preventing the organization from providing services, and imposed the closure of the mission at the end of the war 185.

The international staff with decision making capacities discussed internally the options for future engagement and faced the question of whether to shut down the operations in North Africa (Insaf). Interviews often start from a general consideration specified by the NGO's active context: Humanitarian aid is described as a market for services in which organizations 'compete' for contracts; DRC has a mandate, but mostly depends on external resources for service delivery. Also, more projects mean more funds, which leads in turn to more staff and therefore more possibilities¹⁸⁶.

The programme management was interested in finding resources could sustain/expand the organizational structure, the budget, the participation to international partnerships. Thus in 2011 it monitored the institutional environment of donors interested on Libya, looking for funding opportunities 187. Through this 'mapping', the active context acquired cognitions regarding the (different) priorities present in the institutional environment relevant for program development¹⁸⁸.

The active context found potential opportunities with the European Commission (EC). In 2012 the EC had shifted the allocation of 'emergency' funds from ECHO – the emergency agency – to the DG NEAR, which put forward the "European vision for Libya"¹⁸⁹. The EC was convinced that Libyan institutions had resources to achieve the satisfaction of the humanitarian needs of the populations at risk. At the same time, the EC developed its first 'protection' projects – whose portfolio, however, was centred around the needs of the IDPs and on creating the 'link' between the IDP and the

¹⁸⁵ Interview with (DRC protection project manager) (DRC head of mission)

¹⁸⁶ Interview by the author with (DRC head of mission)

¹⁸⁷ Interview by the author with (DRC head of mission)

¹⁸⁸ Interview by the author in Tunis (former DRC Senior Protection Program Manager and DRC Head of Mission)

¹⁸⁹ Interview by the author in Tunis with EU Delegation officer

governmental services available 190. Humanitarian concerns ‘re-appear’ in EU documents only in 2013, but with limited financing support¹⁹¹.

Thus, migration was probably a second order priority for the EU in the immediate aftermath – in terms of funding opportunities, with much of them being channeled on structural support to IDPs. Plus – the available funding opportunities for migration were also mostly structured in institutional support terms 192.

Yet, migration was one of the few fields of action in which DRC had the expertise world-wide, could elaborate a proposal and secure funds, consistently with its mandate. At the same time – the conditions of mixed migrants at that time seemed both less addressed by international responses, although not less serious. 193. Liaison between field level and HQ levels officers of the EC and DRC started, and the EC representatives had signalled the interest of the EC to monitor the post-conflict the migration flows towards Europe. Eventually, the EC opened a call for proposals through the Europeaid thematic programme Migration and Asylum¹⁹⁴.

Internally such input was elaborated in accordance with a set of rooted guiding principles of action. The Mixed Migration Specialist, working on the EC project between 2013 and 2014 highlights the the role of organizational culture in this “DRC would describe as a displacement agency, so it would work with specifically along the displacement axis – they would say- working with people from asylum displacement and return, the whole cycle of displacement. For them, Mixed Migration (MM) falls under protection, it kind of falls under its core mandate of protection. The idea being that MM

¹⁹⁰Interview by the author in Tunis with EU delegation officer. In fact, the National Indicative Programme 2011-2013 for Libya (NIP 2010, 21) indicated three priority areas for EU-Libya cooperation (improving the quality of human capital – programme in support of the health sector; Increasing the sustainability of economic and social development - programme for integration in world trade and Small Medium Enterprises Development. Addressing jointly the challenge of managing migration – programme for tackling the migration issue and strengthening border control, it foresaw the allocation of 60 million euros only to the first two. After the outbreak of the revolution in 2011, 10 million were allocated to address the gaps created by the conflict, in three sectors: 1) Education, sustaining the inclusiveness and quality of education for most vulnerable children, including the IDP children; 2) Public Administration, supporting “supporting Libyan institutions with their state-building activities”; 3) Civil Society – with the Civil Initiative Libya programme, creating four resource centres, providing capacity building for civil organizations and small grants (ENI, 13)

¹⁹¹ Interview by the author in Tunis with EU delegation officer. For example, the 2013 Annual Action Programme allocated 25 million euros starting from 2014 for 1) Economic Development (10 Million) – with a focus on micro & SME; 2) Protection of vulnerable people (5 Million) – improving living conditions of detainees and providing psychosocial rehabilitation and socio-economic reintegration for vulnerable people (refugees, asylum seekers) and IDPs. 3) Migration (10 Million in support for “rights-based migration management in Libya) to strengthen the capacity of institutions to “plan and deliver on migration management in line with international standards”, with a focus on “improving living conditions for migrants in detention facilities by reviewing procedures, improving services provided and facilitating access to employment” (AAP 2013). The total funds reported in the migration and asylum memo of 2013 from the EU, the instruments and projects allocated amount to a total of 20,64 Million Euros – mobilized under the thematic programme of migration and asylum (Europeaid 2013, 8). These, however, shall be considered as *regional* funds – for north Africa - while those allocated entirely and only to Libya amount to 3.44 Million Euros

¹⁹² Interviews by the author in Tunis with Diplomat (a), with former DRC Senior Protection Program Manager, Interview in Milano with former DRC Protection Project Manager

¹⁹³ Interview in Tunis with DRC head of mission.

¹⁹⁴ Interview in Milano with former DRC Protection Project Manager, Interview in Tunis with DRC Protection Project Manager,

has come as a new way of explaining understanding displacement, a kind of lens through which understand it, thereby protection. we would look at displacement regardless of the legal category. Maybe UNHCR would have a very traditional mandate focusing on refugees, Asylum seekers and stateless, but DRC has taken a broader approach in terms of what we would see as people on the move. There is where MM would be”¹⁹⁵. From a donor’s perspective - key areas of interest were the improvement of basic living conditions of migrants, particularly if targeting detention facilities, as the dire situation characterizing the living conditions of migrants were already part of the background knowledge present amongst European Institutions ¹⁹⁶.

Thus – this passage seems to suggest that the organizational cognition regarding the context of mixed migration in Libya was articulated in a way that could match the internal institutions expressing the culture of the organization and the external institutions signaled by the donors. This passage can thus show that because of this institutional matching – between the organizational internal institutions elaborated by its culture, and the external environmental institutions of the international level - the active context [programme management] decides to set up routine which could target both migrants in detention and in urban settings, regardless of their legal status.

Most importantly, spread within international networks of humanitarian agents both in the field and especially at the HQ level, there was the conviction that Libya, being a rich country on-the-way to stability, was ready to be sustained in top-level migration governance processes¹⁹⁷. This could be due either to a misunderstanding of the national context, or to a mere advancement of the donors’ agenda which, portraying selectively the national institutional system, tried to advance specific policies. Nevertheless, what this passage suggests, is that because of this policy agreement, programming trajectories of different non-state actors seem affected by institutional isomorphic tendencies. In the words of DRC head of mission “not only internally, but also amongst other organizations – when activities started in Libya there was so much ambition, also in 2011. This is going to end soon, Libya is a super rich state – so let us move into this kind of activities, such as high level governance, changing of the laws, not even real humanitarian assistance. [...] And then there was also the type of project that we had – as well as other organizations had” ¹⁹⁸.

However – against this complex institutional environment – the development of the proposal, which contained the initial cognition of the organization regarding the context and its commitment, was probably not matching the gravity of the moment. In the words of the former Mixed Migration

¹⁹⁵ Interview by the author in Tunis with former DRC Senior Protection Program Manager

¹⁹⁶ Interview by the author in Tunis with former DRC Senior Protection Program Manager

¹⁹⁷ Interview by the author in Tunis with former DRC Senior Protection Program Manager and Head of Mission

¹⁹⁸ Interview by the author in Tunis with former DRC head of mission

Specialist – the project was “probably” created by one-two day mission from the HQ, with much of it being designed in Copenhagen (HQ site)”. Another reported flaw of the design phase, is that the project had been created without consulting national institutions of migration¹⁹⁹.

Both factors probably suggest that the Libya’s programme management had the urgent need to get project approved in a short term – probably to secure fundings, but alternatively to remain “on the edge” of policy-governance development in Libya in manners consistent with its mandate. At the same time – the programme management of the field level had discussed with the regional and HQ levels the strategic engagement in Libya, and based their proposal on a standard approach that drew from precedent successful experience. As the Mixed Migration Specialist Reminds “Operations at country level has a point of reference at region, we have a regional office in Jordan with regional director. It’s not an authority, but all country directors in region have quarterly meetings with regional director. A lot of decisions are made with the advise of the regional director, at a programmatic level. At a technical level there is specialists at the HQ, safety advisors, so when things get to a certain level that is also when you start dealing with HQ. I think it is important – because DRC it is a medium size NGO, there is an amount of autonomy, but there is still hierarchy. What this usually means, is that when you propose a project, and this is usually copy-paste from other projects in other parts. Sometimes this happens to work perfectly, some other times no. And that proposal would be generated at different levels, it may be generated in country, but then it would also have a proposal focal point, which would have a say, it kind of goes through different steps”. In the case of Libya – the initial approach was driven by a “cautious risk averse approach, driven by the country director and its style. The country director I worked under I remember he said – we don’t open to close, when you make a decision to open, it’s a long term strategy – DRC doesn’t just open for six months, he had a long term vision”²⁰⁰.

Yet – this quick design phase also was influenced by the type of experience the active available active had at time. The direct experience of the organization drawn from other geographical regions had a two-fold function. ‘Bottom-up’, it served to legitimize the organization towards the donors as partner with solid reputation and vast worldwide experience²⁰¹. ‘Top-down’ it served the organization to apply to the field a standardized package of instruments – such as the use of the DRC Protection Monitoring Tool²⁰² and activities – outreach, distribution, therefore shaping an initial approach to the

¹⁹⁹ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²⁰⁰ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²⁰¹ Interview by the author in Tunis with DRC Head of Mission

²⁰² Interview by the author in Tunis with DRC Protection Program Manager

routine²⁰³. Other elements of indirect experience – borrowed from other organizations working in the same field also contributed in shaping the initial routines, again towards an isomorphism of practices. The specific reference is here towards UNHCR and IOM. Regarding DCs, DRC adopted routines already implemented by field staff of UNHCR and IOM: 1) entering through material assistance, and 2) selecting only ‘official’ detention centres – those who had an agreement with the Department Combating Illegal Migration (DCIM)²⁰⁴.

At the same time, the organizational direct experience of Libya was weak. The organization was “new” to Libya: “in a normal situation you would have many years of experience, knowledge, awareness with which to build your project”, while DRC only came to Libya the former year. Thus, its design phase was mostly influenced by top-down components, both intra-organizational and external. It had not consulted national/local institutions for the design, but had incorporate methodologies designed for other contexts, plus objectives which responded to the needs expressed by donors.

The assessment implemented by the organization during the design phase identified two locations of interest, Tripoli, and Sabha. Migration wise – Sabha was important for the number of people in need present, for its relevance on the migration route as well as for a general international interest in having an eye on a “black hole on the map”²⁰⁵. Tripoli was selected for the presence of national institutions and for the large amount of target beneficiaries concentrating around the city. Again, it seems that the decision regarding the engagement in the provision of specific services seems determined by a combination of functions – in which external [donor-driven] interests match with the intra-organizational priorities of action.

Protection monitoring was informed on a pre-designed methodology, an experience accumulated by the organization in other contexts, by the indirect experience of other organizations in the same context and by the new members of the active context recruited by the organization thanks to the grants provided by the donors. New members included in particular external experts – which brought in *indirect* experience into the organization [namely their working experience matured with other organizations].

For example - the Non Food Items distributions had the aim of addressing immediate needs, and for gaining acceptance into target communities, or into Detention Centers. This was an established cognition into the organization coming both from the experience of their experts and from that of

²⁰³ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²⁰⁴ Interview by the author in Tunis with DRC Protection Program Manager

²⁰⁵ Interview by the author in Tunis with DRC Head of Mission

other organizations working in Libya 206. Only through the provision of some concrete benefit to target beneficiaries, or their gatekeepers, the organization would have been given the chance to move to the vulnerability screening phase and thus referral. When the NGO was discussing with the EC how to work in migration to match “their general interest” – the “practice had been slightly standardized, with the outreach component, basic assistance to address real vulnerabilities” etc 207. To these ‘relief’ components, the organization added – after signing an agreement with UNCHR in 2013 – the legal protection component, through the pool of contracted Libyan lawyers from IOCEA 208.

Lastly, but most importantly, the NGO designed the project foreseeing the presence of a mixed migration specialist. It is not clear from the interviews if this was part of the original design phase, or it was eventually discussed negotiated with donors later, or if was an autonomous decision of the organization. However – what the interviews are clear in stating is that the specialist was hired, amongst other things, for its extensive background to work in detention facilities - to coordinate “the protection team and look specifically at the issue of migration, which was [...] one of the core activities of DRC”, “developing partnerships and ways of work, and also research”. From June 2013 – in particular – the research work started, a “kind of work that we would call under advocacy, but we would use the work of our protection team to extrapolate findings”. The importance provided to the advocacy part of the component – is brought to the fore by the same interviewee, when she says “I was taken onboard for a specific purpose, which was trying to bring what we were doing at the local level and make it a bit of a higher level, doing reports, sort of an advocacy through research” 209. This is consistent both with the mandate followed by the organization, and with the general interest of global institutions at that time to influence the political debate and achieve legislative change in Libya. In conclusion, against a limited country knowledge and experience, the organization had developed an “ambitious” cognition about its own role in the environment²¹⁰.

Consistent with the learning framework, it is possible to observe an adaptation of the daily practice based on the progressive direct experience the organization acquired in the first period of implementation. More specifically – from interviews emerges that the original routine, which had been designed on the basis on what the organization was [successfully] doing in other contexts, ‘received a feed-back from the environment’ so to say. In other words – while the original design

²⁰⁶ Interview by the author in Tunis with DRC protection project manager, with DRC head of mission.

²⁰⁷ Interview by the author in Tunis with DRC protection project manager, with DRC head of mission.

²⁰⁸ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²⁰⁹ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²¹⁰ Interview by the author in Tunis with former DRC Senior Protection Program Manager, Interview by the author in Tunis with DRC head of mission

foresaw a direct role of the organization in the outreach, in the monitoring, and assistance to vulnerable populations – the set of formal and informal institutions present at the local level imposed a ‘co-optation’ of the organization into existing networks of local organizations. For example – one interviewee recalls for instance that in Sabha – the identification of the protection needs and the locations in which to deliver aid was done in coordination with “the consulate of many nations [of supposedly relevant nationalities] – and they were the ones which introduced [us]the community leaders of those communities in the urban settings. Through those community leaders – we get to know people with [the relevant] language and that are accepted in the community. Those community mobilizers [that] we recruited – it was because they [spoke] the language, or the community leader – that was assigned by the embassy – identified. [This was done] to get access to the community. But it was very complicated. *At the beginning we tried [to get] access our own – for example the francophone in Sabha – we were totally rejected, who are you, they were careful what to say, what to share, while if you go with go with a community mobilizer acceptance is already there* [emph. Added] 211.

The mixed migration specialist, instead recalls that “in terms of implementing, we had close relationships with some NGOs – [such as]IOCEA. Then we needed to find local NGOs to work in specific areas [...] in Sabratha, Greater Tripoli, Surman [etc]. Finding a local NGO with maybe to partner with. That was our bridge – that was the standard – also in other contexts, not an innovative practice”. Yet the interviewee specifies that “We recognized in Libya there hadn’t been a context of international NGOs. That was a context in which maybe there was suspicion towards international NGOS, so we recognized that access to communities would be important, that local knowledge would be important” 212.

The active context found the greatest challenges in in Sabha, where migrants lived “underground”. Many of them were on transit towards the north, several were transported from Chad and Niger through Al-Ghatrun, or the other ‘desert routes without documents – which made them illegal according to Libyan Law – and kept in Sabha waiting for the next step to Bani Walid and the Coast²¹³. As one interviewee summarized “[...]if they are still moving, they are hidden. They are not like – in Tripoli for example, in the suburban areas, you could find apartments in which there may be migrants

²¹¹ Interview by the author in Tunis with DRC Protection Project Manager

²¹² Interview by the author in Tunis with former DRC Senior Protection Program Manager

²¹³ Interview by the author in Tunis with Civil Society Activist, Interview by the author in Tunis with former DRC Senior Protection Program Manager, DRC Protection Project Manager

and refugees waiting for boats, but Sabha the smugglers were still moving people, so there was a much more dangerous component in our work”²¹⁴.

Another feedback effect coming back from the environment onto the active context relates to the issue of institutional relationship between the organization and the formal/informal institutions operating in different locations. While the design phase had overlooked at the national institutions²¹⁵, the organization found soon out the “absolute necessity to deal with local authorities at the implementation level”²¹⁶. The organizational relationship with the local institutional environment is perhaps one of the most interesting aspects of the governance formation processes in humanitarian crises. From interviews emerges one theme - here termed as “flexible geography” of institutional arrangements with local institutions. The organization found itself in the need to adopt arrangements regarding the implementation of mandated activities – the provision of life-saving services to migrants in urban and detention settings, their screening and facilitating their access to legal protection measures – which turned out into institutional agreements different in terms of actors involved and in scopes of intervention, across different contexts.

In terms of the actors involved in structure of governance, the geography of arrangements involved was different between between the north and the south. In the wider Tripoli area – the programme and protection management developed institutional relationships and arrangement with a multi-levelled scale of actors, from the Ministry of Foreign Affairs, the Ministry of Cultural Affairs, Ministry of Interior, to the head of the Department Combating Illegal Immigration (DCIM) down to the center-management, police and militias working to provide security to centers, to municipal councils and local organizations. In the south – the protection management interacted mostly with those institutions which were more relevant, including in particular the councils composed by the different tribes and the local management of the detention centers ²¹⁷ .

Two issues are reported to account for the diversity in terms of actors partaking to governance structures, the combination of the “institutional confusion” and of the “fragmentation of authority”. As the mixed migration specialist recalls “there was not an organic structure [of institutions], which part of the government was responsible for this [migration], what kind of chain of command had to be established, which made very hard to understand who was your main interlocutor. At the local level you had to deal with DCIM to access detention centers, but that is under the ministry of interior,

²¹⁴ Interview by the author in Tunis with former DRC Senior Protection

²¹⁵ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²¹⁶ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²¹⁷ Interview by the author in Tunis with former DRC Senior Protection Program Manager, Head of Mission, Protection Project Manager

it is just a department, so you are dealing with DCIM for your day to day, but then with the ministry of interior who managed the DCIM. Also there was not much legislation around refugees. [...] then for the migrants Libyans tend to have a punitive approach, centered around irregular entry, so you were also dealing with other partners such as the ministry of foreign affairs, depending on the migrants nationalities [for AVR]. [...] in Sabha however – the practical reality was that – in the context of Libya it doesn't matter who's at the top, it matters who you are dealing on a daily basis. So in Sabha it would have the management of the prison, for a day-to-day access and then local councils, local government local authorities. Because at the end of the day they are the ones that are close to the communities and close to you. Sabha itself is so distant from central authorities, they have less connection anyways, but you as an NGO based in Sabha, you tend deal with local authorities. IT is not just the Municipal Council, also other tribal councils”²¹⁸.

The second aspect of the flexible geography theme relates to the scope of the institutional negotiations relating to the implementation of mandated activities that were set up by the organization. Interviewees often depict the difficulty of negotiating humanitarian access into urban and detention centers starting from the discussion above related to the absence of clear legislative frameworks, to the issue of authority fragmentation between weak centers and multiple political peripheries. Yet – a third theme that adds up to the former, is that of divergence between multiple institutions, in particular between them – as representatives of human rights and humanitarian standards, *perceived* representatives of international agendas - and the institutional priorities of formal and informal institutions.

The mixed migration specialist, for instance starts depicting the issue of negotiating access with peripheral centers of power, in a climate of fragmented authority. “In Sabratha, we worked quite closely with both the management and the municipality, we would bring our country director at that time, because it is important for the organization to show a whole-of-organization approach and we could sit down, and discuss who we are, what we are doing and this is our work”²¹⁹. Then she would move pointing to the institutional multiplicity, pointing to the perceived clash with Libyan institutions permeating the environment in which DRC was enmeshed: “there are mixed attitudes, towards migrants, they are also part of a political economy of migrations and there is the inheritance associating them either to slaves or mercenaries. Libya is still a country of tribes, whereby personal relationships and trust-building is critical. You can't simply show your registration and people will open the centers, because on the top of everything there is the supposition that international NGO are

²¹⁸ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²¹⁹ Interview by the author in Tunis with former DRC Senior Protection Program Manager

maybe external agents”²²⁰. Institutional priorities furthermore, between the international actor and the local actor may be substantially different: “the problem is that sometimes the priorities of the center don’t ally with what you are allowed or willing to do”. So for example “in the Surman Center with lots of women and children – their priority is really like health care, child care, managing a center with lots of women and children [presumably referred to issues of structural rehabilitations, issues of pregnancy health and maternal health, of child protection and health]. Now we didn’t really have funds for that support, so there was kind of a frustration from the center manager who said we need this and we said we can offer this”²²¹

Against this type of background, provided with the global inputs, the interaction between the active context and the Libyan actors present in multiple local nextorks turned into *ad hoc negotiations* between the organizations and local authorities and/or center managemens – therefore producing a multiplicity of (in)formal agreements based on personal relationships and personal trust. Such agreements differed in terms of scopes of the extension of human rights and international protection measures from case to case, close to very low standards. The Mixed migration Specialist recalls that “The only way to work with them is sitting down, talking [...] you may just be discussing and explaining, asking and then through that you are kind of negotiating access. I also worked with the red cross in detention centers in other areas [...] it is no different – clarifying the parameters of what you will do and what you won’t do and then deciding basically if the humanitarian imperative would work in those conditions”²²².

While useful in term of accessing multiple locations – the need to resort to ad-hoc agreements between the organization and local authorities likely placed the organization in a weak negotiating position. Certainly – it gave rise to different types of agreements between the organization and local counterparts. “For example, in some centers they would say you can drop all of your items and we would distribute. Now, usually we would say, no – the donor compels us to visually see those items to be distributed” and likely the organization refused to distribute. “in others we would say – look what do you need, how can we complement what you are doing [...] in others they would say – you can come in, you can meet people one by one – in other centers they would say, you can have this room [for distribution and colloquia]”²²³.

2013 however also marks a moment in which multiple inputs feed-back into the organization from the local institutions through the national/local networks working on migration. Inputs are elaborated

²²⁰ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²²¹ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²²² Interview by the author in Tunis with former DRC Senior Protection Program Manager

²²³ Interview by the author in Tunis with former DRC Senior Protection Program Manager

by the active context, marking a change in the field level cognition regarding the effectiveness of its practice.

While the organization could troubleshoot access problems into detention centers, the programme management increasingly realized that the project was going on diverging trajectories. A first dimension related to the north-south divide regarding the project challenges on their outreach component²²⁴. In the south, particularly, the organization faced increasing challenges to get in contact with ‘underground’ migrant communities. But on the top of everything, the programme management of the active context increasingly realized the challenges related to the legislative component²²⁵. In the words of the Mixed Migration Specialist “In the south there was still a mix of DC and urban, but access in detention center was extremely hard to negotiate, to that restricted mostly to provide NFIs and other things. And then there was a limited attempt to work in communities. But that’s very difficult in the south, in the north we were able to do more community visits, to areas where migrants and refugees lived. Obviously the south is a different context, it’s a livelihood of smuggling, that’s not a surprise, that’s well understood. So you are dealing with people whose livelihood is based on smuggling, not just of people but also of other things at the same time. So this touches on a very economic aspect of their work, secondly, you still have people on transit – in a way, so people are still on route to the north, so its much more covered. It depends on where you look people for, whether they are in big cities waiting to move on, as compared to if they are still moving, they are hidden. They are not like – in Tripoli for example, in the suburban areas, you could find apartments in which there may be migrants and refugees waiting for boats, but Sabha the smugglers were still moving people, so there was a much more dangerous component in our work. [...] In the south of course there are lots of tensions about citizenship – which I don’t truly understand, in a detailed way. But of course there are people that in the past have been mercenaries, that have been given citizenship in exchange of services”²²⁶.

In Sabha, this worsening peaked when the organization spread the results of its advocacy research on mixed migrants in late 2013²²⁷. The organization disseminated its internal knowledge through meetings with members of global networks of migration both in Malta and Brussels, as well as within local networks in Libya. The dissemination attempted to provide key messages to different types of stakeholders, according to the findings identified into their research-advocacy report. “For Europeans - let us stop the narrative, everyone wants to come to Europe. I think that was well taken. because we

²²⁴ Interviews by the author in Tunis with former DRC Senior Protection Program Manager, Head of Mission

²²⁵ Interview by the author in Tunis with former DRC Senior Protection Program Manager, Protection Project Manager

²²⁶ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²²⁷ The report is called “Risking our life for daily bread” (DRC 2013)

had good evidence. [Yet] there was still a cynicism, the perception that everyone will eventually come to Europe, but then we would try to explain some of our case studies (this is a doctor comes from Ghana worked in Tripoli for 10 years, why has he not gone, it is not his desire, I'd rather go back), so trying to explain. We were trying to break down the narrative, let's go beyond the narrative – all people in Libya are trying to come to Europe. Let's talk about the distinction between migrants and refugees, let's talk about different groups and let's understand the heterogeneity within that population – so that's for the European audience. Where are the small openings. We weren't about to tell to European actors what to do, it was up to them to decide. To the NGO community, the constant denouncing is kind of tiring and old – let's try to find positive opportunities. I was trying to show that there were shared responsibilities, that they played a role but there were also other actors – embassies for examples, who are there who do not provide documents etc. It is easy to say, you keep people in detention, but when that detention center managers are like I have a lot of Somalis and the consulate doesn't care about them, whose responsibility is. I think is also we were continuing conversation with authorities. They knew us. It was part of relationship building. We can also be your interlocutor with donors. That's why we deliberately included recommendations to external subjects”²²⁸.

However, in Sabha – the routine touched sensitive and personal issues not through individual interviews, through Focus Group Discussions (FGDs), thus implying the dissemination of information through the group. The problem was that locals did not want anyone to study these populations and their problems, it was a really sensitive topic. “the last FGD was interrupted with intimidations. With then the dissemination of the Arabic version of the Report, local authorities call for meeting the head of office, saying tomorrow you close”²²⁹ Another interviewee more bluntly says – “it was all fine until we talked about the stateless (people) – the whole community did not accept that. The Tebu would ask us why are you talking to Awlad Suleyman. The other would say why are you talking to Tebus. The stateless are Tebu, Hamid, Awlad Suleyman, Tuareg. Awlad Suleyman they do not have big present of stateless I think but they are the ones taking over the administrative office. And they didn't like about us speaking about stateless people. They thought we wanted to give nationality”²³⁰. Thus, by providing nationality – some of socio-economic groups would have seen increased their legitimacy and capacity, altering the balance of power between groups in the city.

DRC had a major security incident at its Sabha office, with the staff threatened and equipment stolen. Most importantly – few days after the release of the report, the organization was convened at the

²²⁸ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²²⁹ Interview with DRC Protection Project Manager

²³⁰ Interview by the author in Tunis with DRC protection project manager

municipal council, and was formally asked to interrupt the activities and leave the town²³¹: “it was very quick, we got there and they said – you guys in two weeks leave”²³².

The major explanation attached to this by the organization relates to how local authorities did not fully understand nor accept the routine established by DRC. In the words of one interviewee, “it is very easy for us to blame authorities , but[...] the thing we had not been doing properly is that we could have introduced ourselves better at the beginning. We were doing a multiplicity of projects: So here you’ve got this Danish organization, they are talking about demining, they are talking about refugees and migrants, that’s quite complicated and each project is being implemented separately”²³³. In particular, this referred to the aim of providing basic relief to migrants combined with the legal assistance and the advocacy component²³⁴.

The relationship between environmental dynamics and the active context brought the programme management to reconsider its set of initiatives by the end of 2013. This happened in two ways. First – intuitively – the active context realized that security conditions for safe deployment in Sabha were not met anymore. Thus, it decided for the only option viable that would have ensured the highest safety for both national and expatriate staff: leaving Sabha²³⁵. Second, the sensitiveness of working on legal aid and with non-state actors in migration induced the programme management to reconsider its role as service provider in Libya. “it was a matter of perceptions [...] if you work with a community that in the past was perceived to be a mercenary, then you are [perceived as] taking sides. You are stepping on old ground”. Then – there was the issue sensitivity and “how migration is perceived[...], as soon as you start talking about *migrants* [emphasis original] people sensitivities become heightened, the more difficult become to get people down and have a discussion concretely on how to work. It is really much about a taboo. [...] it is local knowledge,[...] You should work out very quickly which are your no go areas. And what was realistic, given that at the same time you are doing demining, and violence reduction. How does this get understood by local authorities²³⁶. “We never asked what are your key priorities, we tried later, but it was too late. We tried to do different things, but realizing that in the south the answer to your question about your priorities may be different than the one you may have in Tripoli”²³⁷.

²³¹ Interview by the author in Milano with former DRC Protection Project Manager

²³² Interview by the author in Tunis with DRC protection Project Manager

²³³ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²³⁴ Interview by the author in Tunis with former DRC Senior Protection Program Manager, Head of Mission, Protection Project Manager

²³⁵ Interview by the author in Tunis with DRC Head of Mission

²³⁶ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²³⁷ Interview by the author in Tunis with former DRC Senior Protection Program Manager

The increasing mismatch between institutions that unfolded into daily practices, coupled with a growing knowledge of local institutions - with their priorities - prompted the programme management at a field – regional and HQ levels to discuss how to proceed. The programme management facilitated an internal “annual review” in late 2013. This meeting, in which both field level, HQ, thematic and regional experts participated, facilitated the exchange of cognitions regarding the actual state of affairs, and challenges regarding their engagement in Libya induced more realism into the active context “[...] In the north there was a sense of being realistic – about protection monitoring what are the issues we want to explore, using the tool that we had and not being too ambitious, you are not going to chance detention centres in Libya. We are not trying to stop certain behaviors from managers, guards. This is the current reality, with that access what are we going to do to. This is when we started thinking about phone calls, ok people don’t want to give you access when you distribute – what are we going to do, how are we going to broker this. What technical expertise would you need, again maybe you may need to bring back in the country director for the conversation. In the south – this work is sensitive, highly complex, is this the right time – why do we want to push this right now. In a sense the discussion in 2013 lowered the level of the ambitions and practical objectives that the organization wanted to achieve, cos we had to balance broader context, local relationships and safety of staff”²³⁸.

One initiative the programme management took was to provide the international networks with feedbacks with the (in)feasibility of their actual project components. Besides for their initiatives to disseminate findings, in late 2013 part of the programme management visited officials of the EC in Brussels which were still financing at that time their activities²³⁹. Although officials had “good desk knowledge” of Migration – “this is their priority, is well understood “the real challenge for them was to convey the picture of “how you at a daily level negotiate your work, how you work with different interlocutors at different levels – the importance of local level relationships with DCIM”. Also European institutions were perceived by DRC as advancing different priorities – with mixed migration being only one of them. Yet – this was an attempt to establish a bottom-up flow of contextual knowledge through the organization’s cognition. “in the limited bandwidth” DRC encountered – “key messages would be the need of flexibility, the opportunities and no-go areas. Opportunities for direct assistance” for instance, as well as “ other areas that would be no-go for the moment – for example legislation. It was the wrong time – it’s not gonna happen, and then try to have at a more central level a discussion about migration”²⁴⁰.

²³⁸ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²³⁹ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²⁴⁰ Interview by the author in Tunis with former DRC Senior Protection Program Manager

The programme management negotiated and got the approval from the donor to “shift [from legal aid] to working in universities with young people. This was [...] when it was clear that the legislative environment was going nowhere,[...] it wasn’t their priority. And also there was too much going on in terms of security and political dynamics. You were not going to find – oh this is the right department, this is the right person. In terms of working in the broader environment – [it was crucial the] perception and the community awareness. This reflection brings the organization to scale down ambitions and operations through “an agreement with the university of Tripoli to do some training on human rights; Ok, let’s forget about migration. Let’s take a back step, and offer some kind of knowledge on human rights, international ngos, that kind of things. [...] and we designed a signed a 6 weeks course at the university. [...].We weren’t looking for huge success, this is the other thing of being pragmatic, modest goals” [emph.added]²⁴¹. This is confirmed by other interviews. For instance, the Head of Mission reported that while the immediate post-war approach internalized by DRC reflected some sort of general optimism regarding humanitarian needs and post-conflict stabilization, by the end of 2013 the organization had substantially changed its cognition regarding the realm of possibilities and no-go areas “in 2011 [...] it was also the type of project that we had, as well as other organizations had, and then you had these projects suddenly, such as that of mixed migration with the EC that had to go [...] through lots of revisions, because the situation wrapped and reiterated back. The design [...] was really ambitious, it had a component on legal assistance which was intending to change the legal framework on mixed migration. And the experience the organization acquired during that time was showing, that this would have not been the case. For the Libyan government it wasn’t a priority to change [it]. And that it was not the time for speaking about legalizations, in some cases touching on some issues – especially in the south – backfired on the work of DRC”²⁴².

In conclusion – between the end of 2013 and the beginning of 2014, the organization restricted the range of services provided, “pulling back completely from Sabha”. In the north. Their engagement was put under stress again in mid 2014 with Fajr Libya. Hence – 2014 represents a turning point. The programme management has changed substantially its cognition on the activities that is possible to implement, as well as it has restricted its geographical domain, on lower and more defined fields. It remained operative in Tripoli – thanks to its better relationships with relevant institutions, particularly with the management of DCs, providing in-kind assistance to mixed migrants both in urban and in ‘authorized’ detention facilities²⁴³.

²⁴¹ Interview by the author in Tunis with former DRC Senior Protection Program Manager

²⁴² Interview by the author in Tunis with DRC Head of Mission

²⁴³ Interview by the author in Tunis with DRC head of mission, Interview by the author in Tunis with former DRC Senior Protection Program Manager, Interview by the author in Tunis with DRC protection project manager

However, security in 2014 deteriorates, with the breaking point of Fajr Libya on August the 23rd 2014. There – the programme management acknowledges the impossibility of having any security guarantee for the safety and security of the organization²⁴⁴. In line with all other NGOs and IOs, the active context evacuated international staff, and communication channels between between NGOs, between NGOs and IOs, and within NGOs with local staff fell apart²⁴⁵. The programme management relocated to Tunisia, reported this to the donor and was granted a no-cost extension until the end of 2014 ²⁴⁶.

Yet – while the humanitarian concerns were increasing – the armed confrontation between rival parts in multiple locations, and the following political turmoil caused the closure of the financial streams from the side of European and North-American major donors²⁴⁷. EuropeAid Migration and Asylum Programme halted any financial support²⁴⁸. With the beginning of 2015 the EC suspended all its financial contributions to implementing partners for the fragmentation of political authority in Libya ²⁴⁹. Again – financial scarcity brings the active context to discuss its very survival as a service provider in the country, until it finds the availability of the Swiss Development Cooperation (SDC) to finance a smaller version of the precedent EC project, leveraging on the capacity to deliver results in the north due to experience accumulated and established networks²⁵⁰. A smaller grant for the period 2015-2016 meant less resources though the project components were similar²⁵¹.

As we have seen emerging in the former chapters, this development takes place in a changing and unstable environment characterized by two factors: the changes in the security and economic conditions of migrants and evolution in the political economy around migration, on the one hand; the adjustment in the response plans implemented by specialized agencies – including UNHCR, on the other. In fact, on the one hand the overall living conditions of migrants since Fajr Libya worsened. For migrants outside detention centres, restricting access to basic goods and services – food, water, income, healthcare, security – became a background ‘push-factor’ for migration²⁵². For migrants inside detention centres, “Fajr Libya [and the] split of the government, [imply the] collapse of

²⁴⁴ Interview by the author in Tunis with DRC head of mission, Interview by the author in Tunis with DRC protection project manager

²⁴⁵ Interview by the author in Tunis with DRC head of mission, Interview by the author in Tunis with DRC protection project manager

²⁴⁶ Interview by the author in Tunis with DRC head of mission, Interview by the author in Tunis with DRC protection project manager

²⁴⁷ Interview with DRC Head of Mission, Interview with IMC Head of Mission,

²⁴⁸ Interview by the author in Milano with former DRC Protection Project Manager

²⁴⁹ Interview with EU Delegation Officer

²⁵⁰ Interview by the author in Tunis with DRC head of mission

²⁵¹ Interview by the author in Tunis with DRC protection project manager

²⁵² Interview by the author in Tunis with Civil Society Activist b

financial institution and no more budget”. Budget collapse has worsened the access to basic goods, such as food.²⁵³ On the other hand, with the collapse the financial system armed groups “turned to migration” in order to increase their access to financial resources, exponentially increasing their involvement in the smuggling and/or trafficking of people²⁵⁴.

While the operations remained almost completely in stand-by throughout the second half of 2014, with the SDC grant signed, the programme management re-started operations in 2015. However – the organization had to re-adjust to a remote management mode. This means that the project management discussed internally which kind of activities to propose to a donor, as well as which counterparts could be considered to be credible for conducting those activities. This brought the programme management to adopt a risk averse approach proposing the SDC to conduct activities in which they would minimize the operational, financial, and security risks – such as working in those areas, which the organization could leverage better personal relationships on, providing minimum services such as monitoring through basic kits distributions²⁵⁵. As the Protection Project Manager for the 2015 SDC project reports, “In 2015 – the first three months we had a project by WFP – as third party monitoring for distributions implemented by STACO. Then April and May we didn’t have any fund for protection and migrants, you know what? Protection Monitoring was not priority for the donors, let’s talk about IDPs IDPs IDPs, migration no. For two months protection zero. In June, we received one year project from SDC for migration. And it was the same activities of before, protection monitoring, referral, outreach, NFIs. Very small project. I was struggling to keep NFIs to last for the whole year. I had to beg and coordinate with everybody to ensure that we can go to one center together with another organization. Because we could not cover the whole center with our NFIs. At that time we were developing a different practice, I go to this, IMC goes to the second, to ensure the monthly presence in every center. Due to Limited Resources, I could not go alone – so I should go together with IOM, IMC who are the partner of UNHCR to one center together with them”²⁵⁶.

This environmental context thus emerges as composed by both elements of continuity and change. To this – the programme management elaborates a “buy-in” strategy: “while working in detention centers has an acceptance gap, in a way, the other [working with IDPs – such as the WFP project] has an acceptance surplus. That was in the DRC portfolio there was an interest in designing, there are two main components, the mixed migrants but also the IDPs to balance. We work with the Libyan IDPs, and we are not such a such a great *target* [emph original] to work with mixed migrants, so it is a way

²⁵³ Interview by the author in Tunis with UNHCR Protection Officer

²⁵⁴ Interview by the author in Tunis with UNHCR Protection Officer

²⁵⁵ Interview by the author in Tunis with DRC Head of Mission

²⁵⁶ Interview by the author in Tunis with DRC Protection Project Manager

to balance. Mixed migrants are of course the amongst the most vulnerable Persons of Concern in Libya, and that's a choice the organization has done to focus only on DCIM structures. If we don't we risk incentivizing each gang to construct each its own little garage and declare it as a center – so the UN and our system would support the reinforcement of this political economy. But also because of acceptance, I mean – the DCIM is part of the Ministry of Interior, so you are more closely connected to some kind of official authority. At the same time is a difficult ethical choice – how to interact with this political economy. [...] it is a dilemma. [...] one key question is what kind of assistance you are willing to provide. Would you go for example for full scale reconstruction of DC if there would be funds for that. Or you say no, we are providing humanitarian assistance but we are not be engaging with full scale feeding of detention centers, or full scale reconstruction. Yes some minor wash rehabilitation for activities which will be minimisizing the spread of diseases, that's one thing. But should we go if there were the money for large scale reconstruction and so on. Which I think would be pretty much incentivizing the kind of system. For us this has been so far a red line²⁵⁷.

However – as we have seen in the former chapters, several contextual conditions mutate between 2015 and 2016. At first, the political dialogues bring to the identification through the Shikrat Agreement of a political interlocutor – the Sarraj Government. This institution becomes the focal point for the UN and European States support activities, and international donors – particularly the European institutions and its member states – re-open financial streams. Second, with the deepening of the financial crisis migration becomes a “booming business” for the militias. And this implies two things. On the one hand, it leads to increased activities in terms of departures towards Europe, and deaths: because of the worsening living conditions in Libya – an increasing number of migrants is interested in paying, voluntary or forcefully, to leave Libya²⁵⁸. Secondly, migrants living outside detention centers are reportedly living in unsafer conditions, being them increasingly exposed to violence, extortion, kidnapping and arbitrary detention²⁵⁹. The networks of actors of different institutional settings of the international side thus renew their interest in engaging in institution building efforts that can work on such humanitarian-developmental issues. The European Union, for instance promotes the creation of the EU Trust Fund for Africa – a programmatic and financial platform through which it proposes to address, amongst other things, migration issues of the upstream flows towards Europe. The British Developmental Agency DFID opened a grant financing for the promotion of the access of girls and women to protection services in detention centers, thus reducing

²⁵⁷ Interview by the author in Tunis with DRC Head of Mission

²⁵⁸ Interview by the author in Tunis with DRC Protection Program Manager

²⁵⁹ Interview by the author in Tunis with DRC Protection project Manager

their vulnerable status during the captivity²⁶⁰. As a consequence – institution building initiatives are taken from multiple side of the international network to support Libyan institutions not only on the detention side of migration management, but from 2016 onwards also on the sea-patrolling institutions – such as the Coast Guard²⁶¹.

With such new contextual conditions, and the financial opportunities available, DRC approached the European commission to respond to an open call for proposal. This time – however – the organization applied in “consortium” with a group of other organizations: IMC, CESVI, Save the Children. The organizations²⁶².

Thus, in light of its aim of continuing and expanding its activities on migration, the programme management developed two proposals – which were accepted – one for DFID, and another for the EU trust fund. The actual programme manager recalls how both openings contained an explicit demand to develop institutional partnerships to support the development of Libyan institutional capacities²⁶³. For DIFID this was declined through the interest in reinforcing the capacities of DCIM structures to protect the rights of women and girls in detention. The programme management – aligning with a general donor interest in supporting hardware reconstruction, and the action taken by IOM (major partner in Libya), was granted an award to of Wash rehabilitation component “to build toilets and showers that are separated from communal spaces”. Such proposal was based on comprehensive assessments on a case by case. “this is a red-line that we crossed. [in 2015] we wouldn’t have going near that kind of assistance. So again it is a balance between assistance, humanitarian assistance and not further incentivizing detention”²⁶⁴.

As for the EC Trust fund – despite for the huge humanitarian nuance the migrants conditions were taking in 2016 the active context ‘answered a programmatic call’, drafting a document which would have taken a long term perspective, working with the coast guard and other Libyan institutions: “it was written in the trust fund, as an actor working on migration. Libyan institutions working with migration as the DCIM. And we though we should be engaging with them. There were stories, counts of people being apprehended by the cost guard and ending up not just in detention centers but also in alternative detention scenarios – such as the Syrian women ending up apprehended in brothels in Tripoli. So we felt we needed to engage with them as a partner. [...] we should work with them on soft skills, trainings, around protection sensitive, geneder sensitive, youth sensitive migration

²⁶⁰ Interview by the author in Tunis with DRC Protection Program Manager

²⁶¹ Interview by the author in Tunis with DRC Protection Program Manager, Head of Mission

²⁶² Interview by the author in Tunis with DRC Protection Program Manager, Head of Mission

²⁶³ Interview by the author in Tunis with DRC Protection Program Manager

²⁶⁴ Interview by the author in Tunis with DRC Protection Program Manager

management. We have [inserted] a training component that was developed combining this teaching and some of human rights way approach into migration management. We felt at that time that we were looking for other actors to work with [DCIM] and the coast guard. A lot of people assumed at the same time that the coast guard became seen to be a credible partner [...] it was a Libyan initiative and they were part of the upper head of the disembarkation circle. It was also an institution, the same kind of institutions that are supported by the European and International Community”²⁶⁵.

The last element that the programme management inserted during the covered period is the workshops planned and delivered on alternatives to detention²⁶⁶. Although financed not through the EC, but through the former SDC project, is depicted as an element of continuity with the pre- Fajr Libya engagement of legislative change²⁶⁷. Yet – it also responds to an organizational alignment with the international institutional priority as set in early 2016. It had been discussed during the official coordinating platforms of international actors “under the mixed migration working group in Tunis”, in which all the NGOs, we had some Libyan civil society [were] there, UNHCR and of course we have the ministry of Justice, the ministry of interior, the ministry of health”²⁶⁸. For DRC – it is an initiative promoted to “keep alternatives to detention on the agenda”. The programme manager reports what he perceives as a [international] “collective sense that detention is not an appropriate solution in Libya [...] particular individuals within [the migrant population] should not be there, children should not be in detention by verge of their parents migratory status. That is what we find unpalatable and unacceptable [DRC]. [...] People getting arrested, but that has to be through a process, and there have to be alternatives. Some of the alternatives are unfortunately [going to] include assistance to voluntary returns, [but] some of them may include legislatiton paper work, temporary documentation. We are keen to keep alternatives on the agenda”²⁶⁹. The organization is – in this sense – interested in supporting the application of existing laws with national institutions. “laws exist, there is an employment sponsorship programme – it is not being well used, byt there are lots of people working in Libya who have paper work by virtue of the fact they have employment. I mean – we hear cases in which people in Libya can come and rent a labourer, and they are released to Libyans, and of course for a payment. That is not what we are talking about here, We are talking about existing legislation, existing labor laws and official documentation, official due process. There are lots of people who are working – not in detention – who can present paper work to say that they are employed by Libyan company, Libyan family. Libya is a fragmented state, there is a lack of law justice, but

²⁶⁵ Interview by the author in Tunis with DRC Protection Program Manager

²⁶⁶ Interview by the author in Tunis with DRC Head of Mission

²⁶⁷ Interview by the author in Tunis with DRC Protection Program Manager

²⁶⁸ Interview by the author in Tunis with DRC Head of Mission

²⁶⁹ Interview by the author in Tunis with DRC Protection Program Manager

there is still an inheritance to existing laws and existing due processes. [...] I think we are looking at existing mechanisms, existing schemes, the work was done in 2012 and 2013 and is continuing today with a working group in Sabratha who are drafting new laws [...]"²⁷⁰ .

To conclude – there is a number of elements that is worth considering here. First, how the contraction of the humanitarian space in post-Fajr Libya, has restricted the role of experience for the organization. Less room of maneuver has both restricted the organizational capacities to generate first hand experience and, especially, to experiment deviations from standardized routines. On the other hand, experience is important for the organization since it provides the cognitional bases to understand what works in terms executive working relationships with grass-root actors.

Secondly the routines developed by the organization seem to be created by a programme management who perceives itself caught into a programmatic conundrum between organizational aims, (inter)national institutional directives and constraints. The programme manager perceives itself as aimed by the humanitarian goals as crystallized into the culture, but mediated by the aim to work with those institutional actors whose behavior is often causing the humanitarian symptoms well known. At the same time, this is a long term approach that is also explicitly requested by the institutions regulating the financing and programmatic networks internationally. Such perspective is thus internalized and mediated internally. The programme manager for instance reports : “the first point is that our job is not to stop migration. We are not here to stop people migrating. [...] Our job is to make migration more protected and sensitive, to protect people, people have the right to migrate. That is. [...] I think our role is to work with institutions that make the migration experience less violent, less abusive, less unaccountable”²⁷¹. The head of mission presents this same governance direction more directly “Maybe its not the time now, but we should be thinking in long term perspective”²⁷². The institution building efforts internalized by the organization are nevertheless countered by a reality deeply enmeshed, if not clashing, with the institutions of the political economy. Working with the coast guard, for example, implies that the organization has to deal with “militias with boats. They are not what you perceive as coastguard back home”, or “detention centers [and its guards] are not much different. This is post-revolutionary Libya, the unfortunate outcome of regime changes and western interventionism”²⁷³.

On the top of this – the organization is also aware of its mediator role between institutional systems, and particularly of being functional to the migration management strengthening mechanism set in

²⁷⁰ Interview by the author in Tunis with DRC Protection Program Manager

²⁷¹ Interview by the author in Tunis with DRC Protection Program Manager

²⁷² Interview by the author in Tunis with DRC Head of Mission

²⁷³ Interview by the author in Tunis with DRC Protection Program Manager

place by the European commission through its programmes. “It is by verge of the fact that it is an EC agenda to stop migration”²⁷⁴. The role thus of the programme management, in such regards, is to negotiate programme priorities into the international network of development and humanitarian aid, keeping on the agenda humanitarian perspectives. For instance – during the initial discussions regarding the support provided to the rescue at sea operations on the Libyan coast, the organization was “asked [to participate] by the EC recently on a high level meeting from Brussels”, High level representatives came here and consorted DRC, MSF, ICMPD around this issue. We warned against their strategy of investing heavily in the coast guard, and they referred to [them] as an accountable detention center, and reception center partners. We did not feel that because the coast guard was a credible actor. But we don’t have an alternative to present them. There is no alternative. IF their strategy is containment, and preventing boats from leaving Libya, irregular migrants turing up on the shores of southern Italy, we don’t have an alternative to present. The context doesn’t allow.. we are talking about actors in a very broken and fragmented context. So [..]. we can advise against what we see as a disastrous straregy, which will only make the context more abusive, more violent. We can try to deepen the understanding of that context by explaining and detailing and providing evidence of.. of.. the contraction of the umanitrian space. Libya is largely a country of destination. The data is there”²⁷⁵.

6.3 MSF Holland

At the end of 2015, MSF Holland (MSFH) was not in Libya, but was aware of the presence of multiple unaddressed needs amongst the migrant population. This cognition grounded on both MSFH direct experience from the region, and indirect experience from other MSF branches: “There were a number of things, partly because of our search and rescue activities [in the Sicilia Channel] - from the people who are being rescued, [we realize that] there are significant gaps inside Libya. We were hearing stories about complete lack of access to healthcare. Grave HR abuses. General stories about unmet medical needs all along the route and so that put on the table for us to say – yes there is a gap, doesn’t sound as many people are addressing this gap and it sounds it is urgent”²⁷⁶. At the same time – while both MSF Belgium and MSF France were in Libya, gaps persisted: “MSF Belgium [was] considering scaling down operations, so we have felt like ok perhaps we could have option for us. MSF France

²⁷⁴ Interview by the author in Tunis with DRC Protection Program Manager

²⁷⁵ Interview by the author in Tunis with DRC Protection Program Manager

²⁷⁶ Interview with MSF Holland Head of Mission

[was] working already on the existing health structures [...] looking more for vertical support for gaps in health system and things like war wounded. Again we felt that there was an unaddressed need that none of the msf sections were meeting”²⁷⁷

Interestingly, MSFH does not go through the same type of mapping process of international donors: “in 2015 October we did an assessment [in Sabha and Tripoli] and made our plans, we started in May - but we haven’t been so public because we were negotiating access. In addition, we do not need to report externally because we are entirely private funded for Libya. So it is not as if we need to try to raise awareness to generate funding – so we were quite autonomous, we didn’t feel there was a huge need to advertise overtly”²⁷⁸.

Direct experience and organizational culture played a role in identifying the initial location of activities. Initially they were focusing on Sabha, “Because we had heard so much [...] and because there was no-one there, it was a big question mark on the map. For MSF our kind of identity are Emergencies – delivery urgent needs – but also we see ourselves as the vanguard, we generally try to be first in, but also the first one out [...] We had heard a lot of stories so we felt like we need at least to do an assessment. But then because we had started from Tripoli and because also we heard also about the unmet needs in Tripoli we decided to include Tripoli also and do both together” (Jens). Yet, given an initial budget, through the interaction with relevant Libyan state and non-state actors of the environmental context, as well as through the initial acquisition of direct experience on migration issues, the active context decides to remain focused on Tripoli. In the words of the interviewee, “After our assessment we realized that there were in Tripoli urgent needs to address but also we got very quick options for access. [We] found good contacts [...], there was a willingness for us to come and work there, people at the DCIM were quite keen. Whereas in Sabha the security situation was a bit more difficult, we also didn’t find urgent needs in Sabha, partly because the needs are very hard to find there, that are very much hidden and underground, the population is very much transitory. So we felt that Tripoli was probably the better place to start, but Sabha never dropped off the map. So we did some operations, small donations trying to build up a better understanding, but we put our full resources in Tripoli to established first. We could have also planned to establish something quickly in Sabha, but we didn’t have the resources really”²⁷⁹

However – when asked to elaborate the comparison between Tripoli and Sabha – the interviewee specifies the role of environmental security factors: Tribal leaders would acknowledge the importance

²⁷⁷ Interview with MSF Holland Head of Mission

²⁷⁸ Interview with MSF Holland Head of Mission

²⁷⁹ Interview with MSF Holland Head of Mission

of MSFH programmes “As an example – there is a real fear in Libya in general but especially In Sabha that these migrants are bringing diseases or causing some of the health conditions. So it is probably easy to justify activities – well actually if you want to solve this problem one of the ways you can probably do that is increasing the quality of healthcare provided by them. It is also a lack of medical facility over there so everybody is competing for resources”, so “if the host population want better access to medical care, other actors like us bringing in and taking some of the capacity on” can be accepted. Yet - “what we have found challenging the political landscape has been shifting so much, and there is so much competition between groups that you have to be very careful [...] if you just work with one group of people, then the others will soon become jealous – it is about positioning yourself at such that you are making clear that you are not taking sides. It is very much a tribal dynamics, and Sabha is one of the hardest places because there is a mixture of everybody. So even just the location you pick – oh this sounds like a nice district to start a clinic here, or then you say there are 10 different centres we want to support 2 of them, good luck with that because supporting two of them is going to upset the other 8”. Thus – they decided to support more the secondary health facilities “which actually reach a larger spread of the population” instead of primary, and spread equally amongst different areas”. “in Tripoli”, instead – “we saw that the population we were trying to reach also spent a considerable amount of time in Tripoli”, which made it easier to address medical needs. This, coupled with the initial challenges of opening a mission in a new context, made the active context opt for selecting only Tripoli as a start²⁸⁰.

Thus the active context acquired a cognition regarding the needs and its role through its initial experience plus the interaction with the environment, and crafted a routine accordingly: “right now we visit 8 different detention centres regularly. We have a mobile health team. It is standardized practice, there is kind of a toolkit at MSF on how to run mobile clinics” slightly adapted. “Our mobile teams go and visit, trying each DC at least once a week for a full clinic to screen everybody inside. But then we go two or three times per week for follow up as well²⁸¹[..]. The population of detention centres we are visiting is about 2000 people, but we do plan to continue to increase the size of our activities and treat more people – the biggest people we are having is actually recruiting qualified medical staff²⁸²” .

²⁸⁰ Interview with MSF Holland Head of Mission

²⁸¹ “There is at the moment 8 we are visiting regularly, but of the 8 only 3 have significant populations the other ones are 22 people here, only 5 people here. They have different compositions. Some of them are more like transit centres – like this one in Tajoura people are received by the Libyan cost guard, they are transferred to here they are processed for a week or so and then moved to a different location. Sometimes we see a lot of people there, and we go quite regularly, but other times we see only few people there, so we go a little bit less” Interview with MSF H Head of mission

²⁸² So we have an international team, but then this international team is supplemented by local doctors, drivers and support staff. But finding qualified nurses is very hard in Libya, the majority of qualified nurses who have worked in Libya in the past came from

Interestingly - the interview with MSFH points to one point of potential departure with the practice set up by DRC, IMC-UNHCR. When asked if centres visited are only DCIM affiliated, the interviewee elaborated “Yes and no. Most of the centres have a grey rather than black and white set up. They are run by some militias or local groups, sometimes they are support of DCIM sometimes they do not, it varies. Usually they [are] under some sort of government control – we don’t really get access to centres that are shadier or run by armed groups²⁸³”.

A trade-off between the imperatives of the organizational culture, and expectations regarding the potential impact of the assistance determine the choice of (not) accessing DCs. “We don’t want to encourage new centres, we don’t want to give legitimacy [...]. So we are very cautious about going to centres which aren’t under central coordination. But if we see a centre which has 300 people inside in desperate medical need we are not going to engage with the government and say it is ok for us to go there, we would start operations and then engage with the government and say – look just for you to know we see a problem. To some extent this happened, al-fallah is an example where it’s status is not clear, but where medical needs are severe. So we have been treating the people. But at the same time, we have been talking to other actors to make sure that more permanent solutions are found. Yet people have been kept there, no food supply, very very poor conditions” [...] Other actors did come, but [they] had real concern about getting involved in a center which wasn’t under the DCIM. [...]284.. But then when there is an urgent humanitarian need – for me that’s the question. Because we are entirely privately funded, because we don’t have to be accountable to donors, because we can have a little bit more decision making power at the field level instead of referring to the desk for any single issue we are free to respond quick. That is kind of a blessing for us because we can just decide it is a life or death matter we’ll go in”²⁸⁵.

Interestingly, as a function of experience parts of the active context’s knowledge gradually changed and, to these, corresponded changes in the daily routine. For example, while MSF started resorting to the initial ‘off the shelf’ MSF toolkit for medical assistance, after the first visits the medical staff required to adjust the protocol to the treatment of scabies. “Scabies is not something that we usually look at, it is very easy it is just a matter of basic hygiene[...]. But we have seen as such a problem that

countries such as Philippines – but then they left after the revolution. There are some remaining but they are really competed for as a resource. They are hard to find. Interview with MSF H Head of mission

²⁸³ For instance one run by the Mol passed bough control – so it is not fully under control of DCIM but it receives funding. One is actually run by security services, the other ones are run by the DCIM, one is quite new and it is run by someone who used work for the DCIM but now he is just establishing himself and it is still unclear what its status is Interview with MSF H Head of mission

²⁸⁴ I think the principle out of the practical won out and say ok the principle according to which we should offer humanitarian assistance to everybody in this case wins, whereas the practical whereas we should negotiate with the government is perhaps secondary – cos it really was an emergency. Interview with MSF Holland Head of Mission

²⁸⁵ Interview with MSF Holland Head of Mission

had to invest more in larger scale control and water and sanitation measures as we normally would be for our organization”, thus “changing our plans and increasing the number of treatments we had put into place, protocols” (Jens). Cognitions about nutrition standards, needs and required action also changed: “normally our nutrition part of the toolkit is based on malnutrition amongst kids cos they are usually the most vulnerable, but we have actually seen that adult malnutrition being a real problem[.]. [This] it is partly because people are generally so weak that their immune system is already very low that the nutritional situation after push them at the edge, but of course that affected the way we had to look at nutrition. We had to expand a bit our criteria to include people in supplemental feeding and stuff like that. We also provided very limited amount of food cos we tried to avoid blanket feeding everywhere we were unless it was really life saving, but we have done on a very short basis. Mostly what we have been doing has been supplementary feeding. One or two people who are particular vulnerable – say pregnant women be like this helping them – Other actors have been also involved, UNHCR and IOM both have a specific budget allocated to emergency food, but it’s difficult,[..for] the risk that you actually create a dependency and actually do harm”²⁸⁶.

However, the active context is aware that the unmet humanitarian needs are caused also by the current legislative system of migration, which would require advocacy towards a change in the legal status of mixed migrants²⁸⁷. Yet advocacy is not included. A choice framed as a conformity to a specific shared cognition within MSFH regarding its role as a service provider: “We are not here to tell any other actor how to do their jobs. We [..]try to highlight what actually is the health implications of the problems that people experience in the country.[...] We have tried to bring this issue at any level we can [local, national, international] [..]. We have seen some positive example,[..] but [there is also]political instability, and long history of these issues. So there are these challenges and we see these not really as our area - we do not see ourselves as a protection agency [or one] pushing for legislative change. We see ourselves as an organization pushing for immediate needs and then highlight these needs to others so that they can understand better the situation and try to see. We share what we see with international actors – we highlight what we know. Their experience of being smuggled and with armed groups. We play our part in that. Though we are interested in saving lives – in medically treating people”.²⁸⁸

²⁸⁶ Interview with MSF Holland Head of Mission

²⁸⁷ Interview with MSF Holland Head of Mission

²⁸⁸ Interview with MSF Holland Head of Mission

6.4 International Medical Corps

International Medical Corps is a medical NGO with a global reach. It is a multi-mandate organization, whose services range from the delivery of relief services, mostly but not restricted to, the health sector, to training and developmental support [IMC 2018]. In addition – although declaring the organizational respect for principles of impartiality, humanity and “organizational independence”, the organization also declares its intention to promote the principle of sustainability of its interventions. In particular, this is concretized through the importance - in its programming - in ensuring the passage between emergency relief operations, and long term developmental activities to strengthen centralized systems [IMC 2018].

As it was noted at the beginning, the trajectory that IMC had taken in the aftermath of the conflict is consistent and aligned with the programme development of other relevant international actors.

The interview conducted with the head of mission in Libya – although he reminds he has arrived in Libya in march 2015 – reports an understanding of a bi-phased timeframe of IMC’s engagement in humanitarian aid in Libya. A timeframe that is consistent with the shifts observed in the structural institutional priorities elaborated in the former chapter. The threshold identified is the conflict escalation of mid 2014 – Fajr Libya.

In the pre-Fajr Libya period, thus between 2012 and 2014, the organization was interested in realizing projects targeting the health sector management²⁸⁹. They had clear developmental features and were realized in partnerships with the nascent-at-that-time *national* institutions.

As we have seen, in the period 2012-2014 the programme management developed project proposals who could meet the programme requirements of the developmental institutional donors. Leveraging on its expertise and on its working relationships with national nascent institutions – established in the immediate aftermath of the revolution, IMC entered Libya 12 days after the outbreak of the conflict in Benghazi²⁹⁰ – the organization found financial support from OFDA, USAID and the European Union²⁹¹. Thus – the programme trajectory developed between 2011 and mid 2014 was one of health

²⁸⁹ Interview by the author in Tunis with IMC Head of Mission

²⁹⁰ Interview by the author in Tunis with IMC Head of Mission

²⁹¹ Interview by the author in Tunis with IMC Head of Mission

management support, training of paramedic personnel and direct support to health structures in terms of drug deliveries²⁹².

This programme trajectory is seen as answering one of the biggest needs constantly assessed in humanitarian bulletins for Libya – the lack of health services deriving from both the destruction of the system generated by the 2011 conflict, by the flee of its personnel composed mostly by foreign workers²⁹³. In fact, the practices emerging from the organizational knowledge in the immediate aftermath of 2011, reflected an intention to address the Libyan population as a whole, improving – through large scale developmental projects – the capacity of Libyan health institutions to deliver services. In the words of IMC head of mission, for instance, “[in the 2011-2014 period] I think I understand that there was [within the organization] the attempt to empowering the ministry of health as one of the programmatic elements. For instance on the management of the health facilities and on the supply chains we made activities of capacity building, not just us. But it was one of the aspects to cure, today is totally overlooked[..]”²⁹⁴

At the same time, such practices were also responded the international community’s intention to proceed with the strengthening of national institutions. An institutional priority which was internalized by the organization. Probably – but this could be object of further research – for the compatibility between the organizational aims and the objectives of international institutions intervening in Libya. Likely also – for the proposed overlap between compatible aims on the one hand, and the need to secure organizational funding on the other. This can be probably said since financial security issues emerge – as will be seen below – in the period between 2014 and 2015. In terms of programme management, a specific intention to promote projects that are particularly palatable for donors could also be behind the reason to initiate a project on GBV identification and case management.

In fact, however, the governance-building interest in the international networks with which the programme management interacts, emerges clearly during the interview. In the words of the interviewee: “in line of reasoning, my perception is that until 2014 it was thought that in Libya – governance and aid could be reconciled. And from this the top-down approach followed, thus involving the authorities for then having spill-over effects on the beneficiaries, people thought this could work. Involving also central authorities”²⁹⁵. On the overall approach taken by international agencies and organizations on humanitarian aid in Libya – the head of mission further elaborates

²⁹² Interview by the author in Tunis with IMC Head of Mission

²⁹³ Interview by the author in Tunis with IMC Head of Mission

²⁹⁴ Interview by the author in Tunis with IMC Head of Mission

²⁹⁵ Interview by the author in Tunis with IMC Head of Mission

“before 2014, *cooperation* (original wording), humanitarian aid was especially for Libyans. It was about creating the conditions under which six millions of Libyans could live a little bit better. Humanitarian aid does not necessarily have to focus on refugees and migrants only, Somalia is like this for instance. It was *not* humanitarian aid, it was development – maybe development not – but *resilience*. It was an aid of *perspective* (emph. Original)²⁹⁶.

The intention to create strong institutional links with formal national authorities, however, seems to be also favoured by internal institutional commitments, deriving from organizational cultural elements. In particular – the long term sustainability of interventions seems to be at the core of programme considerations when dealing with large-scale and long term programming. As the interviewee elaborates “we have always directly implemented, through an institutional partnership with the Ministry of Health and the Ministry of Social Affairs [...] before the evacuation it was an institutional *partnership* (emph. Original). Also because, operating principally in the health sector – it is one of the sectors in which institutional partnerships are *required* (emph. Original). Who works on NFIs distributions – ok, who works on protection, fine. But in Health – when you want to work on the management or support to health structures, either you work with the ministry, or you create parallel structures as some NGOs do”. He further adds that institutional partnerships are necessary in the health sector, “since then – there is a number of things... for instance, it is important that who attends trainings sees its attendance recognized as job, thus to be paid during those trainings. This clearly involves [the need to confront] the ministry of health. When you elaborate training curricula, you need to be conform to national standards, to ministerial priorities”²⁹⁷.

Fajr Libya is also here described as a moment of change of programming, as result of disruption of institutional equilibria²⁹⁸. Two factors are perceived, and reported to be relevant for programming.

First – the increased insecurity which imposes the evacuation of the activities and the halting of those activities that cannot be conducted in remote management²⁹⁹. In fact, the decision to evacuate had been taken for safety and security reasons. “when you become a potential target, when the risk shift from being at the wrong time in the wrong place, to being a direct target as a result of a polarization in the political struggle – which makes you *perceived* to be as the one who sustains the east or the west or whatever. When the expatriates become a target, we pull out the expatriates. Simply, there is no-actor anymore who can guarantee your security. It was the anarchy, the city was in the hand of militias [...]the overall security was of such sort, that it was not manageable anymore with mitigation

²⁹⁶ Interview by the author in Tunis with IMC Head of Mission

²⁹⁷ Interview by the author in Tunis with IMC Head of Mission

²⁹⁸ Interview by the author in Tunis with IMC Head of Mission

²⁹⁹ Interview by the author in Tunis with IMC Head of Mission

measures. Thus, we move to Zarzis and we start with remote management. [...] coming away from Libya, certain *kinds* (emph. Original) of activities froze. If hospitals are shelled, you cannot work in a hospital. The situation was not safe anymore to operate. This, notwithstanding the political reasons [for freezing hospitals-related activities], which came later on. But the security reason did not allow... I mean why in Aleppo there is no-one [November 2011 – note for the reader]”³⁰⁰.

Secondly – the change of institutional priorities from the international actors who are engaged in Libyan governance-making activities. In such regards – the head of mission recalls “at that time [with the evacuation], it was a mess, all of the major donors at that time freeze funds. The EU, the US State Department; Libya is not a place anymore where it is possible to *make development* (emph. Original). Thus, all of the projects which were focusing on development instead of emergency are *blocked* (original wording – emph added). Funds are not allocated anymore, partly because being them developmental funds – there is the issue of the non identification of a central institutional partner”.

Such changes cause a moment of severe financial (in)security for the organization. The programme management now perceives the continuation of the organization’s permanence in Libya at risk, and debates internally whether to continue to look for funds or to leave the country³⁰¹. “we seriously risk to shut down the mission at the end of 2014 for a lack of funds”³⁰².

At the same time, in the months following the operation Fajr Libya, the cognition developed by the programme management of the organization is one that have to balance organizational security pressures with changes in the humanitarian (governance) context. “at the end of 2014, when we are at risk of shutting down the mission, we understand that – as in Libya it is not possible to do anything since they are slaughtering amongst themselves – there are still some groups that are more vulnerable than others. And humanitarian aid decides to take those groups as target beneficiaries – the IDPs, migrants and refugees³⁰³. For IMC – this implies a change in programming strategies. “partly – while before the donor was the US State Department, now the donor becomes those who work with IDPs, refugees and migrants, thus substantially the UN agencies. In fact – we manage to keep the mission open, because UNHCR finances a project on migrants, refugees and IDPs at the beginning of 2015”³⁰⁴.

The elaboration of the interviewee describes this transition somehow as a marriage of necessity. The programme management has to develop new routines with more restricted scales of impact, numbers

³⁰⁰ Interview by the author in Tunis with IMC Head of Mission

³⁰¹ Interview by the author in Tunis with IMC Head of Mission

³⁰² Interview by the author in Tunis with IMC Head of Mission

³⁰³ Interview by the author in Tunis with IMC Head of Mission

³⁰⁴ Interview by the author in Tunis with IMC Head of Mission

of beneficiaries. At the same time, the changed routines now place its local staff in delicate situations with national/local counterparts and populations. As the interviewee elaborates humanitarian aid in Libya starts targeting “not more than eight hundred thousands people. Half a million of IDPs, not more than a hundred and fifty thousands refugees, plus a hundred and fifty thousand migrants. Which are small numbers confronted with 6 millions of Libyans. This furthermore creates a tension in the country. Not so much for the IDPs, which are Libyans, but for the migrants and refugees. People does not understand why. We have for instance the outreach teams that assist migrant and refugee communities in Tripoli [...] we are daily questioned, our members discuss daily – and for the moment they only discuss – with Libyans who ask, why are you helping refugees instead of us? [...] It is a war amongst poors, partly generated by the international community who thought Libya as a rich country. Today, it is certainly not, there is no cash in Libya. [...] Thus – there has been a turning point in the approach to Libya – from a developmental approach to a humanitarian emergency, even though emergency in Libya has never been declared. It has never been a L1, L2, L3 country”³⁰⁵.

The post-Fajr Libya seems one in which programming is deeply influenced by the financial environment. One in which such financial constraints impose the programme management to acquire/develop new cognitions regarding potential routines that remain consistent with some of its mandated activities. From this angle – it seems that the programme management has ‘opportunistically’ retreated from developmental to relief activities as a manner to cope with both issues – the identification of mandate consistent routines and coping with financial insecurity. In fact, the interviewee links the end of this transition phase with the partnership proposal expressed by UNHCR at the end of 2014. An expression of interest that sounds like the co-option proposal of UNHCR to integrate IMC as implementing partner, in a mutually beneficial relationship, into the Agency programme of activities. As the interviewee elaborates “[while we were] at Zarzis, UNHCR already had some initiative with migrants and refugees, for instance in detention centers. We did something too, but it was marginal. Evidently, when something for you marginal becomes the only thing you do, this expands. And UNHCR manages to find some money to do this thing. UNHCR becomes available to expand the activities on progrection. We didn’t do any assessment, we were already present with our team on the ground and we powered [expanded] things that we were already doing. Things that weren’t our *core business* (original wording from italian, and original emphasis), but that become our *core business* (same as above)”³⁰⁶.

³⁰⁵ Interview by the author in Tunis with IMC Head of Mission

³⁰⁶ Interview by the author in Tunis with IMC Head of Mission

In such development, the programme management also acquires similar constraints faced by the UN financing agency “ we start working only in the West, and we abandon the east. *Principally* for security reasons, Benghazi was a no-go area. We keep an MoU with the [eastern] ministry of health but this produces no effect and we focus – also because the HQ has always been in Tripoli – we focus on Tripoli and surrounding areas. Until Zawyia, Sabratah, and the coast. [...] This UNHCR project on migrants in DCIM detention centers, only official centers, [focusing on] health assistance and NFI distributions. Together with this there was a component for NFIs distributions to IDPs and then there was a component for refugees and migrants in Tripoli. This through the activation of two Community Development Centers in which [our teams are supposed] to provide health assistance, primary need goods etc. Those in which CESVI is present also – they take care of some things, we manage others. IT was a partnership proposed by UNHCR, it aims at favouring joint activities between different organizations in the same locality. It favours also our job because some organizations can do better something, others are better at other things. I have to say it is the only case existing till nowadays in which there has been a partnership mechanism – since it seems everybody is continuing to go on its own”³⁰⁷.

The interviewee with the HoM of IMC seems to underline the opportunistic nature of the programme trajectory developed by IMC during the transition period of 2014-2016. A programme development that seems driven by the need to remain operative in the country, considering the financial opportunities and waiting for developmental donors to come back. First of, the head of mission in fact recalls how “in 2015 the only available money were for these categories of people [IDPs, migrants and refugees]. There was *no chance* (emph. Original) to get funding for Libyans. This is not good, the situation in the country keep on worsening and we continue to restrict the attention on a minority. This is a process determined by the donors’ politics – there is a kind of non-emergency donor which has made a simple discourse: dear Libyans, until you don’t find an agreement on your government – we do not give you a penny. Thus, the only available money were those for emergency and the niches of population. USAID has not been financing a project in Libya since two years”³⁰⁸.

In order to accomplish the activities contained in its programme proposal – the programme management supported by its local staff develops operative arrangements with a number of formal and informal institutions. These include the DCIM managers, on the one hand, and the IDPs crisis

³⁰⁷ Interview by the author in Tunis with IMC Head of Mission

³⁰⁸ Interview by the author in Tunis with IMC Head of Mission

committees for displaced communities – voluntary associations that support local municipalities in the administration of services available for displaced communities³⁰⁹.

Second of, the opportunistic behaviour seems confirmed from the way in which the programme management elaborates its cognition at the end of the first project financed by UNHCR in 2015. When it was time to decide how to move next at the end of 2015. “in 2016 we are again without money, and the same dynamic reposes itself. There is a persisting state of immobility from donors, and the only available money are those of UNHCR – thus we have the exact same dynamic of 2015, shall we close or we go forwards? We re-start from a project UNHCR which is substantially the same of the that of the year before. Our HQ anticipates some money and we start”. Perhaps because the head of mission was directly involved in the negotiation of such contractual agreements, the interviewee is more rich in details – in a way that is possible to highlight the presence of the elements of the learning framework interacting with the international components of the networks of actors partaking the humanitarian arena. Contrary to the discussions that take place with ECHO and OFDA in which “we propose the project [...] and we could also propose to create an astrophisic lab in Tripoli, if they agree we do it”, the negotiations with the programme management of UNHCR “have to take more care of their priorities” (Claudio). For Instance – “for me we should have stopped doing protection monitoring in detention centers. Because, I mean, once you have done the PM and you have identified the vulnerable cases, no one can do anything. Protection is worthy if you – once identified the vulnerability – you can give a solution. But because no-one here can give a solution, I said – let us focus especially on health – which is our job. No [they said], we wont also this, and ok [I said], you’ll have it. But they also need to keep an *institutional aplomb* (wording and emphasis original). They are a protection agency, they are not WHO. Thus them – to collect money need some how put into their programming protection. Yet – we send a report every week, with names and surnames of people in detention centers. But then also them, they cannot do much”³¹⁰.

At this point of the interview, the head of mission makes a clear reference to the institutional clash between multiple institutions operating in the migration governance of Libya. “Even them cannot do much. I can’t really blame them, it is a complex situation. It is a *constriction* (wording and emphasis original) of the Libyan situation. There is no alternative, either you repatriate them, or you repatriate them. The alternative could be to screen them inside the detention centers to understand who has the right to go to Europe and who has to go back. But this implies an institutional involvement that now in Libya is unrealistic and not obtainable. These are illegal detention centers. One thing is evaluating

³⁰⁹ Interview by the author in Tunis with IMC Head of Mission

³¹⁰ Interview by the author in Tunis with IMC Head of Mission

their illegality, another is to assess the legality of the institution hosting them. To be legal, they should respect some standards, which they do not. And UNHCR cannot behave...UNHCR starts from an assumption, which is somehow correct, We prefer to be inside and work instead of *pissing off* (Wording and emphasis original) the DCIM. On the altar of access and of the possibility to send us to work there, they scarify the advocacy. Which has a certain logic. Then they say - others will do advocacy. UNSMIL, Amnesty, we put a bendage on a situation, since if we even take out the medicines provided by IMC the situation further worsens. This is understandable, the problem is which are the alternatives. If you find an unaccompanied child in a detention center. You ask to free him and they concede it, and then what? You bring him to you house. I mean, are we really sure that an unaccompanied child is safer on the streets of Tripoli then inside a detention center? It is sad”³¹¹

This interviewee demonstrates how clear is within the programme management of its organization the multiple nature of institutional imperatives clashing and negotiating in the humanitarian networks of operations, which are at the base of the routines developed. “there is a tension between institutional constraints which impose some choices and our action. UNHCR decides to specialize on action and give up advocacy. UNHCR starts from a weak position, it doesn’t have a fixed presence, they are not much appreciated from local authorities since it is perceived as the organization that stabilises migrants and refugees in Libya, and this is not appreciated from the government. While IOM no – it brings them back home. The paradox is that UNHCR should not even be there [in detention centers – where according to him economic migrants compose the majority of the population]. The R of UNHCR is refugees – not migrants [...] then they are inside, and they work for everyone – but with the Senegalese, what can they do? There’s this paradox – they are the ones most present, placing the greatest money, I don’t know how they handle it with their HQ. [...] while IOM has a stronger advocacy for repatriation, it demands greater institutional presence”³¹².

The programme management thus internalize and elaborates upon the presence of institutional commitments of different actors, acquired in the international networks. It seems at this point that in this moment the negotiation takes place amongst other actors – UNHCR, IOM, national Institutions – and that the programme limits to a top-down interiorization of priorities. In addition, the (diverging) priorities of international agencies are then connected to a third theme, which emerges clearly in this interview. The political nature of the overarching institutional framework for international engagement – represented by the the UN Support Mission to Libya (UNSMIL) and personified in

³¹¹ Interview by the author in Tunis with IMC Head of Mission

³¹² Interview by the author in Tunis with IMC Head of Mission

particular by the double-hatted figure of the deputy Special Representative – Humanitarian Coordinator. The interviewee recalls how it should not be overlooked that also “the HC is deputy head of a political mission, which is the great problem of integrated missions. There are some risks in this. I have never seen an humanitarian part [of the UN programming] so *smashed* [wording original – to say extremely aligned] on the political side. The verb of the humanitarian mission was we need to help the government, legitimately recognized at the international side which – at that time – was the eastern government. Thus, there was an explicit political stance repeated multiple times, [declined] at the level of support to the transitional process, of the eastern institutions. With time, this position changed, they disengaged [from that political context] and started talking about Libya. But at the beginning the situation was – humanitarian aid in Libya is subordinated to the appeasement of the country, thus Libyans find a deald otherwise we don’t finance you. Which is – from a humanitarian angle – a criminal position. Then the situation softened with time, and the discourse became – there are X millions of Libyans in need, we need to do something. NGOs more than once said that did not agree with that, and as they were the sole on the ground they should be listened. Then – as they [UN] continued to work on Tripoli they started to say – we work in Tripoli we cannot continue to say we support Benghazi. Then the GNA came to Tripoli and the situation solved itself”³¹³.

This last element – the establishment of the GNA in late 2015 early 2016 is actually considered by the interviewee as a relevant change in the institutional environment, with concrete implications for programming.

At the beginning of 2016, after security the second contractual arrangement with UNHCR, the GNA “comes to stage”. With that, the interviewee recalls “some pocket opens. The GNA is Kobler [the former Head of UNSMIL], some poket opens and we take one ECHO project, with a calls of proposals that we answered. Then there is a UNICEF, a WHO but, most importantly, we take a project of OFDA. OFDA is our keystone. We are the only ones to have it, the only financed NGO. That determines the re-engagement, although with restricted budget, with the US humanitarian aid. And that was important for a US agency. Thanks to these – our budgets in 2016 are 50% more than those of 2015”³¹⁴.

Interestingly – what seems to be happening since 2016, is moment in which the programme management can go back on track of its original programme trajectory. After having searched for opportunities of survival during times of financial scarcity, as soon as the institutional networks have

³¹³ Interview by the author in Tunis with IMC Head of Mission

³¹⁴ Interview by the author in Tunis with IMC Head of Mission

allowed, the programme management has immediately acquired cognition of the financial and institutional opportunities which could put it back on the programmatic avenues of the period pre-Fajr Libya. “in mid 2016, as soon as money arrived – and this was my *thing* [objective] from the beginning – we went back with half o the budget in support to hospitals. We went back re-investing on Libyans. Now there are IDPs, Migrants in Detention Centers and Hospitals. We currently sustain 16 hospitals in the south, east and west. Tripoli, Misurata, Benghazi, AlBayda, Zintan, Sabha, Ubari, Murzuk, Zawya. The activities are undertaken under the institutional coverage of the MoH and through an Memorandum of understanding between IMC and the hospital”. Programme components, again, regard both training, and emergency delivery across different hospitals³¹⁵.

6.5 Conclusions

The evidence provides useful insights regarding the plausibility of the learning framework, as it will be elaborated below. Moreover, through the identification of the determinants of programme development, the evidence sheds additional lights on both the issue of NGO motivations, and on the functioning of humanitarian networks that negotiate the field of permissibility of humanitarian aid. Particularly – I will elaborate on how, through these negotiations, both a structure and a process of governance of humanitarian aid in Libya emerge jointly with an institutional set up adopted by organizations. Yet – I will point to a difference – in terms of determinants of decision-making that imply different programme trajectories. Two of the four major typologies of programme trajectories, thus, emerge in agreement with what said in Chapter 3. DRC and IMC thus appear as examples of the Contracted Carpenter type – although they also hint to potential moves to the Principled Carpenter type. MSF Holland, on the other hand, that appears as an example of the Critical Entrepreneur.

DRC is a medium size organization, whose programme management mostly relies on external funding. Its mandate allows the organization to operate along the relief-development spectrum, although this should be done in accordance with human rights and international protection norms. Yet, as the evidence shows, key is the role that – during time – is played by the programme management of the organization. International institutions, national institutions, financial opportunities, security constraints are ‘operated’, ‘enacted’ in humanitarian contexts by individuals belonging to organizations. They do not exist – floating in the air, they touch the ground articulated

³¹⁵ Interview by the author in Tunis with IMC Head of Mission

in specific contexts through the interaction of individuals. Yet – the practical interaction between the different elements of the structure displays varying degrees of connectivity. Sometimes the interaction tightly bounds two or more actors, sometimes this is weak and fragile, others non-existent.

It is not surprising, thus, to see the programme management as initiating a role of institutional carpentering. This is for instance clear looking at the post-Qaddafi's engagement. In terms of motivations, data suggest an interpretation of decision-making in accordance with the principled instrumentalist logic. The programme management identifies priorities of action that can maximise the long terms effectiveness of organizational goals, given the institutional and financial constraints of the environment.

It is true that the end of 2011 represents a moment of financial insecurity for the organization, in which the organization sets-up a scanning mechanism for financial opportunities. However, there seem to have been played a role the role played by internal institutions. In particular, the evidence suggests that the internal institutions regulating the work on mixed migration, the initial organizational cognition on the dire humanitarian conditions on the field for mixed migrants, united with the desire of the programme management of long-term investment in Libya - "carving a niche" in humanitarian governance - may have played a role in approaching the international networks of humanitarian aid.

Yet – this decision-making bases on a reaching-out of the programme management into the 'environment' – particularly here into the networks of operators belonging to international institutions, including those with financial capacities. The organization scans external institutional priorities and financial opportunities in this moment. Grounding on a understanding of aid that allows for long term thinking and institutional building support, specified by a peculiar understanding of migration that covers both economic migrants and asylum and refugees, the organization reaches out to European developmental donors. It selects those amongst the inputs that can best fit the internal organizational capacities, being it in terms of thematic experience, of available or recruitable human resources, or regarding the cognition the management has for its own role in the context.

Initial relationship with international networks has been mostly influenced a top-down internalization of institutional priorities. In particular, the negotiation regarding humanitarian aid has been mostly influenced by the elaboration of top-down priorities. This particularly regards both to the interest in understanding more about migration in the post-Qaddafi, in the intention to support institutions which were part of the national institutional structure, and in the need to support what was one of the greatest European intestests at that time – the change in the migration legislative framework. It is through the

interaction with the international networks that this institutional knowledge composing the environment is internalized by the active context.

This input “flows-into” the organization, it is taken by the programme management and becomes a priority of action, facilitated by the displayed availability of financial support through which the organization can establish a fixed multi-year presence. At the time – it lacks of country knowledge, but it resorts to its thematic experience on mixed migration. It resorts to a basic and established methodology, in order to legitimize itself upwards as a capable and realistic actor even in a new context, and prepares for the implementation through the increase of staff members. This process brings the organization to elaborate a cognition regarding programme priorities that is possible upon the matching of multiple (internal and external) institutions.

Through this interaction – the programme seems to perform a trajectory similar to what described in the typology of contracted carpenter. The programme management through the financial support internalizes also the conditionality proposed initially by donors – support to migrants, but also to Libyan institutions, interest in understanding migration governance in the south. Such approach has a ‘ordering’ component in the sense that it humanitarian component overlaps with the institution-building interest of (re)creating a governance structure capable of managing migration flows. The protection staff is tasked to perform an assistance that can not only relief the dire living conditions of migrants, but it can also help supporting/pushing those who are legally entitled to manage the responsibility of migrants conditions, as well as facilitating the creation of institutional relationship between distant institutions. It also aims at understanding how this migration is managed outside the areas controlled by central authorities, *and* support the case for institutional change through legislative initiatives. As the evidence suggest – the local knowledge of DRC was scarce – so that the programme management had not consulted local stakeholders for programme development.

Consistently with the learning framework – in the first period the active context seem to capitalize from task performance experience, though this resembles more a trouble-shooting exercise resembling a “problemistic search”. Fixed the broader parameters – it is task of the protection project staff to find ways to articulate, change, adapt the broad practice. Thus we observe changes in the field level interaction between the staff and the local institutions. Somehow – the protection staff is successful in this. By adapting the outreach component – for instance – through the insertion into local institutional networks – the protection staff is successful in accessing communities that at first were “sealed off”.

Yet – this exercise starts creating a flexible geography of governance structures, basing on different types of (in)formal institutional arrangements stipulated with different actors. As well as it starts to

roll into diverging trajectories. In the north – this practice officially aims at supporting nascent state-institutions such as the detention management institutions, ministry of interior, local municipal councils, security actors and detention guards in – as requested by European Donors, and as practiced already by others international actors. This allows the organization to access detention centers, with the aim of increasing the access to protection norms of the detainee population, through liaison with actors and delivery of services. Eventually, this practice stabilizes. In the south, however, reportedly for the fragmentation of state authority, non-formal institutions have much more relevance, with the protection management occupied at negotiating access with multiple (conflicting) non formal institutions – such as tribal councils, and local authorities. Although not explicitly mentioned in the interviews, it is likely that such room of manouver is somehow tolerated from an international perspective, given the interest of international actors in accessing a remote area at that time out of their reach.

Yet – the more the organization reaches out into local institutional networks, the more the organization confronts and institutional framework that somehow opposes that internalized in the design-phase. In the north – the protection management encounters increasing demands of service delivery. Such demands fall into the prerogatives of governmental action, which the nascent institution would like to externalize to third parties. IT is not known the motivation behind this request. However – such requests clash with the institutional framework the organization intends to enhance – that of institution-building, according to which the government must take up increasing duties.

Yet – the greater institutional clash in the 2012-2013 takes place in the south. This consists of opposing institutional priorities between the (international-protection inspired) institutional framework conveyed through the routine established by DRC to work on mixed migrants on the one hand, and that of the non-formal institutions regulating the political economy of smuggling connected to the conflict between factions, on the other.

The internationally sponsored institutional framework – enacted through the practice of outreach liaison and legislative change – clashed with the institutions regulating the smuggling economy. Access was extremely restricted – since access to migrant communities was perceived as intruding into a sphere of influence of the (non)armed controllers of the smuggling business. Whose main aim was maximising the profits deriving from the movement of human being, so that to increase their relative capabilities for the territorial competition with other local stakeholders, amongst other things. Yet – reportedly, this clash peaked when the results of the advocacy reports regarding the conditions of the stateless people amongst the mixed migrants were spread. In the elaboration of the team, this

touched upon the sensitive field of the balance of power between different groups, with some perceiving the organization as advocating for the provision of citizenship to the Tebu.

This can be interpreted as moment in which the internal knowledge of the organization – as elaborated by the research activities undertaken by the protection team – “flows out in the environment”. Interestingly enough, consistent with the learning framework – the environment provides feedbacks on the practice performed by the organization. In this case – the feedback is lashed into violent forms against the protection team of the organization. As a consequence, the organization must interrupt its practice, and evacuate from Sabha.

This phase can provide additional elements that confirm the plausibility of the learning framework. It seems then that the lack of national institutional knowledge has not impaired the organization from undertaking its tasks until it stepped over a sensitive field of clash between local institutions. This potential clash somehow “loomed in the background” in the environment, being the programme management unaware of that, or unwilling to tackle it. Yet – after the environment elaborates on the practice undertaken by the organization and “stroke back”, the programme management set up a process of change in its practice. The programme management now has solid direct experience against which to evaluate its routines. It conveys relevant internal stakeholders in meetings, and reviews its cognition, incorporating local institutions, and downscaling the level of ambition in the practice. IT also reaches out – again – in the international networks, spreading its knowledge regarding the its experience, un-feasibility of specific forms of actions – negotiating into international networks – particularly with the EU donors – how to re-articulate the activities and the related finances. This took the place – again of constructing governance relationships with other stakeholders, consistent with the carpenter type. However, in this case – it could perhaps be that by being already financially secure – the organization may have had a role in identifying partners and activities – more consistently with the principled carpenter type. In fact – the organization proposed to adjust targets and activities – switching it to the support of universities, and dropping the legislative component.

2014 then, marks a turning point, even though the organization approaches it with a changed cognition as compared to 2012. However, in 2014 Fajr Libya brings the retreat of donors, and the programme management again finds itself in a financial as well as programmatic insecurity condition. Thus, it faces again dilemmas of institutional survival. Yet – while 2014 marks the engagement of some emergency related donors, the organization mostly focuses on searching for funding opportunities that could match its precedent engagement. The interviews do not provide substantive data on this, unfortunately. However – a pure opportunistic approach could have been to switch the field of engagement into IDPs support, or pure emergency related. Something that did not happen.

What data suggest, instead, is that through their refined cognition regarding migration, its governance, constraints and opportunities, they find the support of the SDC to implement a smaller and more realistic project on detention assistance in 2015. Yet – the programme management designs its practice adopting a much more risk-averse and context aware approach that has capitalized from previous experience and changed cognition. Thus, it limits to activities and to the geography of institutional relations in which the organization feels more secure to work.

At the same time, the international networks working in Libya are now more cohesively implementing and institutional support approach, with clear institution-building purposes. The programme management interiorizes the institutional stances taken by other international institutions – adopting isomorphic traits to the ordering practices implemented by organizations such as IOM and UNHCR.

From another angle, 2015 is a moment marked by contextual changes in the environment. The political economy of migration assumes the contours of a booming business in the north. Militias become the de-facto authorities that regulate and manage transits and permanence of migrants in a logic of profit maximisation that tend to overcome the revenue decreases caused by the liquidity crisis; at the same time – basic living conditions worsen incredibly, and departures to Europe increase. Yet, European support to this mounting humanitarian crisis arrives only after the signing of the Shikrat agreement, and through a clear institutional-support logic.

Such contextual conditions are thus elaborated by the Programme management, and the evidence seem to suggest again a logic of principled instrumentalism. It thus seeks renewed financial support in light of its aim to consolidate its position as third party institutional interlocutor into the migration governance. Again thus – the programme management finds itself in the position to elaborate proposals through the logic of the contracted carpenter – thus delivering services and establishing institutional arrangements that can support the lock-up of national and international institutions in articulating a governance structure.

It is through the operations undertaken in 2015 that the programme management sets the bases for the 2016 engagement. Thus the trust fund and DFID project can be seen as expressing such increased context awareness for the organization, one that capitalizes on its experience although it bases on a clear long-term perspective that tends to prevail over basic humanitarian concerns. However – the traits of programme development, although marked by increased realism and context awareness – even regarding the permeation of formal into informal institutional frameworks, seems to be still marked by top-down institutional integration. One in which international networks dictate priorities that are thus interiorized and elaborated by the programme management, even though considered completely effective. The role played by the programme and protection management limits, here, in

spreading upward thematic and contextual knowledge. For example, in providing insights regarding the (un)feasibility or (un)desirability from humanitarian perspectives of international initiatives – such as the support to the coast guard.

IMC is also a medium size organization, with global reach, and whose programme management – similarly to DRC - is mostly dependent on external funding. Similarly to DRC, IMC has a “mission” that summarizes its core guiding principles. It is a multi-mandate organization that conforms to the LRRD framework. Yet – her major specialization – although not exclusive - regards the provision of health services.

The evidence that was possible to collect on DRC is unfortunately less structured than the one on DRC. Yet, this shows a substantial conformity with the evidence of the DRC case, although some elements diverge.

First – the evidence regarding the pre-Fajr Libya suggest that the idea of a programme management elaborating a carpentering trajectory. In fact, it seems that the programme management had proceeded through a top-down incorporation of the institutional priorities spread amongst international networks. The evidence is not able to identify specifically the role of experience in the programme development. However – the programme management is described as scanning throughout international networks, and grounding on a knowledge that has the same post-conflict resilience traits spread across international institutions. At the same time – the evidence also suggest that such incorporation is also realizable thanks to the process of internal mediation the programme management undertakes with the internal institutions regulating the posture of IMC. This, similarly to DRC, the programme development is one in which institutional priorities permeating the (international) environment, are interiorized and matched with the internal institutions of the organization.

Thus, in accordance with the provision specified by the mission, as well as leveraging on its global expertise and on the institutional arrangements established during the revolution period, the organization found the (financial) support of the OFDA, USAID and the EU in re-creating an health national health system that could be capable at providing better services. There seems to be at work also the intension to become a point of reference for long term health institutional support for Libyan authorities.

Fajr Libya is seen as having a critical impact on programme development. One that seems to highlight the contracted nature of the carpenter trajectory. Moreover, it seems to highlight how organizations may switch instrumentally along the different opportunities provided by their broad long term

organizational goals, if confronted by severe environmental pressures. The data regarding the decision-making process, in fact, recall how the organization moves from one sector of aid to a completely different one, in an historical moment in which there is no donor commitment towards the health sector development, and the only financial opportunities are provided by the funds of UNHCR. The programme management thus seeks into the international network financial opportunities, and incorporates the 'floating' institutional priorities with them. It could be – however – but it should be researched more – that this move has been determined by a stand-by scrutiny of the environmental condition. In fact, however, a cognitional change seems to take place in this move – a switch from a top level institutional partner for health governance institution-building – to a field level protection agent that operates as implementing partner of a UN-Agency. The programme thus incorporates not only the programme propositions determined by the UN agency that are conditional to the disbursement of contractual finances. It also internalizes systemic institutional relationships that are at the core of UN governance posture. The role of direct experience seem to be limited, since the programme *de facto* takes up a routine already established in the field – adopting isomorphically its traits. Yet – its cognition is influenced by an understanding of humanitarian needs that is spread already across the actors, by the indirect experience provided by the example of other actors, and mediated by the priorities of the principal (UNHCR), as well as by the institutional priorities that come with the agreement.

This ladder – for instance – takes, amongst other things, to the restriction of programme activities to specific geographical domains, which coincide with the spheres of power of Tripoli-based institutions, sustained at that time by UN agencies and opposing eastern counterparts. It also consist in supporting local-communities of IDPs assisting locally created (non)formal institutions in delivering assistance, and detention center managers in handling the medical implication of poor detention conditions.

Interestingly enough – the interviewee makes a clear reference of how the routines implemented by the organization contain a cognition regarding clashing-institutions. There seems to be a reference here to an clash internal to UNHCR. On the one hand there are the efforts aiming to extend international protection measures to its population of concern, for instance in detention. On the other - the institutions carried by other international partners, such as the sustain to national state institutions, and the institutions of national partners. The reference contained in the interview is to the Libyan institutional system is set on practices and frameworks that do not abide to international standards. The interviewee further elaborates that the priorities identified by UNHCR reflect also a weak governance position of the organization, which therefore provides a limited amount of bargain

with other (inter)national actors. an interesting reference – emerging from the data – is made to the institutional structure of the UN governance, with UNSMIL undertaking an integrated approach which is perceived as having clear repercussions of the intrusion of political considerations into the programming of humanitarian assistance. Particularly – this is reflected by the presence of the deputy head of UNSMIL [a political support mission] covering the role of humanitarian coordinator.

Interestingly, with 2016 the changes taking place in the international institutional networks, in which new opportunities of financial support are provided with the creation of the GNA seem to re-activate a scanning mode in the programme management. One in which the programme can reach-out into the networks for opportunities that can best capitalize the role of internal institutions of the organization, in particular – the interest in supporting broader and top-level governance health structure. It is not clear from the interview if the internal “helping-the-libyans” rule is motivated by a mere interest in acquiring greater contracts, or by the internal preference for supporting long-term health reforms when available. Yet – like in a process of de-hibernation – this rule seem to have constituted the “niche” pursued initially by the organization, perhaps to create a well defined position for IMC in the governance structure. And it resurfaces as soon as the financial opportunities are provided.

In fact, the new routines developed by the organization in the post 2016 do not limit to migrants assistance in detention centers, but cover the health system supporting multiple hospitals across the country. Grounding on its preceding direct experience, thus the organization elaborates routines that can support the health system – directly or indirectly through capacity building, in a fashion that is extremely similar to what had been undertaken before Fajr Libya. Such routines keep migrants as target beneficiaries, however mostly cover the needs of the (IDP) Libyan population. In conclusion - although the trajectory seem to remain that of a governance carpenter, of an actor that is institutionally interested in supporting the creation of governance structures and thus in long term interventions, its behaviour could be said to oscillate between a (strong) contracted carpenter and a principled carpenter depending on its financial insecurity. Its programme trajectory changes – even though it remains formally dependent on external financial resources. Yet – the increased financial opportunities provided by the presence of multiple donors seem to depict a programme more capable of advancing the role of internal organizational institutions.

MSF Holland follows a slightly different path from both the preceding cases. MSF is a single-mandate organization, whose ‘social-mission’ intends to provide *direct medical assistance* to people in need. Such overarching aim is also complemented by the purpose of *witnessing* of social injustice, *raising awareness* so that to contribute to their situation. His mission is clear in determining its emergency and apolitical orientation, and determines quite explicitly its interest in reaching out to individuals

regardless of the controlling entity – this aspect denotes a dunantist orientation. Moreover, the organization mostly relies on *internal* funding, and specifies it does not receive funds in a context from any actor tied anyhow with the conflict itself. Thus – it ideally poses itself in the category of the critical entrepreneur. It engages in contextual conditions motivated by its desire to set up service provision activities. Such engagement does not necessarily imply the intention to extend international protection to populations at risk or deprived of it. Yet, through its awareness raising, through its “*temoignage*” it contributes to the extension, as a by-product of shedding lights on facts that are not necessary at the center of the humanitarian arena.

Such prediction finds somehow confirmation from the evidence collected during the interview with the Head of Mission. The programme management decides to set up its scoping mission with a decisive role of the information – thus on the experience - collected through the medical staff internal of MSFH – although operating in another project – the SAR operation in the Central Mediterranean Sea.

Accessing directly those who had been detained, they have information regarding the detention experience, the type of actors managing detention and smuggling, as well as they are given an initial cognition of the human rights situation. The process of programme development is thus more internally led, rather of reaching out into international networks. Thus – it sees no role for scanning of financial opportunities, and perhaps – imaginable but not emerging - only a role in the scanning of programmatic priorities regulating international engagement. The programme also elaborates a cognition that grounds on the programmatic experience of other MSF branches, that are operating already in Libya. Thus the programmatic trajectory developed initially – which intended to deliver directly health services to migrants - could be seen as informed on a cognition of the organization that bases on mostly internal elements – direct MSF experience – such as the persistence of gaps – not covered by any international ‘migration’ actor, nor by other msf branches, and internal institutional commitments. Amongst these ladders, the direct service provision and the vanguard-thinking seem to be amongst those internal institutional elements that have been determining the identification of Tripoli and Sabha as locations.

However – both internal financial constraints, through the enmeshment into Libyan networks, as well as through the acquisition of direct task performance experience – the programme management adjusts the cognition regarding routines restricting the range of operations into Tripoli. The interview is clear in depicting the role of competition over power and a fragile balance of power as the non-formal institutions regulating the behaviour of non-state armed actors that impaired the work of MSF programme management from involving into the service delivery in Sabha in the short term. There

seem to have been played a role also of internal budget constraints. Thus – the organization decided to limit to Tripoli and to provide medical treatments to detained migrants.

Although the organization has reported its “strong experience in negotiating access” from other context, data do not provide enough insights on how this has been relevant for accessing detention centers in Libya. A hint provided relates to the palatability of the services delivered by the organizations, and thus on how the organization may have become accustomed in marketing those services as beneficial for target populations, and not detrimental for rulers.

Yet – data suggest that the presence of internal financial opportunities as part of the active context, enables the internal institutions of *direct assistance*, of *temoignage* and impartiality to play a role in programme management. Thus, the programme can set up routines that ground on the recruitment of international staff capable of deploying in the country, and that can negotiate assistance with multiple *types* of detention centers. This is a relevant aspect to be elaborated. Although displaying a cognition of the issue of providing legitimacy to actors that are not connected to official authorities and that are enmeshed into markets regulated by profit maximisation and force as rules of behaviour, data suggest that the role of state-building rules play a limited role in routine elaboration. The balancing of imperatives seem to lean towards the human rights norms, in the MSF case. Thus – for instance the interviewee hints to the fact that the detention facilities are not necessarily those connected with the MoI structure – an area of intervention that is regularly sealed off for UN-connected actors.

Then – the data seem to hint to a two-level cognition at play. This broad systemic cognition regarding aid delivery in the country, and the field level cognition regarding the efficacy of routines played. Thus, set from the programme the first cognitional level, then the medical staff adjusts – as a function of experience – the field level practice in manners more functional to the achievement of programmatic goals. This is the example provided by scabies treatments, whose importance was not fully acknowledged at the beginning, but acquires centrality *over time*.

Lastly, the internal institution of *temoignage* comes at play, declined in the types of activities the management of the organization decides to implement that intend to raise international awareness on human rights conditions. This is balanced with other sets of considerations, probably with access considerations that regard the weak overall position of NGOs/IOs in Libya’s migration, as well as with that MSF itself. Yet – the *temoignage* at the field level brings the organization to consult international stakeholders regularly, updating them on HR conditions encountered by their medical staff. While the entrepreneurial feature of MSF can be desumed by its intension to establish direct service provision not necessarily connected with broader governance-formation endeavours, or ordering practices, its critical stance can be connected to its intension to highlight the functioning of

the smuggling business, and to highlight counter-measures that can be focused on dealing only with the human rights gaps. The examples provided by the interviews at the EU delegations thus relate to this – when they mention the concrete proposals that EU delegates acknowledge as potentially working, but not pursued for their inherent political unpalatability amongst European capitals.

Chapter 7

Conclusions

7.1 Wrapping up with theory and questions

The theoretical driver of this thesis found its bases in the lack of satisfactory explanations regarding the questions of why and how NGOs decide (not) to engage with governance structures under the conditions of fragility. The internal mechanisms of NGO decision-making, how NGOs make sense of the changes, conflicts, cooperative relationships taking place within governance structures remain substantially a blackbox that requires further elaboration. In addition, how local actors, and systems of rule interact with such international structures, remain substantially at the margin, while the effects on governance structures played by the NGOs service delivery is something more assumed than researched.

Starting from this premises, the project decided to focus on the processes through which NGO programmes – the portfolio of projects that they decide to implement – are defined. To do that, the project acknowledged the relevance of assessing the role of different factors, both external, and internal, international and local, material and non-material, on decision-making, how each of them interacts with the others, and it is eventually used by NGO personnel.

In particular, the project had a threefold aim. First – following a theory-building logic – the project intended to contribute to the research on decision-making within NGOs elaborating a theoretical model borrowed by the economics of organizations. The learning framework developed in chapter 2 allows to highlight the presence of a set of factors that are common, relevant and interconnected for organizations. Parametrizing contextual conditions, such as the institutional environment and the type of sector of involvement, this allows exploring the similarities and differences in the decision-making

processes through which different organizations elaborate their programming related to one type of service. Being capable distinguishing between material and non-material determinants on decision-making, both internal and external to the organization, the framework also sheds lights on the NGO motivations debate.

Secondly, in accordance with a second theory-building aim, the project created a fine-grained typology of NGO ‘identities’, that led to clear propositions regarding programming trajectories – which in turn allowed me to contribute to the debate on the relationship between humanitarianism and governance. The discussion is here based on the combination of two major intra-organizational conditions. Connected to this, the third aim relates to the exploration of the types of (intended) consequences of different programmes for governance structures – hence their governance significance

Accordingly, the main question of the research – How have different international humanitarian NGOs developed their programme portfolio for migration in post-Qaddafi’s Libya – has been broken down into three sub-questions: 1) How have the NGOs interacted with the stakeholders and institutions operating in governance networks? 2) Do material (resources) and non-material (cultural, institutional) factors contribute in similar ways to programme development across different organizations? 3) Have different programme portfolios similar intended effects on institutions present in governance structures?

7.2 The evidence – part 1: Institutions and Strategic (Governance) Complexes

In order to understand how international humanitarian actors decide in relation to their programme portfolio, and the relationship between the routines and the broader governance setting, the project started from an overarching political economic framework that highlights the existence of multiple institutional sets and their co-existence/competition in civil wars. These institutional settings are plugged into strategic complexes – networks that connect multiple actors that provide the institutional constraints and opportunities of action for humanitarian aid. Lastly, these networks constitute the arena – the social space – in which humanitarian aid is negotiated, and in which its language can be used for legitimation purposes, while simultaneously advancing individual interests and objectives.

In this context, sets of (often contradictory) institutions coexist and/or compete, creating tensions and dilemmas for actors, but also giving them strategic opportunities. Thus, the interaction of multiple institutional sets is expressed in governance relationships/arrangements between multiple types of actors at different levels. International actors, thus, interact with national and sub-national, armed and non armed, state and non-state, developmental and humanitarian actors, within territorial and or functional spaces. In a civil war context, such spaces are likely to be subject to contestation between competing rulers. Yet, even in places where central governments do not have the full capacity to implement decisions, sets of institutions regulating the political or market environment can create incentive structures for actors to cooperate on service provision. In this type of context, humanitarian aid acquires governance significance by intervening on the balance of power between different institutions, acting as such either with a stabilizing or a de-stabilizing role.

Institutions interact within strategic complexes, which tend to standardize the avenues of intervention, providing both cognitive/normative frameworks, and the operational capacities for NGOs to frame their responses. Three main elements constitute, in particular, the modus operandi of international agencies and actors: 1) an increasing reliance on the institutions of market economy to discipline their mutual relationships; 2) an increasing involvement into internal political dynamics; 3) an increasing concern for the potential consequences of humanitarian action on domestic dynamics. At the same time, such networks constitute a social space – an arena in which different actors and institutions compete for the advancement of their specific understanding of the needs and the solutions. While humanitarian aid is a particular type of service delivery which should be delivered following the principles of impartiality, neutrality and humanity, different institutions enter the network structure, resorting to the language of humanitarian aim to legitimize themselves, advance their interests and (political) objectives.

In fact, Chapter 4 and 5 of the thesis were devoted to these points. Chapter 4 in particular provided a political economy analysis of human smuggling in the Post-Qaddafi era, allowing an in-depth description of its dynamics that highlight a market logic, in which multiple institutions regulate the behaviour of its agents. The logic of the supply side of the market – the smugglers' side – is deeply influenced by a number of factors. An overarching theme relates to the adjustment occurred in the functioning of the business – as a consequence of the breakdown of the institutional 'private-public' set up ruling during Qaddafi, and its post-revolutionary re-organization.

The market has expanded in terms of actors partaking it, penetrating the social fabric of (sub)urban areas and increasing its relevance. Non-armed operators have gradually created network relationships between cross-boundaries and/or politically separated/contested territories. Thus, a first aspect emerging from data, is that the market provides incentive structures for (opposing) actors to cooperate. Strong economic incentives favour the establishment of a structure of contractual agreements regulated by the pursuit of economic profit, and by the observance of the territorial specialization of different providers. Smuggling seems also to acquire the role of a social-protection net, or as development boost, in specific localities. Especially in the south, profit re-investment in formal economy seems a habit pursued by different operators as a coping mechanism for chronic under-investment and scarce opportunities. Furthermore, if the evidence is clear in stating that the market functions across areas that are controlled by opposing authorities, this should imply that the economic incentives provided by the revenues of partaking the market allow for the establishment of contractual agreements between factions or intermediators that belong to opposing groups. This would point to the existence of complex relationship structures. However, the evidence is not entirely clear and exhaustive on this, thus this could be object of further research.

At the same time, the evidence highlights the role of confrontation rules in shaping groups behaviour. Since smuggling became a primary income generation opportunity, both non-armed and armed groups intend to increase their relative quota of revenues. In particular, armed groups that partake (in)directly the business behave following a rent-seeking logic, through the acquisition of a monopolistic position in the market. Direct participation in the smuggling is only one way in which they can partake the business, since they can simply behave as racketeers selling protection in exchange of authorizations. Yet, evidence suggests that competition is leading actors to try and monopolize the business over the territory they control – If not to expand it at the expenses of other actors. Such a strategy is not aimed just at maximising wealth, but also legitimacy. Moreover, this implies that actors are in constant competition over control of strategic sites. However, the simple number of actors seems to be inconclusive as variable to explain the relative insecurity of the site. Some sites such Sabha and Sabratha seem extremely insecure, while others that are still contested by multiple groups (such as Shwairif) seem less insecure. This leads to suggest that other variables – such as those of related to the local social fabric – deserve further investigation. One example, in this respect, could be whether single-tribal smuggling nodes are safer than multi-tribal smuggling nodes, or not.

More in general, there is a second theme emerging from Chapter 4: the network relationships between the mixture of (in)formal actors operating in the smuggling business and the actors operating in the

formal Libyan migration governance. Libyan migration governance consists of a complex system of institutions amongst which competences and roles are confusedly partitioned. Overall, nonetheless, a common attribute is the tendency to lean towards a punitive approach to migration. On the one hand, thus, legal frameworks prescribe detention for all those migrants caught without documentation, in a context in which judicial safeguards are weak and alternatives to detention are absent, but in which even the presence of documentation does not guarantee safe passage. The system assigns judicial functions to extremely weak judicial authorities – that in fact have no sanctioning capacities against powerful militias. At the same time, patrolling, controlling and custody functions are competence of the security sector, which is composed by a constellation of armed groups with mostly unclear and competing relationships with central authorities. And, as the evidence suggest, it is composed also by the same armed groups that either provide protection to smugglers, or directly engage in the movement and stationing of human cargoes. This background is further compounded by a incoherent, fragmented, overlapping institutional system, that probably inherits part of the traditional institutional confusion that characterized Qaddafi's system of governance. As a general consequence of both these factors, however, the authority of state institutions is extremely weak, and seems to blend into shades of grey with other forms of institutional sets. In particular, the evidence suggest that part of Libyan state enforcing apparatus is formally competent in enforcing state regulations of migration control, but in fact respond to the market-led institutions of human smuggling.

This is a central theme emerging from multiple sources and cross-cutting geographically and institutionally speaking in Libya. From the borders between Libya and Niger to the north shore, although with varying intensity, agents on the ground confront a multiple institutional system. The formal institutions of the state provide incentives for behavior, but alternative incentive and sanctioning systems are also provided by the institutions regulating the informal market of smuggling. What emerges as logic of action of (non)state actors, then, is the opportunistic mediation between institutional systems. Actors follow and switch opportunistically between the institutional sets, and the institutions that prevail are those that seems more convincing at providing financial and security reassurances. Over the period covered, those at stake are the ones that regulate the smuggling economy, both for the economic profits available and for the sanctioning capacity that armed groups are capable to display on the behavior of actors. Three examples provided in Chapter 5 – the border control agency AIIA, the Libyan Coast Guard, and the DCIM all conform to these features.

Chapter 5 regarded instead the international side of (strategic) complexes. The evidence here also suggest the existence of complex networks of actors, whose behavior is structured in accordance to (different) institutional setups. International organizations shape their programming in accordance to

the provisions detailed by a hierarchy of norms, following an identification of priorities, options, no-go areas that co-produced by a joint (mutual) interaction into these networks. Yet, not all the actors display similar influencing, “agenda-setting” capabilities.

Looking first at the norms, it is possible to place at the top the state-building and stability norms institutionalized into mandates, as broad framework-principles of engagement. Two amongst the most relevant actors make explicit reference to that into their mandates. UNSMIL is mandated to support political dialogue, reconciliation, as well as to coordinate international assistance. IOM is a migration management institution, mandated since 2006 to support the government in increasing its technical and managerial capacities on managing migration. An exception to this would be UNHCR, which is mandated to extend the international protection in an apolitical manner. However, the organization’s attempts to extend international protection to the population of UNHCR’s concern are challenged. Libyan institutions perceive the organization as a source of stabilization of migrants in Libya. Moreover, because Libyan institutions never signed an institutional agreement with the organization, UNHCR is deprived of legal bases to ground its activities upon, undermining the grounds of its governance position. In turn, the organization relies on informal arrangements and ad hoc relationships. Probably as a consequence of such weak governance status, of its placement into a network of institutions that place primacy to other institutional priorities, the organization has gradually moved closer to the positions of the other organizations, through a practice-isomorphism mechanism.

Beyond the international agencies *active* in migration governance, part of the network is constituted by other international organizations such as the donor community. The example of migration-donors reported in chapter 6 suggests a guiding role in supporting state-building initiatives. The EU, for example, in continuity with its pre-revolution commitment, has had a role in supporting the establishment of a governance structure interested in supporting Libyan institutions. The post-revolution premise of European support consisted in a vision of Libya as a rich country which had “gaps to be filled”. Therefore to be eligible for obtaining European funds, Agencies and Organizations needed to set up project routines that could promote institutional agreements between implementing partners and Libyan institutions, increasing the capacities of service delivery of Libyan counterparts. The ‘developmental’ conception of aid in Brussels was then declined through the opening of developmental funds, thus through the provision of aid in the field of migration disbursed by developmental actors. The British Government follows the exact path of the European Union. The institutional branches disbursing financial support for third parties (IO and NGOs) in Libya, are clearly state-building/Stability branches, others are developmental.

Hence, an overarching theme emerging is that the state-building and stability norms are then unfolded through the norms regulating developmental action, thus the state-support and capacity building. Developmental donors provide financial opportunities, which in turn make contractual agreements possible, so that International organizations can work for the institutionalization of the developmental norms with governmental counterparts. An example in this respect is the European post-revolutionary engagement: its twofold aim was in fact to support the political process as well as migration management. DEVCO thus disbursed financial support to the stabilization of migrants in Libya, through legal reform at first, and through access to basic services. The British Aid, is channeled through institutions that respond to institution-building logic, if not directly with stabilization aims. Similarly, State-supportive measures are the primary aim looming in the background of DFID migration portfolio and, accordingly, it has provided financial support for organizations interested in establishing institutional arrangements with Libyan authorities and – through that – increase access to international protection of mixed migrants.

Looking then at the side of international organizations, the developmental approach is widespread. UNSMIL promotes the re-construction of political institutions in the framework of national reconciliation while at the same time attempting to coordinate international (humanitarian) assistance. IOM has a clear migration *management* mandate. For long time, it has concentrated on supporting what remained – or was created – of Libyan institutions. Its activities spanned from supporting the migration law drafting and on detention management through training and mentoring, as well as on providing technical support for governmental bodies. IOM thus has played a critical role on Libyan migration governance. It has contributed to frame the discussion in developmental terms, depicting the government as “dysfunctional-but-present”. Advancing this vision of the Libyan government allowed the organization to legitimize itself towards international donors for obtaining further room of maneuver. The humanitarian language is thus used by IOM within its overall aim of improving state capacities, even though some of the actors responsible for human rights abuses over migrants have connections with state authorities. What our analysis also suggests is that due to its positioning with Libyans and Internationals, and for the mainstream character of the norms endorsed by international donors and agencies, IOM seems to have had a leading role in shaping the international agenda on migration in the immediate aftermath, of the war, particularly into the coordinating platforms in which international institutions interacted.

As concerns UNHCR, its programme broadened after the revolution. From the evidence it was not entirely possible to assess why, but it is likely for a combination of factors – such as organizational security needs and humanitarian needs overlapping with its mandate. Yet, this strategy represents a

form of isomorphism with what already undertaken by other organizations, particularly IOM. Moreover, before 2013 UNHCR also enjoyed of some autonomy. Its governance relationships were flexible and the organization interacted as well as it *intervened* with multiple – and opposing – parts. Part of this could be explained in terms of lower polarization of the political competition, but it also correspond to a literal interpretation of the norms codified within its mandate. Things changed when the nascent Libyan institutions demanded to be the sole interlocutor for migration policies. Such request was endorsed by UNSMIL and IOM, and UNHCR chose to follow suit. This move determined the acquisition of isomorphic traits of programme portfolios and routines of UNHCR similar to what already implemented by IOM, but it also determined a new equilibrium between institutions regulating the organization internally, with a rising role for state-building components.

In this context, conflict escalation initiated by the operation Fajr Libya in summer 2014 is reported as a moment of rupture of institutional equilibria. The creation of the GNA, in particular, had an impact on how Strategic Complexes of Global Governance determine the hierarchies of institutions permeating international migration aid. The EU, for example, opened new financial opportunities for international organizations and NGOs, yet remaining conditional to the support of those Libyan institutions responsible to manage it. This, regardless of a shared cognition regarding the permeation of the informal institutions regulating smuggling into the formal institutional set up regarding migration management. Similarly, British programming is aware of the permeation of non-formal institutions of smuggling into the formal migration management system. Thus – can be seen as typically risk averse: aiming both to increase the capacities of institutions without exposing the British support to the risk of aid diversion, or backfire in humanitarian and/or security terms.

UNSMIL, although concerned by the negative impact of Fajr Libya on the political dialogue, responded in accordance with its mandate, focusing all its efforts on supporting the re-vitalization of the political dialogue. IOM, although aware of the changing contextual conditions of both formal and informal institutions provoked by Fajr Libya, actually broadened its project portfolio in support of European and Libyan institutions. But it also downgraded the level of ambitions of its programme portfolio on migration. Grounding on its governance relationships, the programme broadens to capture conflict displacement data, as well as to support migration governance institutions. The humanitarian language is again used by the organization to frame its portfolio, although the principles guiding its action are biased towards state-support measures. Thus – in the post Fajr Libya – this means mitigating the dire humanitarian conditions into detention facilities managed by “state” actors, and increasing the capacities of patrolling bodies of the north shore. At the same time, the organization seems to have a cognition that such actors follow agendas that are – at best – equally ‘predatory’ and

profit-driven, as much as they are institutional. The overall effect however is to increase its legitimacy as actor both nationally and internationally, strengthening its position within the Libyan migration governance.

Fajr Libya induced a downscaling of ambitions on UNHCR's programming, but also of its scope of actions. Due also to its weak legal position into the migration governance structure, UNHCR opted to concentrate on the provision of basic services to migrants through contractual opportunities for third parties – NGOs like IMC and CESVI. At the same time, it downscaled the level of engagement with Libyan institutions, from top level dialogues for legislative change, to the mere ad-hoc relationships with ground level formal and informal institutions/actors. In 2016 the organization conformed to the international interest in increasing the capacities of Libyan stakeholders, particularly partaking international efforts of trainings to Libyan detention and border (e.g. cost guard) institutions.

To conclude, the evidence emerging from Chapter 5 denotes a tendency common to all international organizations to ground on international institutions of state-building. Programming amongst donors and international organizations tend to isomorphic practices – particularly to some sort of “ordering practices” in which international aid is conditional to the support – or the “non-incoherence” as framed in one interview – with the broader efforts to support the legitimacy of national governments and, in particular, the GNA. In terms of migration, this means setting the boundaries of institutional support to nascent institutions lacking respect for human rights and international protection, who have shady relationship with violent actors and smugglers, and are amongst the primary drivers of the humanitarian dire conditions of migrants in Libya. The issue emerging here, is then the “needs vs perspective” gap. A gap between the logic of humanitarian action with that of development. The developmental conception of (humanitarian) aid grounds the procrastination of the solution of humanitarian concerns ad infinitum, until the moment in which Libyan institutions won't be able (but most importantly willing) to autonomously manage migration, halting irregular migration, *and* do it in a more human manner. Humanitarian norms come at play, often through a functional logic of state-building, always in a un-balanced power relationship.

7.3 Evidence part 2 – NGO Decision-Making and Programming.

These are structural conditions against which Humanitarian NGOs are supposed to take difficult decisions, balancing between different opportunities and constraints related to the provision of services that can determine the life or death of human beings. In addition to severe structural

constraints, their programming has to take into account both internal normative commitments and financial security concerns. Programme managers have to consider both. Principles so determine the identity of NGOs, their long term objectives, goals and commitments. But the external environment determine their financial constraints. In other words, they operate as principled instrumentalists.

Chapter 6 tested the plausibility of the framework of organizational learning. This framework has the capacity to disentangle the complexity of the process of, and the multiple elements contributing to, decision-making. Programme managers develop their programme portfolio through a complex process, grounded on multiple elements, that bring to the acquisition of a context-specific knowledge of the issue at stake. Their experience in task performance, the organizational and environmental context and their knowledge all contribute to that. The active context of the organization – its members, resources, etc. – interacts both with the latent context – the internal institutions such as the mandate, and its culture – and the environmental context. The ladder is composed by the networks of institutions, competitors, clients that are outside the boundaries of the organization. Through the interaction between these elements, organizations transform task performance experience into knowledge – the cognition on what is (not) possible to achieve and how. The routines performed by the organization, then reflect the knowledge the organization has acquired at that specific moment in time.

At the same time, through the identification of the determinants of programme development, the evidence sheds additional lights on both the issue of NGO motivations, and on the functioning of humanitarian networks that negotiate the field of permissibility of humanitarian aid. Through these negotiations, both a structure and a process of governance of humanitarian aid in Libya emerge jointly with an institutional set up adopted by organizations. In Chapter 7 we have discussed two of the four typologies of NGOs with different programming trajectories: DRC and IMC thus appear as examples of the Contracted Carpenter type – although they also hint to potential moves to the Principled Carpenter type - while MSF Holland, appears as an example of the Critical Entrepreneur.

The two cases that have similar conditions – LRRD mandates and Wilsonian orientations, as well as financial dependency on external funds – show similarities in both their learning processes and programming trajectories. For both, the key role is played by the programme/thematic management. For both, decision-making seems inspired by a principled instrumentalist logic that identifies priorities for action that can maximise long term effectiveness of organizational goals, given financial and institutional constraints. Looking at the governance effects of the programming trajectories, both organizations conform to the institutional carpentering type.

DRC is a medium size, externally funded organization, with a LRRD mandate. It is true that the end of 2011 represents a moment of financial insecurity for the organization, in which the organization sets-up a scanning mechanism for financial opportunities. This decision-making bases on a reaching-out to the networks of operators belonging to international institutions. However, the evidence suggests several factors – like the internal institutions regulating the work on mixed migration, the feasibility of long-term-developmental approaches, the initial organizational cognition on migrants' dire humanitarian conditions, the desire of the programme management of “carving a niche” in humanitarian governance – may have played a role in DRC's approach to international networks. The organization reaches out to European developmental donors, selecting those amongst the inputs that can best fit the internal organizational capacities. This initial process is nevertheless mostly a top-down internalization of institutional priorities. It is through the interaction with the international networks that this institutional knowledge composing the environment is internalized by the active context.

At the beginning, the institutional support input is present, but the organization had some autonomy to work, especially in the South. Also, at the beginning the organization resorted to indirect experience to both legitimize itself towards institutions, as well as to start its operations. It lacked country knowledge, but it resorted to its thematic experience on mixed migration. All in all, its initial routines were based upon its indirect experience, the indirect experience of partner organizations, and on the matching of multiple (internal and external) institutions.

Its programme trajectory conforms to the contracted carpenter in that, through the financial support, the management internalizes also the conditionality proposed initially by donors – support to migrants, but also to Libyan institutions. Such approach has an ‘ordering’ component in the sense that its humanitarian component overlaps with the institution-building interest of (re)creating a governance structures. The protection staff is tasked to perform an assistance that can not only relief the dire living conditions of migrants, but it can also help supporting/pushing those who are legally entitled to manage the responsibility of migrants conditions, as well as facilitating the creation of institutional relationship between distant institutions. It also aims at understanding how this migration is managed outside the areas controlled by central authorities, *and* support the case for institutional change through legislative initiatives.

The role of task performance experience increased over time, mostly in the form of “problemistic searches” for routines. Fixed the broader objectives, it is up to the field level interaction between the staff and the local institutions to find ways to articulate and adapt the routines. Yet, this exercise starts creating a flexible geography of governance structures based on different types of (in)formal

institutional arrangements stipulated with different actors. It also starts to roll into diverging trajectories. In the north, this practice officially aims to support nascent state-institutions, such as detention management institutions. In the south, instead, reportedly for the fragmentation of state authority, non-formal institutions have much more relevance.

Yet, the more the organization reaches out into local institutional networks, the more the it confronts an institutional framework that somehow opposes the one internalized in the design-phase. This consists of opposing institutional priorities between the (international protection-inspired) institutional framework, and that of the non-formal institutions regulating the political economy of smuggling connected to the conflict between factions. However, reportedly, this clash peaked after the organization spread its internal knowledge in the environment. As a consequence, the environment provides ‘feedbacks’ on the practice, forcing the organization to interrupt its routines in the south.

Consistently with the learning framework, the evidence suggests the active context as interacting with its experience and knowledge. The programme management now has solid direct experience against which to evaluate its routines. It conveys relevant internal stakeholders in meetings, and reviews its cognition, incorporating local institutions, and downscaling the level of ambition in the practice. It also reaches out – again – in the international networks, spreading its knowledge regarding its experience, un-feasibility of specific forms of actions – negotiating into international networks.

With Fajr Libya, the management faced dilemmas of institutional survival. The organization seemed to privilege the identification of funding opportunities that could match its precedent engagement. A refined cognition grounded a “more realistic” 2015 migration project on detention assistance. The 2015 the Programme management seems inspired by a logic of principled instrumentalism. It thus seeks renewed financial support in light of its aim to consolidate its position as third party institutional interlocutor into the migration governance. A posture that sets the bases for the 2016 engagement, which follows along the same lines. However, the traits of programme development, although marked by increased realism and context awareness – even regarding the permeation of formal into informal institutional frameworks – seems again to be marked by top-down institutional integration. One in which international networks dictate priorities that are thus interiorized and elaborated by the programme management, even though considered not completely effective. The role played by the programme and protection management limits, here, in spreading upward thematic and contextual knowledge.

The evidence on IMC presents multiple elements of convergence with that of DRC. It also a medium size organization, with global reach, and financially dependent. Its “mission” conforms to the LRRD framework Although it specializes on provision of health services. Although the evidence is less rich,

the combination of conditions determining programme before Fajr Libya were consistent with the carpentering trajectory. It demonstrates a top-down incorporation of the institutional priorities shared amongst international networks, scanning networks, and grounding on a post-conflict resilience approach similar to that of international institutions. At the same time – similarly to DRC – the programme development matches institutional priorities permeating the (international) environment, with the internal institutions of the organization. Thus, in accordance with the provisions specified by the mission, as well as leveraging on its global expertise and on the institutional arrangements established during the revolution period, the organization found the (financial) support of the OFDA, USAID and the EU in re-creating a national health system. The “niche-seeking” mechanism also seems to be at work.

Fajr Libya is seen as having a critical impact on programme development, highlighting the contracted nature of the carpenter trajectory. Moreover, it seems to highlight how organizations may switch instrumentally along the different opportunities provided by their broad long term organizational goals, if confronted by severe environmental pressures. The data regarding the decision-making process, in fact, confirm how the organization moved from one sector of aid to a completely different one, in an historical moment in which there was no donor commitment towards the health sector development, and the only financial opportunities were provided by UNHCR funds. It could also be, however, that this move has been determined by a stand-by scrutiny of the environmental condition. In fact, the organization switched from a top level institutional partner for health governance institution-building, to a field level protection implementing partner, incorporating the UN priorities and the systemic institutional relationships that are at the core of UN posture. The role of direct experience seem to be limited, since the programme isomorphically acquires the traits of the ordering practices established in the field. and mediated by the priorities of the principal (UNHCR). For example, the restriction of activities to specific geographical domains, which coincide with the spheres of power of Tripoli-based institutions, sustained at that time by UN agencies.

With 2016 the changes taking place in the international institutional networks, in which new opportunities of financial support are provided with the creation of the GNA, seem to re-activate a scanning mode in the programme management, interested in supporting broader and top-level governance health structure. Like in a process of de-hibernation – this rule seem to have constituted the “niche” pursued initially by the organization, resurfacing as soon as the financial opportunities are provided.

In fact, the new routines developed by the organization in the post 2016 are not limited to migrants assistance in detention centers, but cover the health system supporting multiple hospitals across the

country. Grounding on its preceding direct experience, thus the organization elaborates routines that can support the health system – directly or indirectly through capacity building, in a fashion that is extremely similar to what had been undertaken before Fajr Libya. Such routines keep migrants as target beneficiaries, however mostly cover the needs of the (IDP) Libyan population. In conclusion, although the overall traits of programming conform to the carpenter mode, its actual connotations seem to oscillate between a (strong) contracted carpenter and a principled carpenter depending on its financial insecurity. Increased financial opportunities give more room to the internal organizational institutions in influencing programme development.

MSF Holland, finally, follows a different path. Being a single-mandate organization, whose ‘social-mission’ is to provide *direct medical assistance*, the organization aims at *witnessing* social injustice and *raising awareness*. His mission is clear in determining its emergency and apolitical orientation, denoting a dunantist orientation. Moreover, the organization mostly relies on *internal* funding. The evidence suggest its conformity with the critical entrepreneur type. The role of direct experience is different, in the programme development, with a decisive role of the information collected directly by the staff in a connected projects.

Programme development is mostly internally led, without the financial scanning mechanism, and perhaps only a institutional scanning. The cognition bases on mostly internal elements – direct MSF experience, and internal institutional commitments, such as the direct service provision and the vanguard-thinking. However, the information obtained from Libyan networks, direct task performance experience, as well as financial constraints, provide feedbacks elaborated by the management that downscaled the geographical domain of intervention.

Yet, data suggest that routines are mostly shaped by the presence of internal financial opportunities combined with the internal institutions of *direct assistance*, of *temoignage* and impartiality. The organization is thus able to interact with all stakeholders it considers useful to work with, detached from governance considerations. This does not mean that legitimacy considerations deriving from their involvement are not properly assessed. But it primarily means that the role of state-building rules is limited in routine elaboration, while human rights and international protection norms are paramount.

Again, consistent with the learning framework, there seem to be a distinction between a broad systemic cognition regarding aid delivery, and the field level cognition regarding the efficacy of

routines played. Problemistic searches seem to be at play adjusting the second level cognition, and take place as a function of experience.

Lastly, the internal institution of *temoignage* emerges as decisive for MSF. Balanced by staff safety and security considerations, the *temoignage* at the field level brings the management to consult international stakeholders regularly, updating them on HR conditions encountered by their medical staff. While the entrepreneurial feature of MSF can be inferred by its intention to establish direct service provision not necessarily connected with broader governance-formation efforts, its critical stance can be connected to its intention to highlight the context of smuggling business, of HR situations for the weaker parts, and to highlight counter-measures.

7.4 Concluding Remarks

To go back to the puzzle, aim and questions, the learning framework used in this work seems a plausible lens through which to analyse decision-making. Disentangling between the different determinants, the framework has provided answers to the overarching research question. All organizations develop their programme portfolios on the basis of a process through which their management defines a specific cognition regarding the issue at stake, avenues of actions and constraints.

Through the distinction amongst different determinants, it is also possible to assess the role of material and immaterial factors. This in turn has shed more light on the debate regarding the motivations driving humanitarianism, specifically by NGOs. The expectations deriving from the principled instrumentalist approach seem justified when we look at each of the cases selected. Resources, in particular, appear to have a role in the organizations' short-term orientations. But if one looks at the long term commitment into programming, resources alone are not necessarily enough to determine choices. The process is more complicated and is based on the interaction amongst multiple variables, some of which are internal the organization itself.

Looking at the second question, through the learning framework we have assessed the interactive relationship between the management and governance structures. Such interaction mostly concretizes on top-down internalization of priorities within NGOs, determining the adoption of isomorphic practices. At the same time, we have also seen the bottom-up flow of knowledge that from the organization contributes, over time, to spread amongst international institutions context information that is relevant for humanitarian concerns. Even organizations that have contractual agreements with international agencies contribute to this. This bottom-up flow is also present with ‘independent’ organizations, whose voice either provides information on situations that fall beyond the reach of international organizations, or provide critical lights on HR situations. It seems that this second aspect is fundamental for pushing great governance structures to address programmatic and or policy deadlocks. International institutions seem unlikely to address great HR concerns, if their main priorities fall in other fields, unless legitimate lights force them to see those HR concerns.

Regarding the third question, the thesis identified the differences in the relative importance of single determinants across different types of organizations. The typology of organizations designed in chapter 2, in particular, worked sufficiently well – since the propositions identified were sustained by the evidence collected. Contrary to common narratives regarding NGOs programming, NGOs are a variegated family of actors, with different identities, aspirations, and priorities.

Interestingly enough, the thesis provided insights on the governance outcomes of routines. The typology of chapter 2 identifies avenues of programme trajectories with different governance effects. Humanitarianism has been historically questioned for being at risk of compromising the efforts undertaken by international agencies to facilitate the passage from conflict to post-conflict situations. The issue has long been the issue of legitimacy conferred to third (non-state) parties, which may compromise, either through political recognition or material assistance conflict resolution efforts, and procrastinate the very ending of humanitarian crises. However, the evidence suggests that contemporary humanitarianism is nowadays far from that. Organizations tend to be much more

embedded into broader political projects than ever. The carpenter type – either in its contracted or principled form – expresses a functionality of organizations against broader governance building projects. Their routines acquire an ordering feature – one that attempts to consolidate through their actions and relationships – of broader governance projects. They incorporate inputs and attempts to cement those relationships. By doing this, they contribute to the efforts in re-negotiating political orders in conflicts and post conflict situations. The critical entrepreneur, on the other hand, could have a detrimental role on governance building efforts, attempting to re-establish the provision of service through the interaction with any political authority considered relevant for the purpose. Thus – it may bring the organization to interact with institutions that are considered by internationals as not legitimate. At the same time it also provides a potential stimulus for international actors to overcome impasses. It also seem to be the last defensor of unconditional access to life saving services for vulnerable populations, increasingly isolated in a population of organizations that instead consider as priority to keep working relationships with international institutions well functioning.

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Annex 1- List of Interviews.

- N.1 – Interview by the author in Tunis with DRC head of mission January 8th 2017
- N.2 – Interview by the author in Tunis with former DRC Senior Protection Program Manager, January 9th 2017
- N.3 – Interview by the author in Tunis with DRC protection project manager January 22nd 2017
- N.4 – Interview by the author in Milano with former DRC Protection Project Manager September 20th 2016
- N.5 – Interview with anonymous Diplomat © January 19th 2017
- N.6 – Interview by the author with MSF Holland Head of Mission January 15th 2017
- N.8 – Interviews by the author with UNHCR Senior Protection Manager and Protection Officer January 19th 2017
- N.9 – Interview by the author in Tunis with UNHCR Protection Officer January 23rd 2017
- N.10 – Interview by the author with EU Delegation Officer January 18th 2017
- N.11 – Interview by the author with DG Near Officer January 20th 2017
- N.12 – Interview by the author in Tunis with Civil Society Activist 21 January 2017
- N.13 – Interview by the author in Tunis with DRC protection Project Manager b – 20 November 2016
- N.14 – Interview by the author in Tunis with Civil Society Activist b 22 December 2016
- N.15 – Interview by the author in Tunis with anonymous Diplomat (i) 20 October 2016
- N.16 - Interview by the author in Tunis with MSF France Head of Mission January 2017
- N.17 – Interview by the author in Tunis with IMC Head of Mission November 2016
- N.18 – Interview by the author in Tunis with anonymous source – March 2017
- N.19 - Interview by the author in Tunis with IOM alternatives to detention officer – March 2017
- N.20 – Interview by the author in Tunis with Diplomat at the Italian Embassy – October 2017
- N.21 – Interview by the author in Tunis with Diplomat at the UK Embassy – March 2017
- N.22 – Interview by the author in Tunis with UN Diplomat – February 2017
- N.23 – Interview by the author in Milano with Representative of the Libyan Presidency Council March 2017