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# Tunisian Migrant Journeys: Human Rights Concerns for Tunisians Arriving by Sea

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**Abstract:** In part due to its location on the North African coast, in conjunction with its history of being a former French protectorate, Tunisia has become an important country of emigration to the European Union. In particular, maritime arrivals have become a concern for European states, for both humanitarian and security reasons. The experiences of Tunisian irregular migrants arriving to the EU by sea, who are then detained and returned, highlights the multitude of human rights issues that arise across their journey as they interact with the various stakeholders involved—Tunisian and Libyan smugglers, EU and Tunisian authorities and NGOs, amongst others. The situation for these migrants at sea and during rescue and interception operations can most directly involve such issues as the right to life, access to food and water, access to emergency healthcare and access to information. The next stages of detention and return (either immediately or when later identified on EU territory) can most directly involve human rights issues related to the identification and referral mechanisms for groups at risk, access to information and legal remedy, the right of “non-refoulement” and prohibition of torture, inhuman and degrading treatment and punishment. By examining Tunisian migrant experiences along the entirety of their trajectory, one can see the specific human rights issues that arise at each stage for maritime arrivals—from departure to return. The article will examine these human rights concerns in the context of the Tunisian migrant journey, focusing on the four identified stages of the situation at sea, rescue or interception, detention and return. The article will present results from qualitative in-depth interviews conducted for the EU Fundamental Rights Agency in 2011 with 15 Tunisian migrants who had arrived by sea to Italy between 2005 and 2011 and were returned to Tunisia between 2008 and 2011, complemented by interviews with two Tunisian fishermen and an anonymous Tunisian non-governmental stakeholder.

**Keywords:** Tunisia; irregular migration; human rights

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## 1. Introduction

In part due to its location on the North African coast, in conjunction with its history of being a former French protectorate, Tunisia has become an important country of emigration to the European Union. With an estimated 873,900 persons or 82.6% of Tunisians abroad in Europe—notably in France (65.3%), Italy (17.6%) and Germany (8.9%) [1]—Tunisian migration to Europe has become a point of concern for both European states and Tunisian authorities, in particular, with regard to irregular migration. The Directorate-General for Economic and Financial Affairs of the European Commission has estimated that, between 2003 and 2005, around 10,000 persons migrated irregularly from Tunisia to European Union Member States and about 15,000 persons per year from 2006 to 2007 [2]. However, since the Jasmine revolution in Tunisia of December, 2010–January, 2011, as well as the revolution in Libya beginning February, 2011, the number of irregular migrants leaving from Tunisia for the EU increased substantially. It is estimated that 56,000 people arrived in Italy in 2011, 28,000 of whom were Tunisian [3]. According to Frontex, in 2011, 27,982 Tunisians were detected crossing irregularly via the Mediterranean [4]. In reality, though, as has been noted in the EU-sponsored *Clandestino* project on data and estimates of undocumented migration in Europe, it is difficult to obtain precise numbers for the number of irregular migrants in Europe and apprehension data can only represent one portion of those irregular migrants arriving to or currently in Europe [5].

The majority of irregular migrants leaving from Tunisia are unmarried Tunisian men between the ages of 20 and 40, primarily leaving for economic reasons. A considerable number of Tunisian migrants are highly skilled (with a university degree or higher), estimated at 30% in 2008 [1], but due to the high unemployment rate, search for work is often given as the primary reason for emigration from Tunisia [6], as was also reflected in the interviews cited in this article. From 2006 to 2010, the unemployment rate was 9.3% for the general population, compared with 28.8% for those aged 15–24, and from 2005 to 2011, the average unemployment rate rose from 14.8% to 22.9% [7].

As Tunisia is located on the Central and East African migration routes, it also serves as a country of transit for migrants coming from Sub-Saharan Africa, notably Somalia, Eritrea, Chad and Sudan. In addition, a limited number of migrants from Asia, Eastern Europe and even Latin America cross irregularly to the EU via Tunisia, particularly, since Libya's revolution, as persons with a variety of nationalities employed in the country fled the conflict.

In response to the increased number of arrivals of Tunisians to Italy in 2011, a bilateral agreement (the details of which are not publicly available) was reached between the two countries on April 5, 2011, an extension of which was granted on October 11, 2011 [8,9]. The agreement provided temporary residence permits (initially for six months, in October extended for another six months) to those Tunisians who arrived in Italy between January 1, 2011 and April 5, 2011—an estimated 20,000 persons. However, for those who arrived from April 6, 2011 onwards, accelerated and simplified return procedures apply, allowing the Italian authorities to return any new migrants arriving. The simplified procedures were meant as a deterrent for migrants planning to migrate from Tunisia to Italy,

but such simplified procedures call into question the ability of Italian authorities to fully respond to the large number of arrivals, with regard to the identification of vulnerable persons and those with claims to asylum. According to Frontex, in 2011, approximately 8,600 Tunisians were returned from the EU, primarily by Italy and France [4]. These bilateral agreements and laws governing the entry to and exit from Tunisia reflect a broader approach that the former Tunisian government took in recent years to decrease the level of irregular migration from the country, based on the Euro-Mediterranean partnership, which entered into force in 1998.

In line with this approach, the country signed bilateral agreements with a number of countries on labor migration, in an effort to promote legal migration to those countries. Notably, several were signed with Italy on stay and work (1995), entry and readmission (1998) and seasonal workers (2000) and with France on stay and labor (1988), young professional exchanges (2004) and joint management of migration (2008). Soon after the fall of the Ben Ali regime, both Italy and France emphasized their intention to continue the accords on legal migration with the new government with the same quotas (4,000 work visas for Italy, 9,000 for France) [10]. These accords not only stipulate conditions for labor migration, but also call for increased controls at sea and within Tunisia.

The 2004, Tunisian law governing entry to and exit from Tunisia applies fines and imprisonment for unauthorized migration of Tunisian and foreign nationals, as well as to any person giving aid to unauthorized migration, including non-denouncement of irregular migrants. The severity of the penalty varies based on the trial judge applying the penalty, but according to the migrant interviews cited here, the fines for unauthorized emigration can range from 150 to 300 TND (*i.e.*, approximately 77 to 154 EUR). Three of the migrant interviewees also served jail time: one received two years detention as a recidivist offender, another received one year detention for use of a stolen boat and the last served time for his inability to pay the imposed fine.

The externalization of migration controls through such bilateral and other informal migration agreements have raised a number of human rights concerns for migrants around the world. On the one hand, it has had the effect of criminalizing irregular migrants and delegitimizing their claims for asylum, as they are either prevented from leaving in the first place, detained and/or summarily returned to their countries of origin, and on the other hand, it has pushed irregular migrants towards more dangerous or informal migration routes and a stronger dependence on smuggling and trafficking networks, all of which places irregular migrants in an extremely vulnerable position [11,12]. These bilateral agreements and laws have important implications for those Tunisian migrants to whom they apply. The experiences of Tunisian irregular migrants arriving to the EU by sea, who are then detained and returned, highlight the multitude of human rights issues that arise across their journey, as they interact with smugglers, EU and Tunisian authorities and NGOs, amongst other stakeholders. In order to bring these issues to light, the article will first discuss the research methodology and the relevant *de jure* international human rights framework. The analysis then proceeds according to the identified steps in the Tunisian migrant journey, highlighting the relevant human rights issues implicated in the specific stages of irregular crossing by sea, namely: the situation at sea, rescue and interception, detention and return. By examining Tunisian migrant experiences according to stages in their journey, one is able to examine the specific human rights issues that might arise along the entirety of their trajectory.

## 2. Methodology

The article will present results from qualitative in-depth interviews conducted in 2011 in the context of a larger project “Treatment of third country nationals at the EU’s external border” for the EU’s Fundamental Rights Agency [13]. Interviews were conducted individually in Arabic with 15 male Tunisian migrants who arrived by sea to Italy between 2005 and 2011 and were subsequently returned to Tunisia between 2008 and 2011, complemented by interviews with two Tunisian fishermen and an anonymous Tunisian non-governmental stakeholder. Interviews took place in six Tunisian coastal towns, and the choice of venue was decided upon with the interviewee based on comfort of the interviewee, including in tea rooms, coffee shops, cafeterias or even the interviewee’s home. The interviews were semi-structured around a central interview guideline, where interviewees were given freedom to tell their own stories in their own terms over the course of two to three hours. Such a qualitative approach was taken in order to preserve the documentary quality of the narrative experiences of migrants, considering that such experiences may produce data that is outside the expectations or perceptions of the interviewer.

While an examination of the smuggling process is already difficult to achieve, due to the clandestine nature of the process, due to the instability of Tunisia following the Jasmine Revolution of December, 2010, to January, 2011, interviews were especially difficult to conduct. Considering the fact that the target population was, in many ways, difficult to access, the interviewer’s connections were used to gain initial introductions, after which some snowballing then occurred. For this reason, the interviews can be considered self-selecting in nature, and the author cannot claim with complete certainty that the experiences elaborated here are representative of the entire experience of Tunisian irregular migrants crossing by sea. For example, there might be a number of Tunisians (females and children, in particular) who are isolated, due to cultural or personal reasons, and thus, were not accessible within this research. Therefore, absolute representation has not been the primary concern in this study, but rather a means to engage with the issues of respondent selection.

Moreover, it should be noted that all interviews were conducted with Tunisians who had been returned to Tunisia, which is not only a very specific group of persons, whose experience may not represent the larger group, but their experiences may also present a negative bias, as those who left Europe voluntarily usually did so to escape a self-described unhappy situation and those who left involuntarily usually were unhappy with the process. Thus, the findings of this study are limited to those conclusions that can be made for those Tunisians interviewed and not representative of the larger trend of Tunisian migration *per se*. The interview results have been complemented by desk research to illuminate to what extent these conclusions may or may not be applicable to or relevant for the overall phenomenon of Tunisian irregular migration across the Mediterranean. Despite the limited number of interviews conducted, the narratives of those migrants interviewed offer a depiction of the experiences of a certain number of Tunisian irregular migrants, which offer an additional and important facet to the discussion.

## 3. International Human Rights Framework

Based on the specific experiences of the Tunisian migrants, fishermen and non-governmental stakeholder interviewed, relevant human rights issues that may arise along the trajectory of the journey

of irregular Tunisian migrants to Europe and back to Tunisia will be highlighted. Moreover, the concept of mixed migration flows [14], which recognizes that irregular migration flows may include *bona fide* refugees, asylum seekers, victims of trafficking, smuggled migrants and others, underscores the fact that migration flows include various groups of persons in need of different levels of protection. Therefore, a brief discussion of the relevant international human rights framework is necessary in order to observe where along this journey these rights may be denied to certain migrants, based on the experiences outlined in the interviews. This section will focus solely on the *de jure* international human rights framework and instruments, despite the fact that such international conventions elaborated below may have various interpretations or limitations within national jurisdiction. Such a discussion of the *de jure* framework is presented in order to highlight the *de facto* exercising of these rights, which will be discussed in later sections.

Considering the danger that migrants may face in crossing irregularly via the Mediterranean, the right to life is a primary concern. This right is governed by a number of international instruments [15,16] and should not be understood in a restrictive manner, but, rather, requires states to be active in protecting against the loss of life, in particular, when such loss is foreseeable [17]. Such active measures also extend to those irregular migrants detected at sea [18]. The right to food, water and emergency healthcare are, moreover, all intrinsically linked to a person's right to health and well-being [15,19]. Further, the prohibition of torture and cruel, inhuman or degrading punishment is also clearly linked and governed by several international instruments, notably the UN Convention against Torture [20], which requires states to take measures to prevent such acts.

This international legal framework is buttressed in the maritime context by humanitarian tradition, as well as by a number of international legal instruments that highlight the duty to prevent the loss of life at sea, emphasizing also the importance of implementation by states of measures and requirements to ensure the safety of those at sea [21–23]. The International Convention on Maritime Search and Rescue (SAR Convention) [23] specifically requires states to individually, or in cooperation with others, establish the basic elements of a SAR service. However, while the SAR Convention notes that the state in whose SAR zone the operation took place has the duty to secure a place of safety for the rescued persons, this does not explicitly mean that the state has to disembark those rescued persons on its own shores. In case of such jurisdictional disagreements (discussed further in Section 5), the SAR Convention allows for the creation of joint SAR zones [24].

Concerning detention and freedom of movement, the Universal Declaration of Human Rights (UDHR) [15] and the International Covenant on Civil and Political Rights (ICCPR) [16] both prohibit arbitrary arrest and detention and uphold the right of the individual to leave any country, including his or her own. The prohibition of arbitrary arrest and detention is clearly linked to the rights of due process and access to legal remedies. The right to access legal remedies is protected by several international instruments [15,16,19], with the right to information viewed as a part of this right, included in the ICCPR under a person's due process rights [16].

The expulsion or return of a person to another state is governed by the principle of “non-refoulement” and is enshrined in the UN Convention Relating to the Status of Refugees [25]. According to this principle, no person may be returned to a situation in which his or her life or freedom would be threatened, and/or where he or she would be in danger of being subjected to torture or inhuman and degrading treatment. The Charter of Fundamental Rights of the EU [26], although only technically

applying to the institutions and bodies of the EU and national authorities when implementing EU law, further prohibits collective expulsions, in addition to upholding the principle of “non-refoulement”, which is particularly relevant to this study, as will be discussed in Section 7 on Return. In connecting the rights accorded with regard to detention, access to legal remedies and expulsion, one may conclude that someone being detained or returned has a clear right to information concerning their detention and return, as well as a clear right to access legal remedies if detention or return may violate his or her fundamental rights.

While these rights are universal, indivisible and inalienable, their application to vulnerable groups has often required additional separate instruments, to highlight the particular vulnerability of certain groups. The Convention on the Protection of the Rights of all Migrant Workers and Members of their Families [27] was an important milestone in the protection of migrants, emphasizing that all migrant workers, including undocumented workers, have fundamental rights. Furthermore, this protection is not limited in application to the state in which the migrant is working, but rather, covers the entire trajectory: preparation, departure, transit, stay in another country and return. However, this Convention is not widely ratified (neither by Tunisia nor Italy nor France), and the majority of the signatories to the Convention are those countries that can be considered primarily countries of origin of migrants, potentially because the Convention is considered a means of protection for their citizens living abroad.

In view of the mixed migration flows of persons crossing the Mediterranean and in the context of this study, there are a number of other vulnerable groups with their own additional framework, including asylum seekers, separated children and victims of trafficking. The UDHR and the Refugee Convention specifically protect the right to seek asylum, the latter of which explicitly includes those persons entering a state without authorization if the reason for their entry is directly related to a threat to their life or freedom in the country of origin. While this does not give the right to enter illegally to refugees, it, rather, clarifies that refugees shall not be punished for such an illegal entry.

As regards the rights of children<sup>1</sup>, the UN Convention on the Rights of the Child [28] calls on states to take additional “appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse...” [28]. Moreover, states must further take all possible measures to ensure the safety of a child if he or she is indeed to be returned to the country of origin. Although this article cannot draw conclusions in relation to children, as none were interviewed, it does raise relevant issues regarding separated children that may arrive within mixed migration flows.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children [29] and the Protocol against the Smuggling of Migrants by Land, Sea and Air [30] call on states to prevent and combat trafficking and smuggling of migrants. Both Protocols also include the duty to protect victims and to take into account the special needs of women and children.<sup>2</sup> The Smuggling Protocol notes that all measures should also be in accordance with the international law of the sea and calls on states to ensure the safety and humane treatment of all persons aboard sea-bound vessels and subject to return procedures, including facilitating the return of irregular migrants.

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<sup>1</sup> According to the UN Convention on the Rights of the Child, “child” refers to any person under 18 years of age.

<sup>2</sup> UNODC also developed a Model Law against the Smuggling of Migrants, as a tool to assist states in implementing the relevant provisions [31].

It can therefore be seen that a comprehensive international human rights framework exists to protect the rights of irregular migrants crossing by sea; however, the rest of the article endeavors to raise concerns in relation to *de facto* exercising of these rights in practice, based on the experiences of those interviewed for the study.

#### 4. Situation at Sea

The situation at sea for irregular migrants crossing via the Mediterranean is precarious, as during their journey, they are most frequently prepared with little food and water, no emergency or first aid kit and no life vests. The overcrowded and often dilapidated boats represent another danger to their lives, as they are neither equipped properly nor of sufficient capacity for the journey.

The majority of migrants leaving Tunisia via the Mediterranean depart from Tunisia's eastern coasts, the governorates of Nabeul, Sousse, Monastir, Mahdia, Sfax and Medenine (see Figure 1) [32]. However, in recent years, there has been a rise in departures from Southern Tunisia and Libya; interviewed migrants left from the Tunisian cities of Mahdia, Sfax, Telboulba and Maholia and the Libyan cities of Zouara and Abu Kamache. However, the points of departure vary, as smugglers search for different ways to avoid controls that take place within Tunisia. Irregular migrants leaving by sea from Tunisia aim for the geographically closest destinations of the EU—Malta, Sicily or the Pelagic Islands of Italy (Lampedusa, Linosa, Lampione)—a dangerous trek for the old and over-capacity boats used for the journey. All the migrants interviewed arrived in either Lampedusa or Sicily, but many chose to continue to travel overland to France, the country with the largest number of recorded Tunisian migrants.

**Figure 1.** Irregular and mixed migration routes from Tunisia.



ICMPD, MTM map on irregular and mixed migration routes, 2012.

Most interviewed migrants paid smugglers, who usually came from the area of departure, anywhere from 500 to 3,000 TND (between 230 and 1,500 EUR), although the majority paid between 1,500 and 3,000 TND (700 to 1,500 EUR). Generally, smuggling operations are organized by small- to medium-sized smuggling organizations based in Tunisia or Libya, which move migrants between key specific sites in the country and sell migrants the service of crossing to Italy, but usually do not have connections to traffickers on Italian territory to help with arrivals [33]. Before departure, to avoid detection by Tunisian or Libyan authorities, the migrants interviewed were held in a house or farm near the point of departure for several days. At this point, one of the migrant passengers was briefly trained on how to operate the boat, as smugglers usually did not join the migrants on their journey. Then, 40–180 migrants would be placed in 6–12 meter boats or larger 20 meter boats, which may accommodate 500 persons or more, all well over their capacity. One interviewed migrant was a passenger on an 18 meter boat carrying around 380 migrants, another was on a 14 meter boat with 240 others and, yet, another was on a boat of about seven meters with 45 passengers. None of the interviewed migrants had life vests or a radio available on board, and only seven reported having a compass, all of which severely hindered their ability to survive any emergency situation or even to send an SOS signal.

In the ideal case, the journey should take some 15 hours, but in reality, it can take three days or more (as experienced by a number of interviewees) if the boat becomes lost along the way. Eight of the interviewees reported that they became lost at sea, and their journeys took more than one day. As a rule, migrants are only allowed a limited amount of food on board, usually just bread and water, not enough for a longer journey. Moreover, weather conditions can change unexpectedly, putting passengers in further jeopardy, especially if the migrant navigating the boat is improperly prepared. The following interview excerpts provide just an example of some of the problems that may arise for migrants travelling irregularly across the Mediterranean Sea.

“The journey was supposed to take between 12 to 15 hours; unfortunately, it took us three days. We were all together 130 migrants, including Tunisians, Egyptians and Moroccans, no women and no children... After a few hours of navigation, the engine of our boat broke down, and the Tunisian in charge had to ask for help; he phoned one of his acquaintances, and we waited many hours for another fishing boat to join us. The engine was repaired, and we continued the journey; but we got lost on our way to Lampedusa, and we navigated around for three days, until we found the right direction.” [34]

“On board, we had some food and water, but nothing else. We did not have any blankets or any life vests... we were afraid of having a possibly fatal accident. Our decision to migrate was taken, and in any case, there was no possibility to change our decision and go back; the smuggler would never have allowed this to happen. Although we were scared and stressed, we were full of hope to start a new and better life. When we reached international waters, the engine of our boat went off, and we felt that was the end of our journey. We were stuck for several hours, and the person in charge of the boat worked hard to repair the engine.” [35]

Due to the precariousness of their situation, nearly all interviewees feared for their life at some point during the journey.

“The entire group was scared, and we felt that the boat was going to sink, and we would die. We threw in the sea all our belongings, including most of the food, but kept a small quantity of water.” [36]



Crossing the Mediterranean in such overcrowded and, at times, dilapidated vessels can be very dangerous. UNHCR deemed the Mediterranean the “most deadly stretch of water for refugees and migrants in 2011” [3]. In 2011, the media reported 334 deaths of migrants crossing irregularly from Tunisia and 1,488 from Libya, but the total number of deaths and disappearances of those attempting to reach Europe via the Mediterranean is unknown [37]. Hundreds more Tunisians who left by sea for Lampedusa are still reported missing by their families [38].

In fact, one interviewee reported a tragic incident at sea that cost the lives of several passengers. After three days at sea, the vessel finally neared the Sicilian shore, but then collided with a sand bank, causing many of the passengers to panic and jump into the sea, while the boat was still maneuvering. Two of the passengers died.

“...The two Egyptians in charge of the boat were in full control of the situation until we reached the shore of Sicily... when migrants started jumping into the water while the boat was trying to avoid the sand bank, and two Egyptian migrants were hurt and passed away.” [39]

Neither the safety nor the health of the travelers is ensured upon their departure from Tunisia, leaving migrants exposed to danger as they cross the Mediterranean Sea. Without sufficient food, water and first aid kits, in addition to the unsafe conditions of the boats, Tunisian irregular migrants arriving to the EU via the Mediterranean face a plethora of human rights issues, as their lives are in jeopardy during the entire crossing.

## 5. Rescue or Interception

Rescue and interception both take place before the migrants’ boat had reached the shore, but while rescue refers to operations by any other boat at sea to save a vessel in danger of sinking, interception refers to a coast guard or naval vessel interrupting the migrant boat in the course of its journey. Jurisdiction often plays the foremost role in who rescues or intercepts migrants at sea. The European Union and its agencies, including Frontex, do not have a mandate to search for or rescue migrants at sea, as this remains the responsibility of EU Member States. Instead, Frontex is tasked with coordination of cooperative operations between these Member States, which can include SAR operations [40,41]. Yet, these operations still depend on Member States for the provision of staff and equipment, and regular SAR operations are still under the jurisdiction of Member States. The much publicized tragedy in March–April, 2011, where 63 lives were lost on board a boat from Libya despite repeated distress calls that seem to have been ignored by a number of vessels in range, highlights the major issues that continue to occur with regard to responsibilities within SAR zones, despite the international law of the sea [42]. Similar instances have occurred with regard to disembarkation of rescued migrants based on jurisdictional disagreements on SAR zones, in particular, between Italian and Maltese authorities [24,43]. Such disagreements or lack of action based on SAR jurisdiction seriously compromise the protection afforded by the SAR regime to those migrants in dangerous situations at sea and can put their lives in grave danger.

Based on the interviews, such rescue or interception activities of irregular migrants crossing the Mediterranean towards Italy were carried out by Italian or Tunisian authorities (naval and coast guard) or fishermen. Interviewed migrants intercepted at sea were all intercepted by Italian authorities and

brought to the Italian shore, while interviewed Tunisian fishermen reported returning rescued migrants to the Tunisian shore or reporting them to Tunisian authorities for further action. While in the past, there have been immediate returns to the port of departure by the intercepting authority, a practice known as “push back” operations, the European Court of Human Rights, in *Hirsi Jamaa and Others v. Italy*, ruled that when a state authority exercises control and authority over an individual, the state is obliged to safeguard that person’s rights and freedoms, even if operating outside of its own territory [44]. Thus, those migrants intercepted at sea cannot immediately be returned to the port of departure without a proper evaluation of whether the intercepted persons’ rights could be violated upon return.

In principle, the Tunisian National Maritime Guard is responsible for the 12 miles of Tunisian territorial waters and receives those vessels returned to Tunisian ports, where it is then determined whether they left legally in accordance with the 2004 law governing entry to and exit from Tunisia (see Section 7, Return). The Tunisian National Navy jurisdiction extends from the 12 miles into international waters, and any intercepted vessel in their jurisdiction will be returned to the Tunisian National Maritime Guard for further action. According to the Interministerial Decree of June 19, 2003, the Italian Naval Coast Guard carries out interceptions at sea in international waters and must inform the Italian immigration and border police directorate accordingly. According to interviews with fishermen, the Tunisian Navy also informally cooperates with Tunisian fishermen, who inform them if they encounter boats experiencing difficulties and in need of aid or they may also themselves help in cases of serious incidents needing immediate attention. As boats carrying irregular migrants often wait until the last possible moment to ask for help, sometimes with disastrous consequences, fishing boats are a good source of information in locating such boats before it is too late. One interview highlighted the difficult ethical situation for fishermen who wish to help migrants in a precarious situation, but whose help may then be refused.

“I met a small fishing boat with some twenty African migrants. They had lost their direction to Lampedusa for three days. I proposed to bring them with their boat to the harbor in Sousse, but they refused. They asked for provisions and for the right direction to Lampedusa. I advised them to change their mind and not to risk their lives—their small boat was not fit to take them to Lampedusa. Unfortunately, they refused to listen to me. I gave them some bread, water and cigarettes and explained to them the right direction to Lampedusa... I informed the coast guards and do not know what happened to them after that.” [45]

However, according to fishermen interviews, Tunisian fishing boats do not usually have a large capacity for taking on migrants and are not equipped for a rescue operation. If they have been authorized to perform a rescue operation by the Tunisian authorities, they prefer to tow boats to shore rather than taking on migrants, if the migrant boat is in good condition and weather conditions allow.

“I have ten life vests on board. I do not have qualified personnel for the required assistance. I do not have enough space to accommodate a large number of migrants. I cannot rescue hundreds of people if the sea is dangerous. Whenever I am in a position to save lives, I will intervene, but if I feel it is very risky, I try my best to do whatever I can, while waiting for our Navy to come. Whenever I rescue migrants, I take them with their boat to the port in Sousse, and the local authorities deal with them.” [45]

Interviews with Tunisian fishermen highlighted the complexity of the situation for them when they meet migrant boats at sea. While they endeavor to help those in need, they often are unable to if help is

refused or if they are too late. Nonetheless, fishermen interviewed for the study highlighted that they strive to provide whatever aid is possible.

“It is very common in our work to meet boats in difficulty; this year, in April, we met a boat of seven meters with five Tunisian migrants on board in a desperate situation. We also met a shipwreck and dead bodies in the sea. These five Tunisian migrants were going to Lampedusa; but they lost their way, and they were going around in circles, until their engine went off, and they were stuck and cut off from everything, since they did not have a radio and, therefore, could not ask for help. The wind was blowing, and huge waves were bouncing their fragile boat. Our [captain of the fishing boat] decided to take them on board of our boat. He liaised by radio with the authorities at the harbor; our boat went close to them, and we helped them board our boat one after the other. We did our best to keep them warm, and we gave them bread and tea. Once we arrived to the port, we handed them over to the authorities, to the National Coast Guards.” [46]

Rescue and interception operations can be difficult and are complicated by the fact that migrant boats are usually in poor condition and overcrowded, and the passengers often do not want to be rescued, as this would mean the end of their journey. Rather, according to fishermen, migrants would prefer to ask for directions and provisions from fishing boats, hoping that this is all they need to reach the Italian shore. One migrant, however, reported asking for assistance from two fishing boats, but was denied.

“We met another fishing boat and asked for help, but they refused; they only explained the direction to Lampedusa. The Somali captain and the Palestinian in charge of the compass navigated for three days, but lost the right direction to Lampedusa. We came close to a fishing boat with many people on board, and we asked for rescue, but were not given any assistance; the crew agreed only to explain to us in which direction we should sail in order to reach Lampedusa.” [36]

While it is unclear why such calls for help were ignored in this reported case, the limited capacity of fishing boats to take on migrants can make it difficult for fishermen to provide appropriate help to migrant boats. Such operations can be dangerous, especially as migrants may not know how to properly maneuver their boats, in addition to the dangers posed by the overcrowded and unsafe boats being used by migrants. Moreover, although naval and coast guard vessels were reported as being equipped to receive migrants and ensure proper food, water and emergency healthcare, fishing boats that may conduct rescue operations were not and could not (as this is not their function) be similarly equipped to immediately address the needs of migrants. Despite the best intentions of a rescue or interception operation, sometimes, they can have disastrous consequences. One migrant described a deadly incident that cost the lives of many of his fellow passengers during an interception operation by the Italian Navy.

“It was around 03h00 in the morning, not too far from Lampedusa, when we saw a huge boat coming close to us with its headlights on. They started turning around us to see who we were, and they started coming closer and closer to our boat while circling and turning around us. We heard someone saying something from the big boat, but we could not understand. From the flag, we understood that the boat belonged to the Italian Navy. Our small boat started shaking and going up and down, water started coming in.

“We started screaming, because it was clear to us that we were going to sink, and at a given moment, we felt that our boat was hit by the Italian patrol boat and started sinking. We found ourselves in the sea; many disappeared in the sea and drowned, we lost 70 persons. The Italian Navy was able to find only 10 bodies out of the 70. A small boat was put into the water to facilitate the rescue of the 60 remaining migrants and to allow their boarding of the Italian patrol boat. My Tunisian friend who was travelling with me the whole journey was one of the 70 victims. Still, today, his family continues to ask me questions about him and about the circumstances of his death. I will never forget him. It took the Italian Coast Guard many hours to rescue us and to try to find the bodies of those who disappeared...

“We went on board of the patrol boat and were given sandwiches, but none of us ate anything; we were all shocked; we could not talk to each other.”<sup>3</sup> [34]

One stakeholder similarly described an operation by the Tunisian National Navy that cost the lives of many migrants at sea.

“In April this year [2011], during a difficult rescue operation of a fishing boat carrying more than 300 migrants, around 100 persons perished. Some were Tunisian nationals and others were of several other nationalities. This rescue operation was undertaken by the Tunisian National Navy; the fishing boat was sinking when the rescue boat arrived, and migrants, including women and children, were jumping into the water and panicking.” [47]

Depending on who performed the rescue or interception—fishermen or Italian or Tunisian authorities—the migrants were then offered food, water and emergency aid as available. For fishing boats, they were not sufficiently equipped to offer emergency aid (aside from a first aid kit), but normally offered their own food, water, blankets and clothing and used the first aid kit to keep migrants warm and comfortable until they were returned to the Tunisian port. Italian Coast Guard or naval vessels were equipped to provide food, water and emergency healthcare, as reported by interviewees. However, at this point, migrants often received little or no information from the authorities, if they were unable to communicate in a common language. They only understood that they were being intercepted if they saw a recognizable flag on board the vessel or if someone on board understood the messages coming from the other ship. There were no interpreters on board the rescue or interception vessels, and interviewees reported being told to keep quiet by Italian authorities until they reached the Italian harbor, where they were transferred to reception and detention facilities. Only one interviewee reported being told that they were being taken to Lampedusa; he was able to speak to the Italian Coast Guard in French and, in that way, was able to receive information [48]. Such lack of information, in conjunction with the continued dangers implicit in rescue and interception missions, mean that during this stage, migrants at sea continue to be vulnerable, with such human rights issues as right to life and access to essential services and information being particularly relevant. This can be ascribed in part to the practical difficulties of an irregular journey over sea and SAR operations; yet, as

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<sup>3</sup> The interviewer verified with several sources regarding this incident, who confirmed that the migrant’s friend did accompany him from Tunisia and drowned on the way to Europe circa 2006–2007. Statistics on deaths of migrants at sea are incomplete and approximate, however, an article by the Economist, based on Italian reports, fits the description of the incident quite closely: The Economist. “Sunk: More boats, more drowning—and suspicions about Libya’s role.” *The Economist*. 24 August 2006.

noted at the beginning of the section, the broader issue of jurisdiction in the Mediterranean can compound these issues and may call into question the adequate protection of migrants' rights at sea.

## 6. Detention

Migrants interviewed for the study arrived to detention centers either after being intercepted at sea by the Italian authorities or subsequent to being arrested after their arrival on land—either in Italy or in France, if they continued onwards in their journey. During the detention phase, authorities conducted screenings of the migrants and determined whether they should be returned. Only one migrant experienced initial screening at the Lampedusa shore, following his interception at sea, while another was taken to a hangar near his arrival point in Sicily, where he was interrogated. After reception, which was only reported relevant for one interviewee in this research, and thus not covered in detail here but on which there is relevant recent research [49], migrants were housed in a detention center near their point of arrival (*i.e.*, Lampedusa or Sicily). Seven of the interviewees were then sent from Lampedusa to another detention center on Sicily or mainland Italy, but none of them were informed why they were being moved.

In general, the detention centers were reported as crowded with migrants of many different nationalities, at times over capacity. As reported by one migrant, families with children were separated from the single persons. Another migrant noted problems when the detention center became overcrowded, without enough space for those arriving.

“Since the center was full, they did not have enough accommodation for all of us, so we had to spend the night in the corridor of the center with a mattress and blanket on the floor.” [50]

Once arriving in Italy at a detention center, migrants received food, water and clothing and were given the opportunity to shower (although one migrant reported only being able to do so after the interrogation). Then, they were called one by one in order to be questioned about their identities and how they arrived in Italy, in addition to having fingerprints and pictures taken. At this point, interpreters were reported as being present in order to translate the questions and answers, as well as to verify the nationality of the migrant. Several interviewees also had health officials and a member of the Red Cross present at the interview, and one reported the presence of other people at the interview, whose identity or role was not clear to him.

“Soon after we arrived to the center [in Lampedusa], our interrogation started. One interpreter of Egyptian or Moroccan origin was present, together with many other people. I was able to identify only the medical staff and the police officials by their uniforms. The other persons, I do not know who they were. They asked me questions on my identity, nationality, the identity of the smuggler, *etc.* I did not get information on the next steps, and I kept asking the other migrants whether they knew what would happen to us... We stayed 10 days in the center until it was decided to return us to Tunisia.” [51]

They did have access to telephones, and some were given a prepaid phone card in order to make phone calls to their family, after their interrogation. However, at this stage, no or a very limited amount of information was given to them concerning the process and their rights (including the right to asylum and the opportunity to appeal any final decision), legal counseling was not available and interpreters were only available during the interrogation. During detention, they met other migrants and saw some

leave or being issued with papers, but were not informed why. Several interviews noted that this lack of information created a sense of uncertainty and confusion for migrants, who received different information from various sources.

“For unknown reasons, our group split into two groups of 15 persons each. Two days after our arrival, the first group was taken outside the center for an unknown destination. I do not know what happened to them. My own group was taken the third day to the airport, from where we took a plane to Calabria [mainland Italy] where we were accommodated in a detention center.” [52]

“In both detention centers, I was not informed of the reasons as to why I was being held, but I understand it was because I came to Italy without a visa and passport. I did not know that I could appeal the decision to detain us for a long period... The only thing made clear to all of us was that we were illegal in Italy and have to leave. The interpreter who was available explained time and again that as we were all illegal, it would be in our interest to leave and to avoid problems.” [34]

“I was taken to Victoria detention center. Life there was very stressful, due to the fact that I stayed in this center 13 days without receiving any information on the next steps. I never found out what the exact situation was and what the authorities were going to do with me. I saw a lot of people there having the same difficulties. The main questions we kept asking each other in my ward was: Did they discuss with you? Did they tell you when you are going to be released?” [39]

Such uncertainty was also remarked as a contributing reason for escaping the center before receiving a decision on their case. Six migrant interviewees, in fact, left the detention center before having received a final decision, as they were given no indication of future steps or they were told that there was no other option open to them other than to be returned.

“I was held...without understanding the reason and without knowing what my fate would be. I did not know that I could appeal the detention decision. One day, the social assistant who was visiting us every day informed me that the Italian authorities would return me to Tunisia, so I decided to escape and run away from the center.” [35]

Nonetheless, as reported by the Tunisian non-governmental stakeholder, when international or non-governmental organizations are present, they can be instrumental in providing information to migrants.

“Migrants are not always aware of their rights, but... with various humanitarian agencies, we explain to them their rights and the possible solutions to their problems.” [47]

However, the detention centers in Italy are closed and managed by private actors in cooperation with the police and sometimes the military, which means such NGOs and international organizations do not have unrestricted access to the centers or the migrants held there, to give such advice and information. Doctors Without Borders reviewed the services available in Italian migrant centers (both detention and reception centers) and their report supports the statements made in migrant interviews, with regard to access to legal assistance, social and psychological support, medical assistance and cultural mediation: “malfunctioning continued to occur in numerous forms, and there were episodes of scant respect of fundamental rights whoever was managing the centers, including lack of contact with the National Health Service, insufficient health, legal, social and psychological assistance and numerous signs of malaise among those interned...” [53]. Amnesty International’s research visit to

Lampedusa and Mineo March–April, 2011, during the mass arrivals of irregular migrants by boat found further issues related to the overburdening of the centers, most troubling being the disorganization and inadequacy of asylum procedures [54]. The lack of consistency in access to a whole host of services calls into question the principle availability of such services to migrants in detention and respect of the human rights of those detained, including the right to essential information, right to legal remedy and, where appropriate, the right to asylum.

At the end of the detention process, nine interviewees received a deportation order stating that they should leave the country in five to seven days, although two of the interviewees received the document from French authorities after being arrested on French soil. Such deportation orders require that irregular migrants leave the country on their own initiative after a certain period of time (in these cases, five or seven days), after which they are to be deported by the police if they are found still in the territory. In Italy, a migrant who has been found on Italian territory after the expiration of the deportation order is subject to high penalties, including detention, and does not have the right to return to Italy for 10 years [55]. These deportation orders raise serious questions regarding the rights of those migrants to whom they are issued, considering that they firstly require deportation without facilitating it, as stipulated by the Migrant Smuggling Protocol, and secondly, the clandestine nature necessitated of migrants if they remain in the territory, who may not have access to other rights, due to their irregular situation.<sup>4</sup> According to migrant interviews, during their time in Italy and France, they were subjected to discriminatory practices, in particular, by employers and the police, against which they felt they had no recourse, as they would be deported if the police discovered that they were in the territory illegally.

After receiving their deportation orders, all nine interviewees reported being released from detention, after which they all decided to stay in Europe to look for work, either in Italy or France, the destination varying based on friend or family connections in the area.

“At the end, I was given a document in Italian explaining that I should leave Italy in five days...The day of our release, we were given a train ticket valid from the detention center up to a place called Padova, and we were set free. With my Tunisian friend, we decided to go to Como, where the brother of my friend is settled.” [48]

This described situation was not the case for those Tunisians arriving to Italy after April 5, 2011, where accelerated and simplified return procedures are applied; those arriving to Italy between January 1 and April 5 were issued temporary residence permits, allowing them to leave detention and stay in Italy.

None of the interviewees self-identified as asylum seekers, either because they did not understand the concept or because they did not consider themselves as such, since they came to Italy for work. However, one interviewee falsely identified himself as a Palestinian seeking asylum. He furthermore stated that his application was not dealt with, and he was misidentified as a different nationality and returned to the country of that nationality (to be further discussed in the next section). Moreover, it should be noted that since April, 2011, when the accelerated and simplified return procedures were implemented, any identification mechanisms for groups at risk, including asylum seekers, may have

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<sup>4</sup> The human rights situation of irregular migrants in the European Union has been covered by a number of studies, in particular those released in the context of the recent 2009–2011 project of the Fundamental Rights Agency “The situation of migrants in an irregular situation in the European Union”.

been weakened, due to the shortened period of detention combined with the already-existing limited access to legal remedy and other forms of assistance, as well as the disorganization of asylum procedures in the centers, reported by both Doctors Without Borders and Amnesty International. Interviews highlighted that information on such rights, especially the right to asylum and the accordant procedures, was lacking during the detention period, despite the desire for or potential need of such information.

“An interpreter was there, together with the Red Cross and the Italian immigration authorities; I did not have a person explaining to me my obligations and my rights. Unfortunately, I did not know that it was my right to know why I was being held. I did not ask for asylum, because I could not, since nobody was there to explain the procedure to me.” [56]

At this stage, while migrants were given adequate food, water and emergency care, according to migrant interviews and the Doctors Without Borders report, appropriate shelter and services were available only if the center was not overcrowded at the time of arrival. Furthermore, at this stage, migrants reported a serious lack of information on their rights, the next steps and potential legal remedies, which further added to the insecurity of their situation.

## 7. Return

While the points of arrival by sea from Tunisia and Libya were almost exclusively in Italy, the points from which the migrants were returned are in both Italy and France. In fact, when migrants are not intercepted at sea or on land immediately following arrival, they may not be detected until further along in their journey, at which point they may be detained and returned. Six of the migrants interviewed continued their journey overland towards France, and thus, some of the returns took place from France. Based on the international human rights framework, this process should involve a consideration of the human rights issues at stake if the migrant is to be returned, especially the principles of due process, non-refoulement and prohibition of torture, inhuman and degrading treatment and punishment.<sup>5</sup> Considering the accelerated and simplified return procedures implemented for those Tunisian migrants arriving to Italy since April 5, 2011, the identification of asylum seekers and other vulnerable groups and access to legal remedies against such returns could be limited.<sup>6</sup> Bearing in mind that the removal of persons from Lampedusa has been reported as taking place within one or two days of arrival, together with the related findings on the inadequacy of the asylum procedures on Lampedusa and Mineo during the period of mass arrivals, Amnesty International noted concerns that such procedures have led to collective summary removals, especially as “it appears highly unlikely that they would have had access to any meaningful or adequate opportunity to assert that they should not be returned to Tunisia on international protection or other grounds” [34]. If the returns under this agreement are considered collective summary removals, this is in clear violation of the Charter of Fundamental Rights of the EU, although the Charter applies to the institutions and

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<sup>5</sup> In 2005, in response to the continued human rights concerns with regard to detention and removal operations of irregular migrants and asylum seekers, a number of NGOs came together to formulate the “Common principles on removal of irregular migrants and rejected asylum seekers”, a document still very relevant today [57].

<sup>6</sup> For more information on accelerated returns under readmission agreements, see [13].



bodies of the EU and national authorities when implementing EU law. Aside from this, such “simplified procedures” not only provide limited opportunities for the person being returned to make the argument to remain in the EU, but also prevent the person from challenging their removal through the proper channels and in accordance with their rights.

According to interviews, when a decision was taken to return a migrant, they were usually handcuffed and escorted by several French or Italian policemen (depending on from where they are being returned) and forced to board a plane, naval or coast guard vessel or a ferry (two interviewees were returned by ferry from Marseilles) to either a Tunisian port or the Tunis Carthage airport. However, three of the migrants interviewed were not informed at all that they were being returned and only realized this once they recognized the Tunisian port on the horizon. All three of these migrants were returned directly from Lampedusa on a naval or coast guard vessel after being told that they were being brought to a “better place” or “Sicily”.

“The entire group of 45 was told to get ready and to board an Italian vessel of the Italian Navy sailing to Sicily, so everybody was under the impression that in a few hours, they would be in Sicily and they would be allowed to be free and to reside in Italy... We embarked on an Italian boat and were told that we would be transferred to another reception center in Sicily, but a few hours later, we found ourselves in a Tunisian harbor [La Goulette].” [58]

“After 10 days in the detention center of Lampedusa, we were told that we would be leaving Lampedusa and will be taken to another and better place. We left the center in police vehicles and went to the harbor. We boarded a boat with an Italian flag; the personnel on board had official uniforms; obviously, it was a Coast Guard boat. We started our journey, and we were under the impression that we were being taken to Italy; we were escorted by several Italian guards. However, after a few hours, we were surprised to discover that we were in the La Goulette harbor of Tunisia.” [51]

“The last night in the center, I was told to prepare my belongings and to be ready to leave Lampedusa for a better place in Italy. The same instructions were given to my other friends. We were very happy with this development, and we felt that the Italians were very generous in allowing us to stay...The following day, early in the morning, we were taken from the center by the [police], and we boarded a boat belonging to the “squadra” [Italian Navy]. We were all together, 15 Tunisians. Many armed guards were on the boat with us. We started our trip, and we were joking and singing. But to our surprise, after a few hours (five hours), we found ourselves in the Tunisian harbor of La Goulette. We were looking at each other trying to understand what was happening to us. We became very sad and desperate that we were back in our country where the same difficult situation was waiting for us. Very quickly we were handed over...” [59]

While this was not the experience of the majority of the interviewees who were returned, such misinformation clearly limits migrants’ access to essential information and effective remedy and represents a lack of respect for the rights of those migrants being returned without proper information.

When the interviewed Tunisian migrants were returned, by either French, Italian or Tunisian authorities or as reported by Tunisian fishermen, they were handed over to the National Maritime Guard and subjected to the same procedure. There, they were further interrogated to gain information on the point of departure, whether the departure was legal, the smuggler who aided the migrant and what the migrant was doing during the stay in Europe. If it is determined that the migrant has left

illegally, according to the 2004 Tunisian law governing entry to and exit from Tunisia, or was involved in any illegal activity (*i.e.*, use of a stolen boat, a smuggler himself, recidivism), a fine and/or prison sentence is imposed. Five migrants reported being given fines by the Tunisian authorities in 2009 and 2010, which ranged from 150 to 300 TND (approximately 77 to 154 EUR). Three of the migrant interviewees also served jail time: two years' detention for a recidivist offender, although he was released December, 2011, when the revolution began (Tunisian migrant, crossed multiple times, latest in 2010); one year of detention for use of a stolen boat in 2009–2010 (Tunisian migrant, crossed 2009); and one month in jail in 2010 for the inability to pay the imposed fine (Tunisian migrant, crossed in 2009, returned 2010).<sup>7</sup>

However, two migrants interviewed were returned to the incorrect country of origin, in part because they gave false information during their interrogations while in detention. However, this was exacerbated by the fact that appropriate identification mechanisms were apparently not in place to properly identify the migrant's identity or nationality. In one case, the migrant informed the authorities that he was Palestinian and wanted to claim asylum, but the Italian authorities determined that he was of another nationality and, without any conclusive evidence, returned him to that incorrect country.

"I told them I was Palestinian, and I left Palestine because of the war, and I want to ask for asylum. The other persons of my group were also interrogated in the same manner. My request for asylum was not dealt with, and they concluded that I came from [another country]... I spent 14 days in the center without knowing what would happen to me. Then, they took me to an airport and [sent me to that country]. After investigation, the [country] authorities concluded that I was neither [their nationality] nor Palestinian, and they returned me with an Alitalia flight to Milano." [50]

In the second case, the migrant informed the authorities that he was Algerian and was returned to Algeria, where he was further detained and sent back to France and served another period of detention.

"I said that I was Algerian, and I was issued with a document indicating that I should leave France... I went to [another French city]. There, too, I was subjected to another identity control by the police. They discovered the paper... indicating my nationality as Algerian. I was detained for two days and then expelled to Algeria with a police escort...in 2007. In Algiers, the immigration authorities discovered that I am not Algerian. I was taken to the tribunal and convicted to two months detention. Once released, I was put in a center for foreigners, where I stayed three months. The Algerian authorities decided to expel me to France, escorted by two Algerian Police agents. [There] I was interrogated by the police, but refused to give them my real nationality. A French tribunal convicted me to...detention... After [detention], they released me and gave me seven days to leave France." [60]

On the other hand, migrants also reported returning of their own accord by contacting a Tunisian consulate in their country of residence. The six interviewed migrants who returned to Tunisia in this way reported becoming tired of their reportedly discriminatory treatment by employers and the police in Italy and France, as well as difficulties in finding a job.

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<sup>7</sup> For more information comparing the penalties for irregular exit in a number of third countries bordering the Mediterranean, see [13].

“In Italy, I tried to find a job and to regularize my situation, but I failed; In view of the police pressure and bad treatment, I decided to return to Tunisia.” [50]

“I was arrested and controlled [for my papers] several times. I was tired of this kind of life and went to the Tunisian consulate, got a travel document and returned to Tunisia on my own in 2010.” [34]

“When I came to understand that my employers, knowing that I was illegal, started exploiting me by giving me hard work and paying me less, I took the decision to put an end to this confused life and to return to my home country. I went to the Tunisian consulate in Palermo and asked to be issued with a *laissez passer*.” [48]

Finally, return does not actually always mean the end of a migrant’s journey. Many migrants interviewed have tried to enter Europe illegally multiple times or expressed their desire to try again as long as their situation in Tunisia does not improve. Two interviewees already attempted a second journey, but were interrupted by police before leaving Tunisia. One interviewee has already tried seven times. On the other hand, those who were able to find a job upon their return do not think they will try to re-enter Europe. Therefore, more sustainable policies than simply returning migrants to their country of origin need to be considered, that account for the variety of factors involved in a migrant’s decision to leave.

The serious issues as regards access to information and legal remedies evidenced in many of the migrant interviews with regard to their return highlight the necessity of further steps to ensure that migrants are properly informed of their rights, the next steps and legal remedies. Further, although it was false information that in part led to the incorrect returns of two migrant interviewees, proper mechanisms were apparently not in place to appropriately identify the migrants, as well as to potentially also identify groups at risk, to avoid returning migrants to unsafe or inappropriate situations.

## 8. Conclusions

These interviews and the analysis conducted reveal a number of potential human rights challenges for irregular Tunisian migrants throughout their journey via the Mediterranean, to the EU and back to Tunisia. Such challenges highlight the lack of *de facto* human rights for irregular migrants along their journey, despite the *de jure* human rights framework that currently exists. The gaps in protection of migrants draw attention to the inadequacies of the *de jure* human rights framework to provide such protection, which should be addressed in order to better protect the human rights of migrants.

During the journey at sea, migrants faced great danger, being ill prepared in overcrowded boats of poor condition, without life vests, a radio or a first aid kit, little food and water and, often, at the mercy of weather conditions. Their lives continued to be at risk during rescue and interception operations, which can, unfortunately, also cost lives and be compounded by jurisdictional issues that affect not only the implementation of search and rescue operations, but also the reception of the rescued migrants on European shores.

From the point of first contact with European authorities, the issue of access to information on the next steps, their rights and potential legal remedies became particularly problematic. Migrants reported being given little to no information during interception activities, detention and return. Moreover, some migrants reported being given misinformation when being returned. Such lack of transparency seriously calls into question the right to legal remedy, especially when being returned without having

been informed prior. Furthermore, appropriate mechanisms need to be put into place to ensure proper identification of migrants, in particular, groups at risk, to avoid refoulement of potential asylum seekers or the return of any migrant to an unsafe or inappropriate situation.

As Tunisia moves forward in the aftermath of the fall of the Ben Ali regime, its relations with the EU and with its own Tunisians abroad continue to develop, but look to be continuing largely along the same avenue as the previous regime. Regarding migration, the new government's priorities are two-fold: primarily, to promote legal migration, in particular, through agreements with European and non-European countries, and secondly, to strengthen links with Tunisians abroad in order to promote and encourage local development [10]. The EU should ensure that if agreements are made with the Tunisian government, there should still be proper respect of the human rights of irregular migrants and not an unequal facilitation of certain economic classes or trade interests at the expense of economic migrants, refugees and other groups. However, the increasing hostility towards irregular migration and migrants has meant that the EU has amped up its rhetoric towards border control, including externalized controls and increased surveillance measures. As can be observed in the European case, irregularity becomes the critical point at which the politics of migration and control meet [61]. The attempted total management of in- and out-flows are occurring at the same time as the EU touts "legitimate" border crossing as its stated objective. One of the main themes and pillars of the EU's Global Approach to Migration and Mobility is notably preventing and reducing irregular migration, while the Commission's Stockholm Programme and Action Plan both address the issue of irregular migration by emphasizing the need to reinforce border controls [62,63]. Such policies raise significant human rights concerns, in particular, the right to protection. As the EU-Tunisian relationship continues to develop in the post-revolution years, both parties should consider the real effects their migration policies do and may have on individuals and their access to human rights.

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## Conflict of Interest

The author declares no conflict of interest.

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