Exploring the 'Blurred Boundary': Human Smuggling and Trafficking on the Central Mediterranean Route to Europe

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ABSTRACT

Objectives: This study examines the convergence of smuggling and trafficking in persons along the Central Mediterranean Route (CMR) to Europe. We explore where and how these phenomena blur, impacting states' obligations and policy decisions.

Methods: We analyse 71 interviews with migrants who travelled on the CMR in 2018 and 2019, with a focus on 17 participants who experienced forced labour.

Results: We find clear overlaps and crossovers between smuggling of migrants, forced labour, debt bondage, extortion, kidnapping and human trafficking. Notably, we observed transitions from trafficking to smuggling – a phenomenon rarely reported. This includes cases where people negotiated boat crossings with their traffickers as a means of escaping detention. The concept of exploitation as a 'purpose' of trafficking, not clearly defined in international law, complicates the distinction between smuggling and trafficking. For example, instances where individuals were coerced onto boats by armed men could be considered trafficking, should extortion through the extraction of significant sums of money for dangerous sea crossings be recognised as a 'purpose of exploitation'. In our investigation into conditions of detention during these journeys, we argue that the deliberate use of torture for ransom, forced labour and extortion in certain facilities meets the 'purpose' criteria for exploitation, meaning migrants subjected to these conditions could reasonably be considered to have been trafficked.

Conclusion: Given the challenges in neatly categorising some experiences as either smuggling or trafficking under international law, we call for humanitarian protection based on the hardships that people experienced *en route*, rather than on dichotomous legal categorisations or on their initial motivations for leaving.

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INTRODUCTION

There has been an increase in empirical research on overlaps between smuggling and trafficking in persons in recent years (see, e.g., Achilli 2023; Kuschminder and Triandafyllidou 2020; Mai 2013; Skilbrei & Tveit 2008). Yet, the details and nuances of how smuggling of migrants can intersect and overlap with trafficking in persons (hereafter 'smuggling' and 'trafficking', for concision) are still sharply under-researched and insufficiently understood (van der Leun & van Schijndel 2016).[1] In political and media discourse, smuggling and trafficking are both routinely conflated and yet also often treated as entirely distinct phenomena (Carling et al. 2015; Murphy 2018). Through detailed personal narratives of migration trajectories along the Central Mediterranean Route (CMR) to Europe, we examine overlaps and transitions between smuggling and trafficking and consider the conceptual, practical and policy-related implications.

Both smuggling and trafficking are defined in international law in protocols to the same convention: the United Nations Convention Against Transnational Organized Crime (UN 2000). As such, the dominant lens for policies and interventions is one of countering organised crime, and responses to both issues have long been tied up with anxieties around irregular migration and political interest in tougher border control (Bird 2020). Yet, smuggling is generally conceived as a crime against the state (a violation of its borders), wherein individuals are transported across borders consensually. By contrast, trafficking is generally viewed as a crime against the person (a violation of their human rights), in which people are moved against their will. This simplistic distinction in turn fuels a polarising binary in which people are cast as either 'helpless, virtuous victims' if trafficked or 'foolish or greedy adventurers, complicit in their own misfortune' if smuggled (Gallagher 2009: 792). In the dominant discourse, not only is the agency of trafficked people routinely understated (see, e.g., Boyden & Howard 2013; Cockbain et al. 2022), but the constraints and exploitation faced by smuggled people are all too often overlooked. In this article, we argue that rather than treating 'trafficking victims' and 'smuggled migrants' as two distinct groups, it is important to understand whether and how experiences can overlap, not only in terms of locations, but also in terms of types of harm. To do so, we must start from the messiness and complexity of real-world migration journeys.

This study delves into the dynamics of smuggling and trafficking by analysing interviews with 71 people who travelled on boats from Libya, were rescued at sea, and disembarked in Malta in 2018 and 2019. Along with Italy, Malta is one of the two main points for disembarkation for irregular crossings into Europe on the CMR through Libya. By examining their journeys, we reveal how experiences of exploitation meeting international legal definitions of trafficking are situated within broader migration journeys, at least parts of which are smuggler-facilitated. Taking a situational approach (Clarke 1997), we consider how, where and when exploitation occurred and show the complexities around agency and its constraints. Our results challenge the simplistic binary construct of 'smuggled migrants versus trafficking victims' (Campana & Varese 2016), aligning with the more nuanced perspectives offered by researchers in recent years (see, e.g., Achilli 2023; Mainwaring & Brigden 2016; Zhang et al. 2018). We shed light on ways in which experiences of smuggling and trafficking can both overlap and succeed one another in individual journeys, including in some hitherto rarely documented ways (e.g., a trafficking to smuggling transition rather than just vice versa). From a policy perspective, the findings are particularly important in highlighting states' legal obligations towards supporting migrants who have been severely exploited en route. We are currently witnessing the further hardening of Europe's borders (Grappi & Lucarelli 2022) and increasingly punitive immigration policy in the UK (Stevens et al. 2023), for example. Amid this context, the findings are an important reminder of the importance of looking at experiences holistically and focussing on how externalised border controls in Libya, for example, can contribute to situations conducive to exploitation and human rights abuses.

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1   We use the term 'migrant' to refer to individuals who are travelling irregularly on the CMR. This includes those seeking asylum as well as others who do not fall under the conventional definitions of refugees or asylum seekers. While smugglers play a role in facilitating irregular migration, they are not classified as migrants themselves under this definition. The term 'migrant' is used for its concision and precision in describing the specific group of people under discussion. While this term can be contentious and has been described as non-neutral (Hamlin 2022), it is employed here for clarity and specificity.

CONTEXT

In this section, we introduce the geographical context to the study, the existing evidence base around how smuggling and trafficking intersect, and our theoretical framework.

IRREGULAR MIGRATION ON THE CMR FROM LIBYA TO EUROPE

The harms associated with irregular migration via the CMR from Libya to Europe have been attracting more attention from researchers in migration studies (Kuschminder & Triandafyllidou 2020; Kuschminder 2020) but also in medical studies (Angeletti et al. 2020; Reques et al. 2020). Despite the reporting of these harmful incidents in the news and by academics, they are seldom classified as trafficking. When these issues are framed as trafficking, there is rarely much written scrutiny of the specific experiences involved and why they are seen to constitute trafficking within international law.

The CMR became a prominent pathway to Europe, primarily through Libya, following the so-called 'migration crisis' in 2015 (Tinti & Reitano 2017). After the fall of Muammar Qaddafi's regime in 2011, a power vacuum allowed Libyan militias and smuggling networks to profit from the people smuggling economy (Micallef et al. 2019). Militias played a crucial role in facilitating smuggling activities, including smuggling migrants themselves, taxing smugglers, and operating detention centres (Micallef & Reitano 2017).

Migrants travelling on the CMR pass through various transit hubs, such as Sebha in southern Libya and Agadez in Niger (Bish, 2019), before reaching coastal Libya (see Figure 1). A second common route (for migrants from across east and central Africa) links Sudan and Chad through the desert to Libya (Tubiana et al. 2018).

The actors involved in facilitating irregular migration – that is, smugglers and brokers (also referred to as agents or handlers) – have commonly been portrayed in simplistic terms as 'criminal gangs' (Home Office 2022; van Liempt & Sersli 2012). However, a more nuanced understanding reveals that many migrants in different contexts simply view their smugglers as service providers (Aziani 2023; Zhang et al. 2018). Nonetheless, migrants on the CMR often report facing various forms of harm and exploitation, including detention,[2] deportation, violence, abuse, forced labour, trafficking, extortion, poor sanitary conditions, and health issues (Malakooti 2019). Importantly, while these instances of exploitation are widely recognised, they are rarely labelled as trafficking. Notable exceptions include instances of kidnapping and extortion documented by Kuschminder and Triandafyllidou (2020), whose empirical basis focusses exclusively on Eritrean migration through southeastern Libya to Europe.

Detention centres in Libya, both official and non-official, are sites where abuse and violence frequently occur (Malakooti 2019). Official detention centres are established or recognised by the Libyan government's Directorate for Combating Illegal Migration (DCIM), while non-official centres are run by smugglers, traffickers or armed groups. The prevalence and incidence of these risks and harms along the CMR remain largely unknown, but studies have reported high rates of mistreatment and torture experienced by migrants during their journeys (Micallef et al. 2021; Tubiana & Purbrick 2022). The European Union's policies on irregular migration have been accused of harming migrants, for example through the funding of the Libyan coastguard and detention centres in Libya (Hayden 2022). This funding took place despite the well-known involvement of at least some coastguards in the smuggling economy as well as a track record of mistreatment and alleged killing of people in detention (Malakooti 2019; Tondo 2021a; 2021b).

While widely reported in the media (Hayden 2022), the details of harms toward and exploitation of migrants on the CMR have rarely been studied empirically and in detail (Sanchez 2019). A few recent studies are beginning to fill this gap (Angeletti et al. 2020; Kuschminder & Triandafyllidou 2020; Kuschminder 2020; Reques et al. 2020). This paper offers a vital empirical lens by delving into migrants' own narratives on exploitation, thereby bridging the gap between academic discourse and the tangible realities faced by migrants on the CMR. In this study, we use a substantial qualitative dataset of 71 participants that focused on people's migration journeys, experiences, and perspectives. We analyse individual scenarios through the lens of trafficking and forced labour.

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2   We define 'detention' as the confinement of an individual within a specific facility or area, where their freedom of movement is restricted.

BEYOND DICHOTOMIES: ASSESSING THE FLUIDITY BETWEEN SMUGGLING, TRAFFICKING, AND EXPLOITATION

Two of the three 'Palermo Protocols', the supplementary protocols to the United Nations Convention Against Transnational Organized Crime (UNTOC), are concerned respectively with smuggling and trafficking, reflecting the salience of these issues to the international policy-making community. These protocols marked the first binding international law on smuggling and trafficking. Situating them within an organised crime framing has substantial implications for state responses, implicitly steering policy and law enforcement approaches towards crime control and punishment, which has influenced and shaped the measures and strategies used in addressing these complex phenomena (Bird 2020; Charnysh et al. 2015).

Over the two decades since UNTOC came into effect, anti-trafficking has become a major and well-funded social movement of the 21st century (Davidson 2017). Anti-trafficking responses have been heavily criticised for a focus on 'rescue' and 'rehabilitation' over rights-building and solidarity, and for the ways anti-trafficking can be a smokescreen for immigration control (see, e.g., Kempadoo & Shih 2022; McGrath & Watson 2018). Yet, for all the flaws of the dominant anti-trafficking responses, smuggled migrants rarely attract a fraction of the interest and sympathy afforded (even if sometimes only superficially) to trafficked people. Indeed, in the UK, smuggled migrants are sometimes presented as being unworthy of any sympathy: as people who are not genuinely seeking protection from persecution, but as 'economic migrants' complicit in breaking immigration laws and who prevent 'genuine' refugees from being helped. For example, people crossing the English Channel in small boats have been described by Boris Johnson, then Prime Minister, as 'paying people smugglers to queue jump and taking up our capacity to help genuine women and child refugees' (GOV.UK 2022).[3]

According to the Protocol against the Smuggling of Migrants by Land, Sea and Air (hereafter the Smuggling Protocol), supplementing the UNTOC, smuggling of migrants is defined as: 'the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (UN 2000: Art. 3).

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (hereafter the Trafficking Protocol) supplementing the UNTOC defines trafficking in persons as:

> the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power, or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (UN 2000: 32).

This definition underpins most national legislation on trafficking. On this view, trafficking has three constituent elements: the 'act' (e.g., recruitment), the 'means' (e.g., coercion) and the 'purpose' (intended or actual exploitation). Children (under 18s) are recognised as particularly vulnerable and are therefore afforded special protection under international law. For adults, consent to exploitation is only considered irrelevant in legal terms when one or more 'means' is involved (e.g., coercion, deception, fraud, abuse of power). However, children are seen as incapable of giving informed consent to exploitation under any circumstances, meaning their treatment can be viewed as legally constituting trafficking even without any such means (UNODC 2015). Therefore, in cases involving children, a situation can be classified as trafficking based only on the act (such as recruitment or transportation) and the purpose (exploitation) without the need to establish the use of coercive means. As such, the boundaries between smuggling and trafficking can blur even more readily where children are concerned, since distinctions focused on 'voluntariness' mean little here (Achilli 2023; Cockbain & Olver 2019).

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3   See also UK Home Secretary Priti Patel's remarks: 'The majority of people entering the United Kingdom are young men, not women and children, and they are paying the people smugglers to push those women and children to one side' (UK Parliament 2023), and 'Genuine people are being elbowed aside by those who are paying traffickers to come to our country'.

The relationship between smuggling and trafficking has been long debated in the scholarly literature (for a review, see, e.g., Campana & Varese 2016). As they identified, positions vary, with some scholars arguing that smuggling and trafficking should be combined as concepts, with both seen as part of a broader continuum of exploitation (Salt & Stein 1997; Skrivankova 2010), or alternatively incorporated into broader concepts like human rights abuses (Gallagher 2009).[4] Others have highlighted how smuggling and trafficking can intersect (see, e.g., Achilli 2023; Kuschminder & Triandafyllidou 2020; Mai 2013). For instance, Achilli argues that children can experience both trafficking and smuggling simultaneously, while Mai (2016) and Plambech et al. (2021) highlight the fact that people's exploitation can sometimes help achieve migration aspirations. Despite the notable exceptions mentioned here, what remains particularly noteworthy is how rarely these debates are rooted in empirical evidence.

While Campana and Varese's (2016) work is helpful in mapping the conceptual terrain around the smuggling-trafficking nexus, and their overall contributions to smuggling research are considerable, we find several of their contentions to be overly simplified and have both conceptual and empirical limitations. In arguing, for example, for the continued utility of distinguishing between smuggling and trafficking, Campana and Varese (2016) draw on just a handful of illustrations to propose just one way in which trafficking and smuggling can blur, namely when a smuggling situation transitions into trafficking because of the extreme deprivation of liberty. Yet, their arguments about the 'essential features of two distinct phenomena (control over a human being vs. illegal entry into a country)' (Campana & Varese, 2016: 89) are based, we would contend, on a reductive position that oversimplifies the complexities of agency in trafficking and smuggling dynamics, as well as very limited empirical data.

Their focus on 'two distinct states: that of smuggled person with agency to that of trafficked person without agency' (Campana & Varese, 2016: 93) sits uncomfortably with the growing literature on the importance (and complexities) of agency within trafficking (see, e.g., Achilli 2023; Cockbain et al. 2022; Jennings et al. 2022; Kidd 2020). Thus, people may freely agree to travel and work, but be deceived about the conditions involved[5]: something which may also play out in smuggling relations. Similarly, their stance that exploitation can often occur in smuggling but as the 'result of a choice that was made by the migrant' (Campana & Varese 2016: 94) in our view overlooks the extent to which people's options and decisions can be severely constrained within smuggling situations. The constraints can be individual, physical, and social, for example, arising through their immediate interactions with smugglers, the authorities, and others. Moreover, one stated 'means' of trafficking is the abuse of a 'position of vulnerability' (UN 2000), which people migrating irregularly could arguably occupy by definition due to their precarious legal status, and can be compounded by harms motivating their migration or experienced en route.[6] To examine whether and how smuggling and trafficking blur, it is important (though difficult) to distinguish between 'vulnerability' per se and the strategic leverage of this vulnerability by smugglers and others to enable a particular 'act' with a particular exploitative 'purpose' (UNODC 2013).

In presenting their dichotomy of smuggling versus trafficking, Campana and Varese (2016: 93) argue that both activities have a specific relationship to exploitation, which they define as 'the act of treating someone with substantial unfairness in order to benefit from their work'.[7] In their analysis, exploitation is an inherent and defining element of trafficking, whereas in

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4   Gallagher (2009) has highlighted both the potential of incorporating trafficking into human rights discussions and the limitations of human rights approaches, pointing out instances where they had failed within a criminal justice approach.

5   When discussing individuals being 'deceived about the conditions involved', it is crucial to consider the concept of agency within a continuum framework (Bettio et al. 2017; Choi-Fitzpatrick & Watkins-Smith 2021). Agency, broadly defined, is the capacity of individuals to act independently and make their own free choices. However, this capacity is not absolute and can vary significantly based on circumstances. The continuum of agency (Bettio et al. 2017) recognises that individuals may exercise some level of agency even in constrained situations, but the extent and effectiveness of this agency are significantly influenced by factors such as misinformation, coercion, and external pressures.

6   It should be noted that this concept has been criticised for being unclearly defined and too easily co-opted to block the mobility of certain groups by labelling them as inherently vulnerable and thereby justifying stringent migration controls under the guise of protection (e.g., Lima de Pérez 2016).

7   This work-centric perspective of exploitation fails to account for forms of non-labour exploitation, such as organ removal, which fall under the ambit of trafficking, or indeed other issues people may encounter on the CMR (such as non-commercial sexual exploitation).

human smuggling, it is not an intrinsic part of the process. Instead, exploitation in the context of smuggling is seen more as a byproduct of the individuals' vulnerable, undocumented status, rather than a direct consequence (or 'purpose') of the smuggling act itself.

Further exploring the theme of exploitation, Skrivankova (2010) in the broader trafficking literature posits that the severities of trafficking and 'modern slavery' are part of a 'continuum of exploitation', which also includes lower-level abuses. Yet, the meaning of exploitation itself is not defined in the Trafficking Protocol (e.g., Chuang 2014; 2017) leaving considerable vagueness and scope for inconsistency in determining where the thresholds for trafficking lie and creating challenges for measurement (O'Connell Davidson 2015; Zhang 2012; 2022).

Rather than try and be the arbiters of what constitutes 'substantial unfairness' or *how much* exploitation is enough to merit the trafficking label, we focus our analysis on instances meeting the International Labour Organisation's (ILO 1930) definition of forced labour.[8] We focussed on forced labour because our preliminary examination of the data indicated the presence of forced labour incidents and we noted a significant gap in the existing literature on forced labour in Libya. Moreover, we found that the ILO definition of forced labour provides a more precise and actionable framework for coding our secondary data, compared to trafficking for instance (see Zhang 2012; 2022). If forced labour is present in the narratives analysed, these instances would easily satisfy the 'purpose' element of the Trafficking Protocol. However, it is essential to acknowledge that forced labour and trafficking, while overlapping, are not synonymous: not all forced labour is trafficking, nor is all trafficking forced labour – although the two distinct legal constructs have been increasingly conflated (Chuang 2014). Consequently, we also delve into whether forced labour behaviours identified could also qualify as trafficking within established legal frameworks (i.e., if they also involved an 'act', committed by a 'means' (adults only) towards that 'purpose').

Delineating the overlaps between trafficking and smuggling is not academic nitpicking over terminology; it has substantial real-world implications for responses to vulnerabilised migrants (Piper et al. 2015). We will explore these implications later in the discussion.

PRESENT STUDY

Our study is designed to shed light on the experiences of people moving on the CMR, examining how trafficking occurs within smuggler-facilitated journeys. The primary research question is: What are the overlaps and distinctions between human smuggling and trafficking on smuggler-facilitated migration journeys along the CMR to Europe?

The study employs a situational approach (Clarke 1997) to analyse the experiences of migrants travelling through Libya to Europe, with a particular focus on forced labour. We also consider here, however, other human rights abuses (e.g., deprivation of liberty) present in the data that fall outside the ILO's definition of forced labour. The situational perspective draws on opportunity theories (Felson & Clarke 1998) to explain crime or other harmful activities in terms of a consequence of the *interactions* between an individual and their social and physical environment (Clarke 1997). Therefore, our focus is on the immediate context within which severe abuses occurred: the what, where, when, and how. Understanding the opportunity structures around smuggling- and trafficking-related harms is important in building up a fuller, empirically informed picture and helping identify possible pinch-points for intervention (see also Bish et al. forthcoming; Cockbain 2018; Cockbain et al. forthcoming).

METHODS

DATA

Our study examines 71 anonymised transcripts from interviews in Malta with people who travelled irregularly across the Mediterranean Sea in 2018 and 2019, supplied by the Global Initiative against Transnational Organised Crime (GITOC), an independent civil-society organisation. A GITOC researcher who conducted the interviews asked participants to describe their journeys in as much detail as they felt was comfortable. The first author, formerly with GITOC, partook in four interviews (6% of the sample).

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8   The ILO (1930) Forced Labour Convention defines forced labour as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'.

This study relies on a convenience sample, gathered via targeted selection, with a specific emphasis on individuals who reached Malta, one of the key points of disembarkation for migrants on the CMR after a sea rescue. These interviews were conducted at Malta's Marsa Initial Reception Centre (IRC) between July 2018 and September 2019. This is the first point of arrival for migrants intercepted at sea, who are brought there by non-governmental organisation (NGO) vessels, private vessels, or Malta's Armed Forces (Bish et al. forthcoming).

The semi-structured interviews aimed to better understand people's journeys, focussing on routes, costs, experiences with smuggling, and harm. Each interview was conducted in a private space and lasted around an hour. A professional interpreter translated these discussions from the participant's language into English. Near-verbatim notes in English were typed simultaneously, recording the conversation; however, no audio recording was made due to the sensitive nature of the conversations.[9]

SAMPLE

The study comprised 71 adults: 63 men (89% of the sample), and eight women. The participants ranged in age from 18 to 50 years old at the time of their interview but were generally young: all bar one were under 36, and the mean age was 21 (IQR: 6.5 years). It was notable that at least one in five (n = 15) participants had likely been children (under 18) upon leaving their country of origin. The participants came from 15 different countries in Africa and two in the Middle East (see Table 1). All participants travelled through Libya and embarked on boats in the Mediterranean from Libya – which was a prerequisite for inclusion. Nine participants (13%) started their journeys in Libya.

The sample of 71 participants, which accounts for 1.46% of the 4,851 people rescued and disembarked in Malta in 2018 and 2019, is fairly similar on certain demographic characteristics to this larger group, particularly in terms of gender and nationality (UNHCR 2020). Our sample includes 11% women, compared with 5% among all recorded disembarkations in Malta in 2019 (gender data for 2018 was not published). Furthermore, 44% of our sample reported being Sudanese nationals, compared to 35% in the total recorded arrivals in 2018-2019. Eritrean nationals constituted 10% of our sample, compared with 9% observed in the total recorded arrivals (making up the second most common nationality for both). Although ours is clearly a convenience sample and we make no claims to generalisability, it is worth noting that it stratifies on relatively similar lines with the larger migration trends of this period.

COUNTRY	n	%
Sudan	31	44
Eritrea	7	10
Chad	6	8
Egypt	4	6
Libya	4	6
Morocco	4	6
Ivory Coast	3	4
Cameroon	2	3
Somalia	2	3
Other	8	11

Table 1 Number of participants by country of origin in decreasing order (n = 71). Other includes: the Central African Republic, the Gambia, Ethiopia, Kenya, Nigeria, Syria, Tunisia, and Yemen.

ANALYSIS

We analysed the contents of the interview records qualitatively, paying particular attention to the situational or environmental (Wortley & Townsley 2017) context within which exploitation occurred. The situational factors were then compared across the different cases to detect common patterns. This cross-case comparison helped us identify patterns in shared

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9   While this method might not provide the exact linguistic nuance that verbatim transcripts might offer, it focuses on the substance and essence of the conversations, which are our primary interest.

characteristics or situations that recurred around human rights abuses and forced labour. Key findings are illustrated using both anonymised quotes and vignettes from people's experiences.

ETHICS

The process of gathering data adhered strictly to the ethical principles and safety guidelines outlined by GITOC (2019). Each participant provided informed verbal consent prior to interview, understanding that the data collected would be used for migration research on the CMR. Assurances were given that participants would remain anonymous. Researchers emphasised to participants that the information they shared would not be used against them or affect their asylum claim. Participants were also made aware that they could reach out to GITOC for further clarification, take breaks during the interview, terminate it at any point, refuse to answer any questions, and that their responses would be translated by impartial professional interpreters who facilitated communication but did not guide the interview. No financial compensation was offered for participation. The UCL Research Ethics Committee (REC) granted permission for the use of the secondary data in this research, not least because their onward use aligned with the original purpose (reference 15451/001). We have altered all participant names to maintain anonymity and removed other potentially identifying details to ensure confidentiality.

DATA LIMITATIONS

The data used in this study have several limitations. The sample (n = 71) is non-random and not representative, making up a convenience sample of less than 2% of the 4,851 people rescued at sea and disembarked in Malta in 2018 and 2019. The data is derived from people who made a successful journey from Libya to Malta, excluding those who migrated elsewhere, started elsewhere, or who died during the sea crossing. As such, care should be taken to avoid generalising from this sample.

Our sample contains proportionally slightly more women than the norm among all those rescued at sea and disembarking in Malta in 2019 (11% of our sample, compared to 5% of total recorded arrivals in Malta in 2019). Nevertheless, their relatively small number in absolute terms (n = 8), means we may well capture fewer of the distinct challenges women face on journeys, such as gender-based violence or sex trafficking, known to be common on these routes (Mai 2016; Plambech et al. 2021).

Like any research relying on interviews, self-reporting bias is an issue of concern, which could influence the demographics of the sample and details of the journeys disclosed (Althubaiti 2016). Participants might have intentionally altered or left out certain information due to concerns about their asylum applications. This risk was mitigated by maintaining anonymity and confidentiality, and reassuring participants that their asylum status would not be influenced by the interviews.

The study predominantly documented cases of non-sexual forms of exploitation, but there is a particular possibility for underreporting of sexual exploitation due to social stigmas (Gezie et al. 2019). Despite diligent translation efforts, there might have been minor misinterpretations or nuances lost, and occasionally, quotes were lightly edited to improve comprehension.

Despite these limitations, these original interviews with a hard-to-reach group provide crucial insights for in-depth research into the situational conditions around irregular migration and harms people experienced en route. In the context of qualitative research, our overall participant pool was large, encompassing 71 individuals. The subset on whom we focus here is more modest but still substantial (n = 17) and, crucially, their experiences offered rich, diverse insights.

RESULTS

OVERVIEW OF JOURNEYS

The median duration of journeys was 18 months (Min = 3 days, Max = 115 months, IQR = 22 months). Ninety-three percent (n = 66) of the sample travelled by land and sea for their journey, except for five participants who also travelled by plane for the initial journey to Libya before getting on a boat to cross the Mediterranean Sea. All participants used a smuggler for the sea

crossing to Europe. Thirty-two (45%) participants used a smuggler for all border crossings as well as to travel from southern Libya to northern Libya. Only 11% (n = 7) used a smuggler only once for their journey, to cross the sea.

Two thirds of participants (n = 48) reported working for pay on their journey to Europe, of which 90% (n = 43) worked in northern Libya. This does not include participants who worked in conditions of forced labour, dealt with separately in the analysis. Seventeen participants (24%) worked in conditions meeting the ILO (1930) definition of forced labour, all in Libya.

All participants had been detained at least once in their migration journeys by the time of interview: either only in the Malta Initial Reception Centre where they were interviewed, or, more commonly also before reaching Malta (68%, n = 48), sometimes multiple times prior to arrival (n = 13). Detention upon arrival in Malta aside, most incidents of detention were in Libya (56 out of 63 detention instances).[10] In most cases this detention was directly linked to migration journeys but in some cases also acted as a catalyst to further onward migration.

Participants did not always specify or know whether the detention centre in Libya, defined as a holding facility where migrants are detained, was official (government-run) or unofficial. Many of the participants who were detained in Libya reported being tortured or beaten and were asked for a ransom to be released. The primary focus of the original GITOC research interviews was not on detention conditions within Malta, but instead on the conditions encountered in Libya and during the journey leading up to Libya. Therefore, the current study necessarily also focusses on detention before Malta.
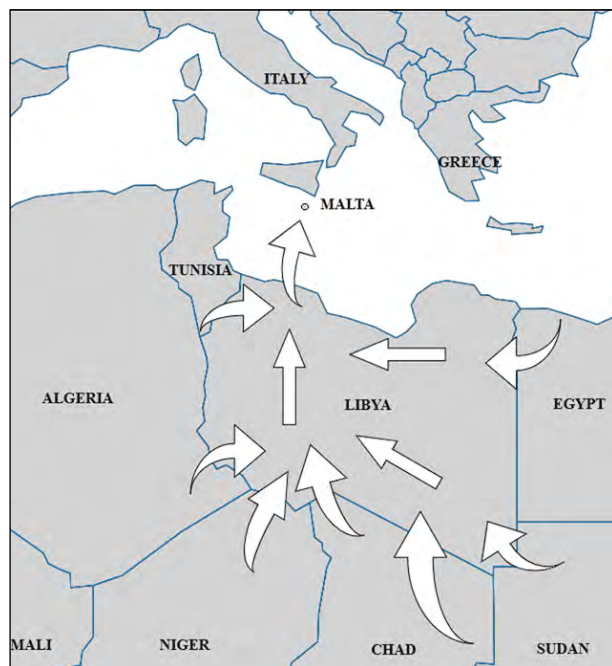
Figure 1 Map showing migration routes to and from Libya travelled by participants, generated on Python using Matplotlib.

DETENTION AND RELATED ABUSES

Examining detention on the CMR is important in better understanding the factors that facilitate and perpetuate exploitative practices, including but not limited to behaviours that could constitute trafficking. The prevalence and conditions of detention documented in our data are also concerns in and of themselves.

Focussing on experiences prior to arrival in Malta, participants' trajectories into detention occurred in one of three ways. Nine participants (13% of total sample of 71 participants) were detained after they were caught by the Libyan coastguard during the sea crossing. Most participants were abducted en route by people other than their smugglers, stopped at checkpoints, or arrested and detained in southern (n = 8, 11%) or northern Libya (n = 22, 31%). Participants were commonly arrested at checkpoints because they did not have the right paperwork – a hazard of their irregular status in Libya. Fourteen participants (20%) were

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10   Other reported detention instances were in Sudan (n = 2), Ethiopia (n = 2), Egypt (n = 1), Niger (n = 1), and Yemen (n = 1).

abducted by the people whom they believed would smuggle them into southern Libya. Several of these participants reported being sold to detention centre owners who then tortured them to extract money from their families or friends or exploited them for forced labour (see section Forced labour and trafficking in and outside detention centres).

Characteristics and conditions of detention centres

From participants' accounts, the physical characteristics of detention centres along the CMR, but most especially in Libya, were varied. While some facilities were described as large, overcrowded spaces accommodating up to 600 individuals, others were smaller, with one participant describing having been detained in a bathroom with four other people. The infrastructure ranged from purpose-built warehouses to makeshift prisons, which participants were sometimes forced to build themselves by guards, who were often armed. This variation underlines the spectrum between organisation and opportunism under which the captors operate. On the upper end of this spectrum, the level of organisation and economies of scale were clearly reminiscent of organised crime.

Participants described conditions within detention centres as being defined by systematic, pervasive and severe maltreatment of detainees, including physical abuse, severe resource scarcity, and the constant menace of unsanitary conditions and physical hardships. Participants reported being provided meagre rations, often consisting of pasta in water, with quantities so limited that it incited competition among them. One participant noted that food was used as a tool of control and punishment: guards intentionally provided insufficient quantities of food and would physically assault those attempting to access additional servings, effectively transforming mealtimes into a source of fear and increased vulnerability among the detainees.

Participants described extremely limited provision of potable water, leading to instances of dehydration-related deaths among their fellow detainees. They said water was often either salty or contained fuel. Ibrahim,[11] from Sudan, also described scorpion infestations: 'There were a lot of scorpions. Ten people died because of thirst and scorpion bites.'

The dehumanising treatment extended to conditions of sanitation and hygiene, often worsened by overcrowding according to several participants. In one example, a detention facility with 200 occupants reportedly had only three to four toilets. In a small official detention centre run by the Directorate for Combating Illegal Migration (DCIM), migrants were reportedly also detained in very harsh conditions and invited to pay a bribe for their release. Mustafa, from Darfur, Sudan explained:

> It was a camp. The department for illegal migrants was in charge. It was a very small place which had iron rods covering it. It was very hot. I stayed there for two days. We were told we would be transported to a larger prison where we would not be able to leave. They told us: 'You have the opportunity to pay and leave now before being transported further.' They got us a phone to call our family or our smuggler to pay LYD1,000[12] (USD730) and leave.

Participants reported varying degrees of freedom of movement. Some people were permitted limited freedom, such as leaving for work, while their movement was still restricted due to stringent oversight and separation from wider social interactions. For others, leaving the detention facilities was prohibited.

Experiences of forced labour that took place under detention were also commonly reported. Some participants who were detained reported being forced to work in demanding settings such as construction sites, where physical labour was intense and conditions often hazardous (see section Forced labour and trafficking in and outside detention centres).

Visits by international humanitarian organisations to state-run detention centres were mentioned by some participants but described as being limited, offering little protection from abuse. Participants described facing threats of retaliation from guards if they spoke out against their captors; those who did so said it resulted in no visible change.

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11   As a reminder, names of participants have been altered to ensure anonymity.

12   All conversions were made using a historical currency converter for the estimated given year, but given currency fluctuations, they may not always reflect the actual value at the time.

Gender-based violence was also reported by several participants who described witnessing women being subjected to sexual violence, which has been documented in other studies (Palillo 2020; Reques et al. 2020). In instances where it was reported, sexual violence could potentially be understood in various ways simultaneously: a form of control, a component of torture, and an exploitative 'purpose' as per the Trafficking Protocol – regardless of whether it was commercial or non-commercial in nature. Only one participant in the sample of 71 reported being victim to sexual violence but did not report forced or coerced sexual labour, which has been reported in other research (Campana 2016; Micallef et al. 2021). This underreporting could be due to the stigma associated with sexual victimisation.

Extortion in detention through torture and beatings: A potential 'purpose' in trafficking

In several reported cases, detention centre guards used torture as a coercive strategy aimed at extorting payment from the friends and families of people detained. When it happened, it was sometimes reported to be frequent, even daily, and could lead to deaths, as described by Ibrahim, from Sudan:

> After 18 days my friend Ahmed's legs were tied to the ceiling. They took ten of us out and did the same. They hit us with a hose, ten lashes each. They would heat up wires and put them on his chest. They had tanks where they had toilet dirt. As part of the torture, they would put his head into the tank. Once, after they tortured him, they let go of the rope, he fell on his neck and then he died. Later, they dragged him outside and threw his corpse out. I was calling my family and my friend's also. Ahmed's family was […] selling their house, not knowing that he had already been killed.

Extortion was often further complicated by the poor telecommunications infrastructure, which hindered participants' contact with families. Some participants said that unsuccessful attempts to establish such communication sometimes resulted in increased physical violence. In several cases, an individual's failure to pay resulted in collective punishment for all. Such group punishments, meted out for individual non-compliance, appear to form a part of the control mechanisms within detention centres. Moreover, the extortion tactics employed in detention centres extended beyond non-state actors, such as smugglers, to include state entities, as seen earlier in Mustafa's experience with DCIM staff.

In considering whether the above scenarios meet the trafficking definition, the 'act' is the physical retention of a person; the 'means' encompass methods such as assault, coercion, or threats; and the 'purpose' is the extraction of money. While extortion or 'torture for ransom' are not explicitly delineated as an exploitative purpose in the Trafficking Protocol, its systematic use here could fit a broader exploitation framework where individuals are not just held against their will but are also used as leverage for financial gain. This scenario aligns with the broader definitions of trafficking, where exploitation does not necessarily have to involve forced labour or sexual exploitation but can also encompass financial exploitation through coercive methods. However, this interpretation raises broader implications, suggesting that any act of kidnapping for the purpose of extortion might potentially be construed as trafficking. Nonetheless, recognising this facet of extortion as a significant 'purpose' of trafficking, particularly in the context of detention centres, aids an appreciation of the full scope of trafficking activities and the various forms they can take.

FORCED LABOUR AND TRAFFICKING IN AND OUTSIDE DETENTION CENTRES

Seventeen participants reported conditions that clearly met the International Labour Organization's (1930) definition of forced labour (see Context). Forced labour is both a harm in itself and fulfils the 'purpose' component of the Trafficking Protocol's definition. For trafficking to be evidenced, however, there also needs to be an 'act' (e.g., recruitment, transportation, harbouring) to serve this 'purpose' and, where adults are concerned, a 'means' (e.g., coercion, deception, abuse of a position of vulnerability). To that end, we will examine the circumstances surrounding the forced labour incidents, specifically focussing on environments like detention centres and less confined areas like goldfields.

In and around detention centres

Eleven out of all participants reported conditions of forced labour while they were in detention. Rayan, from Darfur, described how this took place: 'During the day I would work like a slave, at night I would return to the prison to sleep. Three months of work and they never paid me anything. I was working like a slave.' Significantly, as illustrated in this quote, participants' own descriptions of forced labour experiences echoed terms such as 'trafficking' and 'slavery', highlighting a keen awareness of their circumstances and the gravity of their situation.

Debt bondage was also observed within a detention context. Debt bondage is understood in international law as a 'practice akin to slavery' – or a 'purpose' of exploitation in the Trafficking Protocol (UN, 2000). Debt bondage instances involved individuals forced to work by their captors until they could repay a debt. Often, the origin of this debt was either the cost associated with the individual's journey, which they owe to their smuggler, or the cost paid by a 'debt purchaser' – the person who settled the debt with the smuggler upon the individual's arrival, hence transferring the debt obligation to themselves. Alternatively, the debt was incurred for their release from detention centres. As such, the combination of debt bondage and forced labour became another means of extracting value from people on the move and served as the 'purpose' element as defined in the Trafficking Protocol. Ishmael from Darfur shared his experience in these terms:

> In prison we were beaten and tortured, including with electricity. To leave I had to pay LYD2,500 (USD1,825). I couldn't pay myself, so one of them took me with him to take care of his sheep. It was in the middle of nowhere. I stayed 3 months then ran away.

Ishmael was subject to extortion, which, although not explicitly named in the Trafficking Protocol, could arguably be viewed as a trafficking 'purpose' (see section Extortion in detention through torture and beatings as a potential 'purpose' in trafficking). If individuals are unable to pay an extorted fee, this leads to debt bondage. Subsequently, one method to discharge this debt is through labour, which, under the duress of penalty or against the individual's will, constitutes forced labour. In other words, one form of exploitation (or 'purpose') can lead to another within a trafficking continuum.

Another participant, Helen, from Eritrea, highlighted that she was sold from a detention centre to another one, where she needed to work: 'I didn't pay, so I was sold to a new warehouse in Asma. I would need to do some work in the warehouse.'

There are clear grounds to argue that the activity described in these two cases meets the international legal definition of trafficking. Even in these short example quotes alone, various 'acts' as listed in the Trafficking Protocol are present, that is, 'transportation', 'transfer', 'receipt' (Helen only), and 'harbouring'; the 'means' are constituted by physical violence, threats, and the abuse of a position of vulnerability; and the 'purpose' of forced labour is explicit. The imposition of debt bondage could be understood as either a 'means' (because the debt is what compels the forced labour) or indeed as an interwoven 'purpose' in itself (as a 'practice akin to slavery').

In other cases, participants reported being compelled to work while in detention, with their access to basic necessities such as food and water contingent upon this work. For example, one participant said that detained people would only be given water and bread if they performed tasks such as cleaning and tidying up the centre.

The labour of detained people was also appropriated for direct financial gain. For example, Ibrahim, from Sudan, explained that he and other detainees were put to work from 4 am to 6 pm to assist in the construction of a house belonging to a guard. They were forced to build the first and second floors of this private property, all while being subjected to degrading treatment and deprivation of basic necessities.

Overall, our findings suggest that models of forced labour varied. Some instances of exploitation were income-generating for the exploiters, in that they directly produced profit (e.g., hiring people out for work). Others can instead be seen as cost-saving or labour-saving measures, in that the forced labour involved work that would otherwise have to be done by the exploiters

themselves or someone else (e.g., cooking, cleaning, or building a new detention facility or a guard's new house).

Outside detention centres

Participants also reported dynamics of debt bondage and forced labour outside of detention centres. Here, too, we see clear evidence of one or more 'acts', 'means', and 'purposes' in combination, suggesting that the activities described can constitute trafficking as defined in international law. For several participants, forced labour unconnected to detention centres took place in the context of the gold mines straddling the Chad-Libya border. Participants described working conditions on these gold mines as very difficult, and while participants were not physically constrained inside a building, they were deprived of freedom of movement, as Mustafa, from Darfur explained:

> There is no freedom, we were guarded when we were sleeping, we were followed when going around. They were all armed. Sometimes you were not allowed to sleep. When they were not happy with my work, they would threaten me – they would beat us up. They were not using the weapons.... It was very dangerous working conditions in the gold mines. Mines collapsed, people died.

Indeed, the mines were identified by several participants as sites of forced labour and debt bondage, with Mahamat, from Chad, explaining: 'I wasn't very strong, so I had to work for two months to cover the expenses of my trip. For the entire time my work was for the person who had transported me there.'

Mustafa described his experience of arriving in Kouri Bougoudi, a goldfield twice the size of greater London straddling the Chad-Libya border (Bish 2021). Thousands of migrants have visited the goldfield at any one time from across central, west and east Africa and it has acted as a key hub on journeys to Europe (Bish 2021). As Mustafa said:

> Once you get to Kouri, you will meet the Tebu [...], they informed me that they bought me off from the smuggler and now I need to pay them back this money. They will ask to work different jobs: driving cars, working in gold mines. After I pay off the money, only then will I make my own money.

Mustafa's account further underscores the fluidity between smuggling and trafficking operations. Traditionally, smuggling is perceived as a service that concludes after transportation. However, as suggested in this instance, the smuggler profited directly from the ensuing exploitation, extending their role beyond mere transportation. Here, however, Mustafa's smuggler can be seen to have recruited, transported and sold Mustafa into a forced labour situation, blurring the clear demarcation often assumed to exist between smuggling and trafficking.

While numerous instances of detention and forced labour are identifiable by physical confinement, our findings demonstrate that this was not universal. In some instances, geographical remoteness and the prevailing social dynamics served as the conditions of confinement. This confinement was particularly reported in settings where many sub-Saharan African individuals were in debt bondage arrangements with local inhabitants.

Abbas, from Darfur, described his experience in the remote village of Rabyana, located 140 kilometres west of Kufra in southeastern Libya, which illustrates this phenomenon. After being abducted and detained by the smuggler who facilitated his journey, Abbas reported finding himself trapped in a situation where even the local 'council of elders' was aware of his unlawful detention in the village. Despite this awareness, the exploiter's relationship with locals and the implicit recognition of 'ownership' meant that that Abbas received no assistance to escape, leaving him stranded in a condition that effectively amounted to detention. As Abbas stated: 'We were always allowed to go in and out but we were not able to escape because we were in the middle of the desert. People would always ask "who are you?", "who are you with?".'

This example underscores how detention and exploitation can transcend the conventional image of physical confinement and how geographical and social isolation can lead to situations akin to traditional slavery practices. In these instances, individuals are not just physically confined but are also subjected to a form of ownership where their agency is severely compromised. This bears a closer resemblance to historical slavery, where the physical sale of

individuals and the recognition of such 'ownership' by local authorities were commonplace (Altaleb 2015).

Trafficking was also reported in international supply chains, such as manufacturing. For instance, Adam, from Darfur, shared his experience of labour exploitation in a manufacturing facility affiliated with a recognisable international brand in Libya. Here, he was exploited in multiple roles, from serving as a doorman to assisting in packaging tasks. Despite the provision of accommodation, the promised remuneration – LYD25 per day (USD18) – was not paid after several months of service. Here, the key 'means' that could make his experience trafficking in legal terms is deception regarding remuneration, with the purpose being the exploitation of his labour.[13]

In other cases, participants who were waiting for the Mediterranean Sea crossing in smugglers' coastal warehouses reported being asked by smugglers to work. These warehouses[14] were often referred to by participants as 'Tourkina', to describe holding facilities run by smugglers before sea embarkation. Several participants reported that they had stayed in a 'Tourkina' that accommodated hundreds of people with durations ranging from days to months. Adam (from Darfur) explained how smugglers used migrants to build more warehouses:

> Many smugglers have a number of [warehouses] that are completely built by migrants. The smuggler will take out migrants from the Tourkina and ask them to do work for them. For the entire period at the Tourkina, I would be taken to do such work.

KIDNAPPINGS AFTER SUPPOSED SMUGGLING JOURNEYS

As seen with Adam's experience, participants' accounts reveal variation in smugglers' behaviour and treatment of migrants. For instance, Samir, from Sudan mentioned being treated well and provided with food during his journey with smugglers in Sudan but that conditions and treatment drastically deteriorated under smugglers in Libya: 'They are people with hearts of stone. They have absolutely no mercy towards anyone.' Falikou, from Ivory Coast also highlighted: 'They would never tell you the truth. They just want money. Even when you are in trouble, they never help you, they just want cash.'

More severely, the deceptive role of individuals posing as migrant smugglers in Libya, who were in fact leading people into detention, was reported by several participants. Abbas (from Darfur) said: 'On our way to the mines [with a smuggler] we were caught and taken to Libya. There, I was imprisoned together with my brother. After three months, we paid enough money to get free. Together we had to pay a LYD5,200 [USD3,800] ransom to get out.'

This scenario reflects a complex interplay of trafficking elements. The experience includes forced movement and harbouring, underlined by an extortion mechanism, thereby constituting a form of exploitation centred on ransom. Notably, even in the absence of labour, these circumstances could potentially be categorised as trafficking due to the presence of the requisite 'act', 'means', and 'purpose'. Specifically, if extortion is considered a form of exploitation (and thereby fit the more contentious 'purpose' criteria in this scenario), these circumstances might meet the criteria for trafficking due to the presence of these requisite elements. As a result, the smuggler's behaviour could reasonably be argued to constitute trafficking.

The role of smugglers in explicitly treating people on the move as commodities for financial gain was also highlighted by several other participants. In one case, described by Hamid, from Darfur, this manifested in the context of inter-smuggler rivalry: 'My initial smuggler kidnapped a number of migrants of this smuggler and now he retaliated by stealing the other smuggler's migrants.' The use of the word 'stealing' in this context highlights the perspective of treating people as possessions. Rayan (from Darfur) also noted that he had been sold to another

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13   This case could also qualify as forced labour if elements of coercion or significantly oppressive working conditions were present, as these factors are critical in distinguishing forced labour from mere labour exploitation. However, we did not hold enough secondary data from Adam's account to label his experience as forced labour.

14   In our analysis, we chose not to label these warehouses as detention centres, but rather as crucial staging posts in the smuggling process, distinct from conventional detention facilities. Yet, the accounts of participants, who would sometimes spend months in these warehouses awaiting sea embarkation, suggest these locations effectively functioned as places of detention.

'smuggler',[15] while Abdo, also from Darfur, said he was traded for goods by his smuggler to other smugglers of people and goods. Idriss, from Darfur, describing his own experience, noted: 'the Libyans use migrants as trade, we are a very good currency.' The language of commodification and indeed of slavery employed by participants themselves to describe these transactions emphasises how they explicitly perceived their treatment as dehumanising and commodifying.

Ibrahim (from Sudan) described his abduction during his smuggling journey from Chad to Libya, when his convoy was attacked by a Libyan Tebu armed group in the middle of the desert. The Tebu group stopped the first two cars of the three-vehicle convoy and shot at the third vehicle when the smuggler refused to stop, injuring two passengers. They abducted all 25 passengers and took them to a mountain top where for five days they endured intense desert heat with minimal water and food, resulting in the death of two Egyptian passengers. Ibrahim reported that his captors used telescopes to monitor the area and later abducted an additional 50 people to the mountain top. He described how people dug for water and buried themselves partially in the sand to seek shelter from the desert sun, discovering human remains in the process, including skulls and bones. The abductees were subsequently taken to the group's farms in southern Libya where they were forced to work for several months. The captors demanded a payment of LYD4,000 (USD2,920) per person for their release, which Ibrahim was unable to provide, resulting in his prolonged captivity. This case is clearly constitutive of trafficking, with the captors recruiting their victims through kidnapping, controlling them through violence, and transporting them for exploitation in Libya.

The cases in this section highlight the complex and often perilous nature of smugglers' activities. While they are typically viewed as perpetrators, orchestrating the illegal transport of people and sometimes transitioning from facilitation to exploitation, they can also find themselves in precarious situations, subject to attacks that aim to kidnap the people they are transporting. Our findings that many smugglers *could* be seen in fact to be technically engaged in trafficking (as defined under international law) – whether they *should* be seen that way, the implications of doing so, and whose interests it might (and might not) serve are separate questions (see, e.g., Broad & Gadd 2022). Nevertheless, this finding highlights a clear role that trafficking can play in facilitating northbound mobility on the CMR to Europe.

ESCAPING DETENTION VIA DANGEROUS SMUGGLING JOURNEYS TO EUROPE

We found extensive evidence of smugglers extracting significant sums of money from participants for unreliable and dangerous sea crossings, indicating another notable form of exploitation on the CMR. Not everything that is exploitative, of course, could or should be conceptualised as trafficking. Nevertheless, we did identify evidence of behaviours around the crossings themselves that could be argued to meet the 'act', 'means', and 'purpose' elements of the Trafficking Protocol, which speaks in itself to its conceptually vague boundaries and need for greater precision and consistency in how and where the label is applied.

In addition to the unpredictability and dangers of sea crossings, several participants described how smugglers forced migrants onto boats – sometimes at gunpoint – despite expressing apprehension due to dangerous sea conditions. As Omari (from Darfur), described:

> They used to whip some migrants who were scared to go up, so everyone went up; a lot of people got really scared when they saw the sea. But the armed guards would force people to board the gumba [boat].

The forced embarkation of individuals onto boats in treacherous waters certainly reveals exploitative practices and highlights the power imbalance inherent in smuggling operations. More research with smugglers is required, but by forcing people onto boats, smugglers may seek to avoid authorities and remove evidence of their activities. It is important to note that smuggling can be non-consensual and non-consensual smuggling does not automatically

15   The term 'smuggler' is used as it reflects the language of interview participants. However, considering that the 'sale' of the people could be viewed as a 'practice akin to slavery', thus meeting the 'purpose' of exploitation criterion of the Trafficking Protocol, a more accurate classification might be 'trafficker'. Therefore, while we refer to them as a 'smuggler', used in accordance with how participants phrased it themselves, the word 'trafficker' would arguably be appropriate here too given the actions involved.

equate to trafficking and could be outside the scope of either phenomenon. Situations can exist outside the defined parameters of both phenomena.

Some participants held in detention centres in northern Libya secured their freedom via people smuggling networks extending to Europe, a process typically requiring substantial payment from detained people's families and friends to a broker, which provides evidence of collusion between detention centres and smugglers. In other words, we encountered several unique cases of trafficking that became smuggling with the same actors involved.

For instance, Faheem, from Darfur reported that he had negotiated an agreement with his captor that required him to either pay LYD4,000 (USD2,920) or undertake eight months of labour in Libya to facilitate his release and return to Sudan. Yet, in a surprising turn of events, he reported finding himself being transported towards the sea crossing instead, without reporting to have paid. Such experiences suggest that the terms of agreements with those controlling people's mobility can be subject to abrupt and unexplained changes.

This observation subverts traditional perceptions of smuggling as a voluntary or service-led transaction. It also shows how those embarking on what appear to be smuggled journeys might be acting under coercion or without the genuine intention to take a journey. These situations challenge our standard understanding of smuggling and trafficking, while pointing to the complexity and multifaceted nature of migration journeys.

Another example of the smuggling/trafficking ambiguity is the case of Omari, from Darfur, who faced financial constraints when attempting to pay the smuggler for the journey. The smuggler initially requested LYD1,500 (USD1,095), but Omari had only LYD500 (USD365). In response, the smuggler accepted the available amount and allowed Omari to work with him in exchange for the opportunity to join a boat if space became available.

This scenario raises questions about the nature of the arrangement between the migrant and the smuggler. While it may not seem to necessarily fit the traditional definition of forced labour, as Omari was not apparently coerced into labour against his will, it does highlight the complexities of agency and constraint within the context of migration. Moreover, it is crucial to acknowledge that the smuggler exploited Omari's position of vulnerability, driven by a desperate need to move. As such, this situation could be described as labour trafficking, given the presence of exploitation and abuse of vulnerability, without necessarily involving forced labour.

AGENCY AND CONSTRAINT AMONG PEOPLE ON THE MOVE

The conditions reported by participants during their experience on the CMR were unquestionably severe. They were also often exploitative, encompassing a spectrum of abusive conditions, ranging from detention in harsh conditions to torture. Yet, despite all this, participants' accounts also point to degrees of negotiation and bargaining as well as remarkable resilience and innovative approaches to navigating their complex situations within oppressive environments. Still, it is crucial to frame these expressions of agency within the significant constraints imposed by their circumstances to avoid downplaying the challenges they face.

One of the clearest expressions of agency was in participants' attempts to escape situations of detention and forced labour. Some participants relied on acts of resistance (e.g., building a faulty window in the detention centre they were asked to build and eventually detained in), luck (e.g., a guard left the gate open), or negotiation (e.g., around the terms of their release). For example, Mahamat, from Chad, managed to establish a positive rapport with the guards and subsequently brokered a deal to secure the release of the whole group of people he was with. The compromise initially involved arranging payment of LYD2,500 (USD1,825) per person, achieved by contacting friends and family using a phone provided by the guards. However, the negotiated amounts were lower and varied among the participants who were detained, with some paying LYD1,500 (USD1,095), and others LYD1300–1400 (USD950–1,020).

Another example of negotiation involved Samir (from Sudan), who was also presented with the opportunity to purchase his freedom and a sea crossing from a situation of forced labour:

I was transferred [from a detention centre] for forced work in Khoms. I was working in a cement place. I was asked to pay USD2,000 to be free. I was told 'I paid USD2,000 for you so you need to pay that to me.' In the morning I was asked to work, in the evening I was put into a hangar with other migrants. Then I was no longer willing to work nor willing to pay USD2,000 and would only pay USD2,000 if I was taken to the sea. Then my employer said he worked to bring people across the sea and would do it for USD2,000. Most other migrants in the hangar wanted to cross the sea as well. After two months I said I would call my uncle and ask for the money. If he hadn't paid, I would have stayed longer and worked. My uncle eventually paid the money.

Samir's experience highlights how smuggling situations can be opportunities to escape trafficking or other exploitation. While such experiences highlight the power of negotiation within oppressive situations, other instances of severe brutality described by participants are a stark reminder of the constraints on migrants' agency. For example, Abdo (from Sudan) described how two people from Guinea-Conakry who were forced to work on a construction site he was also working on staged a lock-in protest due to the lack of food provision. Their actions, an assertion of agency in a desperate attempt to improve conditions, were met with severe retaliation: they were crucified. Another person who was detained and reportedly shot in the leg during the protest was denied medical aid and left to die outside of the detention centre.

The realities that detained people face, including unpredictable work conditions and the risk of unpaid labour, highlights their limited options and the significant power imbalances they endure. In this context, work often served as a means for people to fund their ongoing journey. Hence, refusing job offers was typically not a viable option.

For instance, after spending three months in detention, Mustafa (from Darfur) was offered the opportunity to work outside the prison, albeit without a specified salary. The person in question, an external contact of the guards, explicitly stated that payment might or might not be made for the services rendered. Despite these ambiguous terms, Mustafa agreed to work, which involved labour-intensive tasks such as moving and packing items into trucks, with the daily compensation reportedly ranging from small amounts of food to a meagre LYD20 (USD18). Coerced into working under ambiguous terms and minimal payment, Mustafa's work without fair compensation in a detention setting and lacking genuine voluntariness, could be framed as trafficking for forced labour.

Interestingly, 'normal' employment outside of detention was not necessarily associated with better pay or conditions. For instance, after escaping detention Mustafa subsequently secured a job in a metal sorting company with a monthly wage of LYD800 (USD585) – while there was more security here in terms of expecting to be paid, the actual sums received were only a marginal improvement from the uncertain compensation associated with his prior work under forced labour conditions.

Having money offered some participants some protection from worse treatment than others with them. For example, at the Toummo border crossing between Niger and Libya, several participants described that those who were able to pay border guards were granted privileges such as access to showers, while those unable to pay faced physical abuse and confinement. The separation between those who paid and those who could not, highlighted the stark disparities in treatment based on financial means, emphasising the heterogeneity of people's experiences and the protective power of financial resources against some of the gravest abuses, even on such notoriously dangerous routes.

DISCUSSION

Our conclusions in this study are based on the experiences of a select group of people; we make no claims to generalisability. As such, further research is needed to understand the breadth and depth of experiences across various migration routes and demographics. Nevertheless, our findings represent a critical step towards deconstructing the 'blurred boundary' (Skilbrei & Tveit 2008) between smuggling and trafficking on this important migratory route, and add to more nuanced and empirically-grounded understanding of these complex issues.

INTERSECTIONS AND OVERLAPS IN SMUGGLING AND TRAFFICKING AND THE ROLE OF EXPLOITATION

Our findings show a variety of ways in which smuggling and trafficking can intertwine, including progressions not only from smuggling to trafficking (as Campana & Varese 2016 contend), but also from trafficking to smuggling. This order occurred when trafficked individuals in detention were offered a chance to pay for a smuggling journey as a means to secure their release. This finding highlights how people rescued at sea and disembarked in Europe can in fact have been forced onto boats or trafficked immediately prior to their smuggling journeys.

However, while many of the situations described in these interviews fall squarely within the UNTOC's (UN 2000) definitions of smuggling or trafficking, many more resisted easy categorisation. This finding shows that not only are the conceptual boundaries around trafficking themselves 'blurry' but so too are the boundaries around 'smuggling' (see also Achilli 2023; Kuschminder and Triandafyllidou 2020; Mai 2013; O'Connell Davidson 2015; Skilbrei & Tveit 2008).

The empirical evidence presented in this study illustrates widespread abuses and harms on the CMR, many of which show overlaps between the supposedly dichotomous categories of smuggled migrant and trafficking victim (Campana & Varese 2016). We have found that beyond trafficking, any one individual's experiences can readily encompass both smuggling and a whole range of human rights abuses, including arbitrary detention, kidnapping, extortion, torture, and forced labour (Kuschminder & Triandafyllidou 2020; OHCHR 2023).

Our research highlights cases of torture for ransom and extortion in detention that could clearly be seen as a 'purpose of exploitation', as well as much forced labour that is explicitly recognised in the UN Trafficking Protocol as one of the non-exhaustive forms of exploitation that constitute the 'purpose' in trafficking. The importance of ransom and extortion in detention here suggests a need for broader recognition of these practices within the global discourse on trafficking (Kuschminder & Triandafyllidou 2020; van der Leun & van Schijndel 2016). The Trafficking Protocol's lack of a clearly bounded definition of exploitation poses challenges in categorising such cases, with a difficult (perhaps impossible) balance to be struck between inclusivity and avoiding the construct becoming so diffuse as to be very unhelpful (see, e.g., Chuang 2014). Our findings also reveal a spectrum of exploitation models, from cost-saving measures to profit-oriented labour practices, some of which bear hallmarks of organised crime (Malakooti 2019). This diversity highlights the ambiguity in applying the Trafficking Protocol's criteria, particularly the 'purpose' of exploitation. Considering this, it is also essential to recognise the paradoxical simultaneous expansiveness and selectivity of the dominant discourse around trafficking. While it encompasses a huge range of highly disparate issues, certain forms of exploitation, such as exploitative labour in prison, mandatory military service, grooming and recruitment into terrorism, are routinely excluded (Muraszkiewicz 2020; Kempadoo & Shih 2022). This narrow lens underlines the political dimensions of trafficking discourse, reflecting conscious choices of what is included or excluded.

The complex dual role of exploitation – as both the 'purpose' of trafficking and an aggravating factor in smuggling[16] – complicates analysis. We also found several examples of exploitation that resulted directly from the smuggling process, highlighting the significantly limited agency of those being smuggled and raising further questions about the stance that exploitation occurs not from the smuggling per se but 'as a result of a choice that was made by the migrant' (Campana & Varese 2016: 94). The harrowing accounts of forced embarkations onto precarious vessels in the Mediterranean, coupled with the extortion of substantial fees for unreliable transport, clearly demonstrate the smugglers' exploitative behaviours, irrespective of the migrants' initial willingness to leave (see also Crawley 2010).

Our findings reveal a transformation in the smuggler's role evolving from a perceived helper to a trafficker, in some cases engaging in the direct sale of people during the journey, supporting other research findings (see, e.g., Bilger et al. 2006; Kyle & Dale 2001; Spener 2009). This finding highlights the role that people who could well be considered traffickers play in facilitating northbound mobility on the CMR to Europe, echoing other findings on the role of trafficking in facilitating migration (e.g., Mai 2016; Plambech et al. 2021). These scenarios not only reveal

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16   The Smuggling Protocol describes aggravating circumstances such as those 'that entail inhuman or degrading treatment, including for exploitation of migrants' Article 6(3)(b) of the Smuggling Protocol.

a severe power imbalance but also highlight the constrained choices available to migrants, who are often forced to accept uncertain employment and inconsistent remuneration. Among the various 'means' of trafficking outlined in the Trafficking Protocol, the 'abuse of a position of vulnerability' arguably remains the most ambiguous (Chuang 2014; UNODC 2013). Our subjects' experiences epitomise this vulnerability: individuals, sometimes minors, fleeing danger or economic ruin, and traversing perilous routes. This analysis overturns traditional views of smuggling as a consensual, service-based transaction. It brings to light the possibility of coercion and lack of genuine intent from migrants in what might initially appear as voluntary journeys. These findings compel a re-evaluation of our conventional understanding of smuggling and trafficking, emphasising the complex nature of migration.

CONTINUUMS OF AGENCY, COERCION, CONSENT, AND EXPLOITATION

Our findings reveal that agency and constraint play crucial roles in both smuggling and trafficking experiences, lending support to empirical findings in the literature that emphasise migrant agency (Kuschminder & Triandafyllidou 2020; Kuschminder 2020). However, contrary to other findings (see, e.g., Campana & Varese 2016: 94), we find that the existence of agency does not fundamentally distinguish trafficking from smuggling.[17] Instead, our findings align with research by Bettio et al. (2017) and Choi-Fitzpatrick and Watkins-Smith (2021) suggesting that agency in migration journeys is not a binary: people's ability to influence their own situations can change during their journeys. Moreover, we find that agency is not an absolute in situations of smuggling nor necessarily absent in situations of forced labour or trafficking (see Achilli 2023; Cockbain et al. 2022; Mai 2016; van Meeteren & Wiering 2019). Just as recognising the fluidity and messiness of agency is important, so too is acknowledging the considerable constraints faced by people on the move. Severely exploitative situations may be tolerated as the 'least bad' option available, regarded instrumentally as a necessary risk to (potentially) facilitate onward travel, or be the result of extreme force, threats and intimidation (Mai 2016; Plambech et al. 2021).

The distinction between smuggling and trafficking can be conceptually useful. However, we believe, based on the empirical observations outlined earlier, that it would be a misstep to delineate between the two strictly through the lens of agency. Instead, our analysis supports the argument that smuggling and trafficking should be seen as separate but interconnected phenomena within a broader landscape of exploitation (Gallagher 2009). Such an approach would better reflect the complexities of migrant experiences and could guide the development of policy responses that provide appropriate protection and support for all individuals involved in irregular migration. Again, this landscape is likely one of a 'continuum of exploitation' (Skrivankova 2010), in which people may move in and out of more or less exploitative situations, and migration experiences can encompass both smuggling and trafficking and in unexpected orders. That speaks to the complexities of these issues and the need for nuance in both analysis and intervention.

BEYOND TRADITIONAL TRAFFICKING: SLAVERY, KIDNAPPING AND OTHER EXTREME ABUSES

Some of the actions and control mechanisms observed in this study reveal a higher degree of extremity than those typically associated with trafficking in other settings. For instance, kidnapping, which is commonly stereotyped as a modus operandi of human traffickers, often does not hold true across various instances of trafficking where 'softer' forms of manipulation such as deception and threats can be more common (see Raby & Chazal 2022; Cockbain et al. 2022). However, kidnapping was a feature of several participants' experiences in this study. While it is unclear how representative these accounts are, the presence of extreme abuses such as kidnapping, ransoms, and trading of migrants between smugglers, signal a systemic commodification of people in the Libyan context of the CMR. It was also notable that some participants actively used the language of slavery to describe their own experiences and clearly recognised the financial value that their bodies and labour represented to their abusers. This choice of language underscores the depth of exploitation but also highlights the need to align

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17   Campana & Varese (2016: 93) argue that trafficking and smuggling represent 'two distinct states: that of smuggled person with agency to that of trafficked person without agency'. Campana and Varese (2016: 94) then stipulate 'in the case of trafficking, agency is non-existent by definition'.

terminologies with the lived experiences of survivors, ensuring that the language used in policies, laws, and interventions accurately reflects the realities of those affected.

Our findings highlight the intersections of forced labour and debt bondage within the broader context of the Trafficking Protocol. While the Protocol explicitly lists forms of exploitation such as forced labour, slavery, and practices similar to slavery, it does not specifically mention debt bondage (UNODC 2015). However, we found that debt bondage often shared characteristics with these listed forms, particularly 'practices similar to slavery'. Therefore, in cases where debt bondage exhibits attributes akin to slavery or servitude, it aligns with the types of exploitation outlined in the Protocol. This interpretation allows us to consider instances of debt bondage as potentially falling under the umbrella of trafficking, especially when they are part of a broader context of forced labour or similar practices.

Our research identifies forced labour within international supply chains in Libya, highlighting the critical role of global industries and market forces in shaping labour conditions on the ground. These forces not only affect employment practices but also create business models that determine the availability of decent work. As LeBaron (2021) points out, the dynamics of supply chains significantly affect broader employment trends which in turn contribute to the emergence of poor working conditions and forced labour. Our findings specifically in low-wage sectors indicate that workers frequently transition between forced labour and conditions that meet international labour standards, underscoring the fluid nature of labour exploitation within these global supply chains.

HUMAN RIGHTS SUPPORT BEYOND DICHOTOMOUS DEFINITIONS OF SMUGGLING AND TRAFFICKING

Issues surrounding terminologies and labelling extend beyond academic discourse, having significant real-world consequences for the safety of migrants in the EU (McAdam 2015; Piper et al. 2015). These terminologies not only shape our understanding of exploitation but also influence legal and advocacy responses. The misalignment in applying and operationalising these labels directly affects institutional responses to victims, thereby influencing the responsibilities and actions required from stakeholders such as states, NGOs, international organisations, and corporations. In the context of the Netherlands, van der Leun and van Schijndel (2016: 26) highlight a critical disparity: '[w]hereas a victim of trafficking can appeal for legal protection, a smuggled irregular migrant (worker) overall has little rights because of the formal absence of the exploitation element, and is most likely to be expelled and criminalised'.

Our findings recognise the challenges in distinguishing smuggling from trafficking under international law but also reveal that many migration experiences are likely meet international legal thresholds for trafficking if properly investigated. However, we do not advocate for redefining these terms beyond providing a better definition of exploitation, nor do we call for the labelling of all smuggling cases as trafficking. Instead, we echo recent calls (Guidi et al. 2023) for the need to provide protection services based on experienced hardships endured, not based on legal categorisations of experiences or initial motivations for migration. Even if people are lucky enough to avoid forced labour and trafficking, the broader conditions described in this study (detention, torture, other human rights abuses) imply considerable potential for harm and traumatisation. We also recognise here that re-casting smugglers as traffickers could carry potential harms, attracting even stronger criminal justice responses on an already marginalised population (see also Broad & Gadd 2022). That said, it is also important to acknowledge the harms their actions can cause, as documented here.

In the context of the UK, new research suggests that among the more than 26,500 people formally identified as having potentially been trafficked from 2009–19, the most commonly recorded overseas location of exploitation was Libya (Cockbain et al. forthcoming). Yet despite (or perhaps because of) the substantial proportion of people identified in the UK as potential victims of trafficking whose exploitation was recorded as taking place abroad, the UK Government has recently taken draconian steps to curb access to 'modern slavery' protections (Mullan-Feroze et al. 2023). Those steps, which have been heavily criticised by NGOs, scholars and others, include the introduction of a new evidential threshold, which was later struck down as unlawful (Matrix Chambers 2023), and the attempt to block access (via the Illegal Migration Act 2023) to the UK's modern slavery system (known as the National Referral Mechanism, or NRM) for anyone

who reaches the UK via irregular means. Such measures disproportionately affect those in the most vulnerable situations, including people exploited in countries like Libya who may struggle to provide suitable 'evidence'. It is unclear how EU countries are currently responding to trafficking experienced by smuggled people en route to safety, which in itself represents a potential gap in services as well as a clear research priority. The fact that people who had been so severely exploited were themselves detained upon arrival in Malta is concerning and goes against Malta's own obligations vis-à-vis vulnerable groups.

To reiterate, our intention is not to assert that the label of 'trafficking' is always more advantageous for those affected, or to suggest that every instance of smuggling should be automatically reclassified as trafficking. However, we believe it is crucial to acknowledge the presence of elements strongly suggestive of trafficking or human rights violations within the experiences of those who would otherwise be viewed as 'smuggled migrants', a characterisation that can strip migrants of rights and protections they should receive (Donald & Grogan 2023).

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The authors have no competing interests to declare.

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