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An abstract, textured background image with vibrant colors of teal, blue, and orange, resembling a close-up of a mineral or biological surface. The colors are layered and blended, creating a complex, organic pattern.

Libyan Detention Centers

Libya's Legal and Regulatory Framework on Migration

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Human Rights – Migrant detention – Human Rights law – Migrants – Asylum Seekers – Refugees in Libya.

Introduction

After the arrival of the Arab spring to Libya in 2011 and the deterioration of the security situation, the country became a transit area for immigrants to Europe. Economic migrants and refugees coming especially from Sub-Saharan found Libya an easy transit point for escape to Europe. Over 8,000 migrants were estimated to abide in Libya in 2016.¹

The crises of migrants are especially notable in the detention centers. The holding centers, as called by the officials in Libya, were established in 2000 to stop migrants from continuing their way to Libya and Europe. Dealing with the arrested migrants is rather a type of punishment than an appliance of law. There is no distinction between identified and unidentified migrants in the way they are dealt with: they are all treated as illegal migrants. The situation of the migrants in the detention centers is miserable, and has its roots back before the 2011 revolution, but became even worse afterwards considering the displacement of 500,000 Libyans and the deterioration of the economic situation in Libya which made the migrants considered as a huge unnecessary burden on the economy there.² The country became politically very unstable, governed by military groups and smugglers as well as state and non-state actors.³

But for years there has been no reaction from the international community. Many organizations and activities like UNHCR highlighted this situation internationally and more particularly to the EU and Italy in their attempts to urge Libya to enhance their dealing with the detained migrants and adhere to the international human right law and standards. It seems essential for the EU that borders of Libya are controlled regardless of the way it is controlled.⁴

“Asylum-seekers and migrants are among the most vulnerable people in Libya and their plight must not be ignored”⁵ – the Director of Amnesty Middle East described the situation in Libya.

¹ *Libya 2016 Migration Profiles & Trends*. International Organization for Migration, December 2016
Available at: http://migration.iom.int/docs/DTMLibya2016_Migration_Profiles&Trends.pdf
(Accessed 26 May 2019)

² *Libyan Detention Centers – A Legal Analysis*. Xchange Foundation, August 2016
Available at: http://xchange.org/map/Libya_DC.html (Accessed 26 May 2019)

³ Ibid.

⁴ Ibid.

⁵ *Libya: Horrific abuse driving migrants to risk lives in Mediterranean crossings*. 2015. Available at:
<https://www.amnesty.eu/news/libya-horrific-abuse-driving-migrants-to-risk-lives-in-mediterranean-crossings-0894/> (Accessed 26 May 2019)

In an attempt to follow the Director's instructions and draw attention to the crucial elements of the mentioned situation, I will in the following try to give a greater picture of the conflicts regarding migration and human rights in Libya. To do this, it is firstly essential to outline the aim of this study. In the following I will present three main questions that will be further examined in the coming chapters, and the method which I will be using in order to find answers to these questions. I will also mention some factors that have limited the efficiency of my research, as is to be expected when one deals with contemporary war zones and thereby a lack of source.

Chapter 1: Aim and Method

1.1 The Aim

This study will address three main questions raised by the current situation in Libya, where the first question is what are the conditions of detention faced by detainees and the infrastructure of detention and human rights violations in detention centers, especially for vulnerable groups such as children. The second question is about the legal system in Libya concerning the protection of migration and the immigration system, which I will investigate in order to identify the existence of possible gaps. Understanding the problem will help put pressure on Libya to create a migration framework. This would be in the interest of its borders and would be consistent with its international obligations. Finally, the third question is how the legal responsibility of States for violations of human rights under international law affects Libya in this context.

1.2 Method

To answer the question concerning the conditions of detention, detention infrastructure and practices committed by detainees and the human rights violations they pose, this study will go through a number of legal documentations, and reports on cases of persecution by international governmental and non-governmental organizations. This research will greatly depend on press reports.

To answer some important questions around the Libyan legal system in relation to the protection of migration, this research will depend on Libyan law as a main source of research. A closer look at how these laws comply with international standards and Libya's obligations under international law and signed treaties will be also provided, as well as a short exploration of the commitment of local authorities to implement these laws. Research will also depend on international and humanitarian law.

To investigate the legal responsibility of member states of the EU for violations of human rights, this research will also depend on regional and international treaties and conventions in

this regard, such as the International Covenant on Civil and Political Rights and the European Charter on Human Rights.

1.3 Research limitation

Finally, a number of important constraints must be taken into consideration, above all the lack of available sources and literature on this topic. Libya being a war zone, there is insufficient amount of reliable information about the refugee situation, since most international organizations have withdrawn most of their workers from Libya during the past years, as a result of the civil war and the conflict between the two Libyan governments. It was therefore impossible to communicate with any official or non-governmental organization in order to obtain adequate and up-to-date information.

I would also like to note here that some of the reports used as primary references in the sources I have utilized are no longer publicly accessible, and therefore it was unavoidable to highly rely on secondary sources. Nonetheless, it is urgent to draw attention to these matters by making use of every available source, even if they might be considered outdated or not sufficiently reliable for one reason or another, which will be pointed out at the concerned sections.

Chapter 2: Detention Centers

UNHCR defines migrant detention as “the deprivation of liberty or confinement in a closed place which an asylum-seeker is not permitted to leave at will, including, though not limited to, prisons or purpose-built detention, closed reception or holding centers or facilities.”⁶

The head of the Libyan Council, Fayez Sarraj stated that the number of illegal immigrants has reached 800 000 in Libya, where 20 000 of these immigrants are held in detention centers.⁷

UNHCR announced in June 2016 that there are 31 detention centers in Libya, 24 of which are run by the DCIM acting under the umbrella of the Ministry of Interior which in practice has no control over the centers. 11 of the centers are protected by the Libyan Task Force, supported by UNHCR, IOM, and the Danish Refugee Council; 7 of the centers are not operating, or are run by non-state actors which have full control over them and there is no way to get close to them.⁸

2.1 Detention Infrastructure

DCIM is responsible for the management of detention centers or what is referred to as holding centers. DCIM documents indicate to Amnesty International that there are 24 facilities used to detain refugees during 2013 and 2014 in Libya, although there are no official lists of these centers.⁹

In addition, there is insufficient information on the nature of these centers, where reports indicate that the centers are actually reserved for refugee detention. This is in contrast to the

⁶ *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*. United Nations, 2012. Available at: http://www.un.org/refugees/library/Guidelines%20Related%20to%20Detention_eng.pdf (Accessed 26 May 2019)

⁷ *Libya: 20,000 migrants held in detention centres*. Middle East Monitor, January 2019. Available at: <https://www.middleeastmonitor.com/20190129-libya-20000-migrants-held-in-detention-centres/> (Accessed 26 May 2019)

⁸ *Libyan Detention Centers – A Legal Analysis*. Xchange Foundation, August 2016
Available at: http://xchange.org/map/Libya_DC.html (Accessed 26 May 2019)

“We Risk Our Lives for Our Daily Bread” Findings of The Danish Refugee Council Study of Mixed Migration in Libya. Danish Refugee Council, December 2013. Available at: https://reliefweb.int/sites/reliefweb.int/files/resources/Danish%20Refugee%20Council%20Report%20%20Risking%20our%20Lives_Mixed%20Migrants%20in%20Libya_Dec%202013.pdf (Accessed 26 May 2019)

regional orientation, where North African countries tend to detain refugees in police stations, prisons or camps.¹⁰

According to the International Organization for Migration (IOM), although DCIM is responsible for managing the detention centers, they are not aware of the status of these centers due to the security situation, where some staff are forced to work from their homes.¹¹

2.2 Detention conditions

Though those detained in Libyan detention centers suffer from inhumane practices of rape, torture, exploitation, racial discrimination, physical and mental abuse, this research will focus on two widespread phenomena in detention centers, namely torture and the detention of children in these centers.

2.2.1 Torture

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment calls for respect for human rights deriving from the human dignity of all human beings, as called in Article 11: “Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”

The CAT defines “torture” as:

[...] any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

¹⁰ Grange, Mariette & Flynn, Michael: *Immigration Detention in Libya*. Global Detention Project, Geneva, 2015; p. 15. Available at: <https://www.refworld.org/pdfid/5567387e4.pdf> (Accessed: 26 May 2019)

¹¹ *Ibid.*, p. 16

It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.

Libya is party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it ratified in May 1989.¹² However, torture in Libyan detention centers is not intended according to the law, but is often a form of repressive punishment – to terrorize the victims and to intimidate others.

The Libyan Penal Code criminalizes torture, as article 435 states: “Every public official who tortures or orders the torture of the accused shall be punished by imprisonment from three to ten years.”¹³ Article 431 of the Penal Code provides for imprisonment for “every public official who used violence against individuals while exercising his or her functions in a way that would impair their dignity or cause them physical pain”.¹⁴

Human Rights Watch claims in reports published in 2014 detailing a visit to nine Libyan government detention camps, that guards regularly engage in brutal treatment of detainees, including beatings and electrocution, and that girls are subjected to harsh searches and beatings of children.¹⁵ Amnesty International also reported that detainees were beaten either at arrest or a few days prior to being transferred to one of the detention centers.¹⁶

Amnesty International also claimed that the guards demanded relatives of the detainees to pay ransom for their release and that those who refused were beaten or raped.¹⁷

Libya has clearly failed to fulfill its obligations under the Convention against Torture, as mentioned practices constitute a clear violation of the Convention.

¹² Libya ratified the Convention against Torture on 16 May 1989, but has not ratified its Optional Protocol.

¹³ Libyan Penal Code criminalizes torture in article 435. Available at: <https://abortion-policies.srhr.org/documents/countries/01-Libya-Penal-Code-1953.pdf> (Accessed 17 April 2019)

¹⁴ Libyan Penal Code criminalizes torture in article 431. Available at: <https://abortion-policies.srhr.org/documents/countries/01-Libya-Penal-Code-1953.pdf> (Accessed 17 April 2019)

¹⁵ *Libya: Whipped, Beaten, and Hung from Trees*. Human Rights Watch, June 2014
Available at: <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>
(Accessed 26 May 2019)

¹⁶ *Amnesty International Report 2013. The State of the World's Human Rights*. Amnesty International Ltd, London, 2013
Available at: http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf
(Accessed 26 May 2019)

¹⁷ <https://www.amnesty.org/en/latest/news/2019/03/europes-shameful-failure-to-end-the-torture-and-abuse-of-refugees-and-migrants-in-libya/> (Accessed 26 May 2019)

Thus, there is a deliberate violation of the law even in the presence of a legal text, although the Libyan Penal Code stated in Article 234 that

[...] any public official who uses the authority of his or her function to suspend the execution of orders issued shall be punished by imprisonment and solitary confinement of the government or the implementation of laws or regulations in force or delay collection of funds or fees, or to suspend the execution of a judgment or order issued by the Court or by any competent authority.

The EU countries supporting the Libyan government, especially Italy, must respect their international obligations and abide by the European Charter of Human Rights, provided for in Article 3:

“Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment”.

2.2.2 Children

Many children are held in detention centers in Libya without paying attention to their special needs, as stipulated in the Convention on the Rights of the Child. The Convention recognizes that the child has the right to special assistance and care, including adequate legal protection, and that all measures taken by public and private bodies must be based on the best interest of the child.

Libya is a signatory to the Convention on the Rights of the Child, which ratified the Convention on April 15.

Children in detention centers are in appalling conditions, with the Refugee Organization reporting that children are being held indefinitely and that unaccompanied and separated children are detained for almost a year, in addition to the organization’s claim that children are not treated favorably and are more vulnerable to abuse where they are placed in cells with adults.¹⁸

The foregoing is incompatible with the universal Convention for Children, where the child should not be detained unless it is in the best interests of the child and for a suitable period,

¹⁸ Grange & Flynn, 2015; p. 9

and the most basic ingredients are available in detention centers to ensure that the child's needs are provided for. Unaccompanied children must not be detained at all.

Europe seems to be renegeing on its responsibilities, as European countries are part of the Convention on the Rights of the Child. For instance, a 17-year-old boy, one of the children who had escaped from Libyan detention centers and fled to the United Kingdom, has been found to have fifty scars caused by torture. The lawyer for the Eritrean child Julia Trencina described the current situation in the following manner:

What young men, women, children and babies are suffering in detention in Libya is one of the biggest failures of our human civilization. European governments, in our name, with our taxpayers' money, are paying Libyan authorities, militias and army generals to continue detaining and torturing refugees on our behalf, to make sure they do not get to Europe.¹⁹

Many witnesses to *The Guardian* confirmed that psychological abuse and physical violence against children are rampant in detention centers, and that diseases such as tuberculosis are widespread. We have first-hand information on the frequent abuse and malnourishment of children, who barely get two meals a day and scarcely any appropriate clothing against the cold. Several sources report that those – either adults or underaged – who speak to the media are beaten by guards.²⁰

We have now a notion of the situation refugees have to face in Libyan detention centers. The purpose of this section was to highlight the conditions of which many detainees suffer in these centers, and to provide sufficient background information on the conflicts that have arisen in Libya concerning human rights, legal regulations, local and international directives and ill-treatment of human beings, which will be further elaborated in the following chapter that aims to give an introduction to the Libyan legal system.

¹⁹ *Libya: child refugees abused in UK-funded detention centres*. The Guardian, November 2018
Available at: <https://www.theguardian.com/world/2018/nov/20/child-refugees-facing-abuse-in-libyan-detention-centres> (Accessed 26 May 2019)

²⁰ Ibid.

Chapter 3: Libya's legal and regulatory framework on migration

The European Commission reported in 2014 that Libya's "legal and regulatory framework on migration appears poor, fragmented and not harmonized".²¹

On several occasions, the Libyan government has stated that it prioritizes international treaties which have been ratified to a higher degree than domestic law, and is therefore considered bound by treaties. Consequently, in the event of a conflict between domestic laws and the international treaty, the international treaty should be preferred.²²

Article 9 of the International Covenant on Civil and Political Rights (ICCPR) prohibits arbitrary arrests and detentions, stating that "no one shall be deprived of liberty except on such grounds and in accordance with such procedures as are established by law".

Libya did not sign the 1951 Convention on Refugees which identified the responsibilities of signing states towards the asylum seekers, and has thus no local laws to protect the migrants, refugees or victims of trafficking.²³

The legal basis for the registration of refugees in Libya is Law No. 6 of 1987²⁴, whereby article 17 requires the deportation of non-citizens sentenced to expulsion from a court or those who either have entered the country illegally or have exceeded the authorized residence period. Article 19 of the same law also provides for penalties imposed on violators ranging from fine to imprisonment. Penalties of up to 20 years have been imposed for the crime of crossing into Libyan territory without a permit, with the penalty being further tightened if committed by an organized criminal network.²⁵

²¹ *Supporting human rights-based migration management and asylum system in Libya*. European Commission, Brussels, 2014

Available at: http://europa.eu/rapid/press-release_MEMO-14-26_en.htm (Accessed 26 May 2019)

²² *Libya: Words to Deeds: The Urgent Need for Human Rights Reform*. Human Rights Watch, 2006; p. 13

Available at: https://www.hrw.org/reports/2006/libya0106/13.htm#_Toc125268065 (Accessed 26 May 2019)

²³ *Libya: Rule of Law or Rule of Militias?* Amnesty International, 2012. Available at:

https://www.amnesty.nl/content/uploads/2016/12/libya__rule_of_law_or_rule_of_militias_.pdf?x43196%20
(Accessed 26 May 2019)

²⁴ *Law No. (6) Of 1987 on organizing the entry, residence, and exit of foreigners in Libya*. DCAF, 1987.

Available at:

https://security-legislation.ly/sites/default/files/lois/1214-Law%20No.%20%286%29%20of%201987_EN.pdf
(Accessed 26 May 2019)

²⁵ *Stemming the Flow: Abuses against Migrants, Asylum Seekers and Refugees*. Human Rights Watch, 2006.

Available at: <https://www.hrw.org/report/2006/09/12/stemming-flow/abuses-against-migrants-asylum-seekers-and-refugees> (Accessed 26 May 2019)

In addition, migrants face the risk of indefinite detention and deportation under Law No. 19 of 2010 against illegal immigration. Although the law does not expressly prohibit indefinite detention, Article 6 states that “unauthorized migrants” must be “imprisoned” and deported after serving the appointed sentence.²⁶

Foreigners usually face detentions ranging from two weeks to three months in addition to recorded cases of detention of persons for years.²⁷

The employees of the Immigration Authority are responsible for the entry and exit of foreign care to and from Libya in accordance with Law No. 6 of 1987. Accordingly, the Libyan Interior Ministry has a responsibility among the various ministries such as defense, justice and foreign affairs. In addition, the Ministry of Interior is responsible for handling illegal refugee cases.²⁸ Since its establishment in 2012, the Combating Illegal Immigration agency (DCIM) of the Ministry of the Interior has been responsible for managing detention centers.²⁹ Furthermore, the conflict escalated, detention centers became run by armed militias, while the European Union called on the Libyan government to impose its control over all detention centers.³⁰

In detention centers the procedural standards provided for in Libyan law are not respected, in accordance with article 14 of Act No. 20 of 1991³¹ on the Promotion of Freedoms: “No person may be deprived of his freedom, or have it restricted; neither can he be searched or questioned unless charged with an act punishable by law, or by order of a competent judicial authority within the terms and reasons set out by law. Preventive detention (custody) shall be at a known place which the relatives of the accused shall be informed of, this shall be for the shortest time required for investigation and recording of evidence.” In addition to the guarantees provided for in articles 30,31,33,106,321 of the Code of Criminal Procedure.³²

²⁶ *Libya: Rule of Law or Rule of Militias?* Amnesty International, 2012

²⁷ See: *Come un uomo sulla terra* (2008), a documentary by Riccardo Biadene, Andrea Segre, Dagmawi Yimer.

²⁸ European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union: *Frontex-Led EU Illegal Immigration Technical Mission to Libya 28 May – 5 June 2007*. Frontex, 2007; p. 8–9.

²⁹ *Libya: Whipped, Beaten, and Hung from Trees*. Human Rights Watch, June 2014. Available at: <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees> (Accessed 26 May 2019)

³⁰ *Ibid.*

³¹ *Law No. (20) of 1991 on the promotion of freedom*. DCAF, 1991

Available at: <https://security-legislation.ly/node/31472> (Accessed 26 May 2019)

³² *Libya: Rule of Law or Rule of Militias?* Amnesty International, 2012

Moreover, observers found that detainees cannot communicate with relatives, lawyers or the UNHCR, nor do they obtain consular or legal assistance or are brought before a judicial authority.³³

Law No. 6 of 1987 authorizes passport and nationality managers to restrict people of foreign origin who will be expelled and summoned to the security centers. There are no legal remedies for foreigners as soon as they are detained, but some individuals have been released through bribery.³⁴

Returning to Libya requires foreigners who have been deported to receive permission from the Director General of Immigration if they wish to return to the country in accordance with Article 18 of Law No. 6.

In 2015, the UNHCR in Libya registered 37,000 refugees and asylum seekers, more than 18,700 refugees from Syria and 18,247 refugees from 30 other countries.³⁵ Libya has not adopted any immigration legislation and has not ratified the 1951 Refugee Convention or the 1967 Protocol relating to the Status of Refugees. On the other hand, the constitutional declaration of 3 August 2011 prohibits the right to asylum in Article 10 and prohibits the extradition of political refugees.

After clarifying the legal articles on migration at the national level in Libya, I will now go on to examine legal responsibility at the state level.

³³ *Amnesty International Report 2013. The State of the World's Human Rights*. Amnesty International Ltd, London, 2013

Available at: http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf
(Accessed 26 May 2019)

³⁴ Di Giacomo, Flavio: *IOM Monitors Italy Arrivals during Busy Smuggling Week in Mediterranean*. International Organization for Migration, February 2015. Available at:

<https://www.iom.int/news/iom-monitors-italy-arrivals-during-busy-smuggling-week-mediterranean>
(Accessed 26 May 2019)

³⁵ Humanitarian Country Team: *Libya Humanitarian Appeal*. ReliefWeb, 2014

Available at: <http://reliefweb.int/report/libya/libya-humanitarian-appeal-september-2014-february-2015>
(Accessed 26 May 2019)

Chapter 4: the legal responsibility of States for violations of human rights under international law

As mentioned earlier, there are many violations of human rights and the safety of the detainees in detention centers, which the Libyan government and the armed militias bear direct responsibility for.

Moreover, there is a European involvement in human rights violations in Libya under international law. Some EU countries, especially Italy, provide the magistrate and logistic support to the government to intercept refugees in the Mediterranean and return them to detention centers where refugees are at real risk of inhumane treatment.

In accordance with article 16 of the articles on State responsibility of the International Law Commission on internationally wrongful acts, any State providing assistance to another State in committing violations of human rights is also responsible for violations of human rights.³⁶

“If European countries are paid to Libya to prevent migrants from reaching the integrity of European jurisdiction, we are talking about complicity in crimes against humanity because these people are deliberately returned to camps governed by rape, torture and murder” said Nils Melzer the UN Special Rapporteur on Torture.³⁷

Consequently, the forcible return of migrants to a country that is not a party to the 1951 International Convention for the Protection of Refugees is a violation of international law, since Libya has not adopted a special refugee law and therefore cannot protect migrants.

Nevertheless, Libya is a party to the Banjul Charter (the African Charter on Human Rights of 1981). For this reason, Libya bears serious responsibility for refugees. This Charter extends the definition of refugees provided for in the 1951 Refugee Convention and calls for constructive cooperation with the Refugee Commission. Article 2 of the African Charter on

³⁶ *Responsibility of States for Internationally Wrongful Acts*. In: Yearbook of the International Law Commission, 2001, vol. II (Part Two). United Nations, 2005; Article 16. Available at: http://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf (Accessed 26 May 2019)

³⁷ *Humanity is on path to self-destruction, warns UN special rapporteur*. The Guardian, December 2018. Available at: <https://www.theguardian.com/global-development/2018/dec/10/humanity-is-on-path-to-self-destruction-warns-un-special-rapporteur-nils-melzer> (Accessed 26 May 2019)

Human Rights declared the inviolability of forcible return or endangerment of the safety and freedom of refugees.³⁸

Libya ratified the International Convention on the Elimination of All Forms of Racial Discrimination on 3 July 1968, but lacks comprehensive national legislation to criminalize offenders and compensate victims of discrimination.³⁹ Asylum seekers from Somalia and Eritrea are severely discriminated and treated in the same way as illegal immigrants. Human Rights Watch states in its 2014 periodic review that these refugees are not allowed to be registered by the UNHCR and that they are serving long periods of detention before their embassies secure their release.⁴⁰

Consequently, legal responsibility arises for the countries involved in the suffering of refugees in Libya. After clarifying the three questions related to the Libyan situation outlined in the foregoing chapter, I will in the following section seek to make some recommendations to Libya and the EU member states that target the improvement of the status of refugees in Libya as a whole and – in particular – in detention centers.

³⁸ *Stemming the Flow: Abuses against Migrants, Asylum Seekers and Refugees*. Human Rights Watch, 2006. Available at: <https://www.hrw.org/report/2006/09/12/stemming-flow/abuses-against-migrants-asylum-seekers-and-refugees> (Accessed 26 May 2019)

³⁹ *Ibid.*

⁴⁰ *Libya: UPR Submission September 2014*. Human Rights Watch, 2014. Available at: <http://www.hrw.org/news/2014/09/16/libya-upr-submission-september-2014> (Accessed 26 May 2019)

Chapter 5: Recommendations

5.1 Recommendations to the Government of Libya

There must be a comprehensive reform of the legal system, namely the ratification of the 1951 Refugee Convention and its 1967 Protocol, instructions to public officials for their prompt implementation and supervision of their implementation and the referral of those involved in the violations to the courts, in addition to providing legal remedies for detainees to appeal to a judge about the violations they are subjected to, and notify the embassies concerned when the arrest, death or imprisonment of any of its nationals occurs, and suspension of refoulement and the provision of asylum.

Libya needs to cooperate with the refugee commission, facilitate their work, move them into the Libyan territory and provide protection to the workers, where UNHCR has the experience and ability to improve refugee status and work on developing the capacity of national cadres in the humanitarian field.

Moreover, there is an urgent need to form a body to improve the conditions inside the detention centers, where it supervises the alleviation of overcrowding within the centers and the needs of the detainees of food and clean water, provides appropriate health care and ensures the conditions suitable for children without being detained with adults.

5.2 Recommendations to all member states of the European Union

Europe has a moral and legal responsibility towards refugees in Libya, therefore EU countries must stop deporting non-Libyans to Libya in an attempt to forcing Libya into taking serious steps to respect human rights and stop torture.

Furthermore, the EU and its member states need to stop any cooperation with the Libyan government until Libya ratified the 1951 Refugee Convention and its 1967 Protocol and passed a national law on asylum.

The member states of the UNHCR Executive Committee are obliged to pressure the European Union and Libya to improve the situation of refugees in Libya as well as to raise Libya's human rights violations in the media.

Finally, Italy needs to stop the expulsion of its asylum seekers and to work on the distribution of refugees to member countries in addition to providing asylum through the missions of the Member States in Tripoli.

5.3 Recommendations to International Organization for Migration

The cardinal aim for IOM, as for all other contributors to human rights, is to actively participate in improving the living conditions of the detainees, and to resettle them in a third country. It is essential to legally recognize the detainees as refugees as opposed to transit migrants.

Providing the main needs of detainees such as clothing, drink, basic healthcare etc. together with developing the detention infrastructure in order to secure the survival, accommodation and attendance of refugees is also a priority.

Reporting all cases of torture to the competent authorities would also be a central component of creating supervision in detention centers and a much-needed systematical control of all participants of inhumane ill-treatment.

Conclusion

The ongoing civil war in Libya since 2011, combined with the wave of mass immigration to Libya, the collapse of the legal system after the time of President Gaddafi, has led to the emergence of one of the world's most destructive and brutal detention systems.

The purpose of this research was to shed light on the Libyan detention centers and their controversies. The first section discussed the humanitarian aspect, the conditions and the structure of detention, and the widespread practices of human rights violations.

In addition to the human aspect, this research discussed the legal aspect of migration and detention in Libya, where we took a closer look at the laws related to migration in an attempt to uncover the shortcomings of domestic legal regulations and directives, through examining and comparing international and regional treaties.

The study also discussed the legal responsibility of Libya and the countries that finance Libyan detention centers, that are – formally – bound by international and regional agreements. Taking these aspects into consideration, the last chapter set out the aim of providing a list of adaptable recommendations with the intention of enabling Libya and all concerned international and regional actors to improve the reality of refugees in these Libyan detention centers.

As we have seen, the financial, logistical and political support provided by the European Union, especially Italy, has given Libya the green light to violate the rights of refugees by detaining them in detention centers that do not meet the acceptable standards of living.

The international community has stood and watched as Libya descended into chaos since the 2011 NATO military campaign ended, effectively allowing militias and armed groups to run amok. World leaders have a responsibility and must be prepared to face the consequences, which include greater numbers of refugees and migrants fleeing conflict and rampant abuse in Libya.

There seems to be no real effort to stop these violations. Most of the humanitarian tasks in Libya have stopped. The international community remains silent. Europe seems to have succeeded in reducing the number of asylum seekers. The Libyan government is benefiting from the financial support provided while leaving the migrants to their fate.

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