

# LIBYA

## THE HOUNDING OF MIGRANTS MUST STOP





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**Front cover:**

**Bou Rashada Camp. Gharyan**

Migrants are detained in overcrowded shelters under the supervision of armed militia.

**Back cover:**

**Camp run by the Katiba “Free Libya”. Benghazi**

Young Somali migrants.

## INTRODUCTION

Almost one year after the official end of the conflict on 23 October 2011, the situation in Libya remains unstable. The transitional government was unable to assert its authority over the various groups and factions that helped overthrow Muammar Gaddafi’s dictatorship and economic activity has not yet resumed, except in the oil sector. The terrible legacy of 42 years of totalitarian rule by Colonel Gaddafi and his sons, compounded by nine months of civil war and an international military intervention, have left the country in a state of chaos. While the election of a new Libyan National Congress in July 2012 was a positive first step, the challenges it faces to build a state based on the rule of law are immense.

The magnitude of the difficulties stemming from the legacy of the Gaddafi regime, as well as certain worrying developments since its fall, heighten concern that the current “chaos” in the country is not about to end any time soon. As in all situations of political, social and security instability, the most vulnerable people face the most serious threats to their fundamental human rights.

In Libya today, even more so than when Gaddafi was in power, migrants, asylum seekers and refugees, in particular those of sub-Saharan African origin, suffer severe violations of their basic human rights. Alarming, this is far from being a marginal issue in the country, as evidenced by the number of people affected and the severity of the human rights abuses they experience.

Before the war, it was estimated that there were between 1.5 and 2.5 million foreign workers in Libya, contributing to the functioning of the country’s economy, among a total population of approximately 6.4 million. Little reliable information existed on how they were treated due to a number of factors: obstacles to access for independent media and non-governmental organisations; the absence of independent Libyan civil society organisations; and the complicity of European states that preferred to turn a blind eye after Gaddafi successfully manoeuvred his return to the international scene by assuming the role of border guard to curb “illegal” migration into Europe. Nonetheless, some information filtered through about the brutal treatment of migrants from

sub-Saharan African and concerning the existence of detention camps where migrants were held in appalling conditions.

From the onset of the Libyan conflict on 17 February 2011, migrants were particularly threatened and began a massive exodus. According to data from the International Organisation for Migration (IOM) published at the end of November 2011,<sup>1</sup> nearly 800.000 migrants fled to neighbouring countries during the conflict (excluding Libyan nationals who sought refuge in Egypt and Tunisia).

In response to alerts about the situation of migrants and refugees stranded in camps at the borders with Egypt and Tunisia, international solidarity organisations sent investigation missions to assess the situation and launched advocacy initiatives at the international level to find solutions for these victims of the Libyan conflict.<sup>2</sup> The International Federation for Human Rights (FIDH) conducted a fact-finding mission in May 2011 at the border with Egypt<sup>3</sup>, during which it collected numerous accounts of abuses against migrants of sub-Saharan origin.

## Methodology

Having closely monitored the information and reports emerging from Libya following the fall of the Gaddafi regime, including alarming accounts of mistreatment of migrants – notably FIDH findings from two missions conducted in Libya in January and May 2012 – FIDH, Migreurop and Justice without Borders for Migrants (JSFM) sent an international investigation mission to Libya from 7 to 15 June 2012.

The main objective of this mission was to gather information on the current situation of migrants, asylum seekers and refugees in the country, with a particular focus on migrants held in detention camps on administrative grounds linked to their migration status (rather than those imprisoned on the basis of their involvement – real or perceived – in crimes committed by Gaddafi's

forces during the conflict).<sup>4</sup> Particular attention was also paid to the plight of “internally displaced” members of the Libyan Tawargha community, also held in camps.

The delegation comprised Genevieve Jacques, member of the FIDH International Board and CIMADE, who conducted missions to the Egyptian and Tunisian borders with Libya in 2011; Sara Prestianni, member of Migreurop and Justice Without Borders for Migrants, and expert on migration issues in the Mediterranean region; and Messaoud Romdhani, Vice President of the Ligue tunisienne des droits de l'Homme and founding member of the Tunisian Forum for Economic and Social Rights.

The delegation visited Tripoli, the Nafusa Mountain region and Benghazi. Security constraints prevented travel to the south of the country, where armed clashes were raging between rival militia groups in the Kura region and south of Gharyan at the time of the mission.

The delegation met with representatives of the Libyan authorities, international organisations and civil society working on issues related to migrants and refugees.<sup>5</sup>

The delegation visited the main detention camps in the Tripoli and Benghazi regions (see Appendix 1):

- Toweisha camp, on the outskirts of Tripoli, holding over 500 persons
- Bou Rashada camp, in Gharyan in the Nafusa Mountain region 100 km south-west of Tripoli, holding more than 1,000 persons
- Transit camp in Gharyan, holding 25 persons
- Ganfuda camp in Benghazi, holding more than 300 persons
- Transit camp near Benghazi, run by a brigade (*Katiba*) calling themselves “Free Libya”, holding approximately 50 persons

1. IOM, Daily Statistical Report, 27 November 2011.

2. See, for example, *La Cimade et le Gadem, Défis aux frontières de la Tunisie*, May 2011.

3. See FIDH Report, “Exiles from Libya flee to Egypt: Double tragedy for sub-Saharan Africans”, July 2011, [www.fidh.org/Double-tragedy-for-Sub-Saharan](http://www.fidh.org/Double-tragedy-for-Sub-Saharan), 9840.

4. See Amnesty International, “Militias threaten hopes for new Libya”, May 2012. [www.amnesty.org/fr/library/info/MDE19/002/2012/en](http://www.amnesty.org/fr/library/info/MDE19/002/2012/en); “Rule of Law or rule of militia”, July 2012. [www.amnesty.org/en/library/info/MDE19/012/2012/en](http://www.amnesty.org/en/library/info/MDE19/012/2012/en); Human Rights Watch, Libya: As Deadline Passes, Militias Still Hold Thousands, 14 July 2012. [www.hrw.org/news/2012/07/14/libya-deadline-passes-militias-still-hold-thousands](http://www.hrw.org/news/2012/07/14/libya-deadline-passes-militias-still-hold-thousands).

5. See Appendix 2 for full list.

In Benghazi, the delegation also visited an “open” camp run by the Libyan Red Crescent in cooperation with the UN High Commission for Refugees (UNHCR) for particularly vulnerable people removed from the Ganfuda camp (pregnant women, unaccompanied minors, and the sick), holding some 450 people.

The delegation met internally displaced Libyans from Tawargha<sup>6</sup> in two of the seven camps where they were being held at the time of the mission: the Fellah camp in Tripoli (1,300 persons) and in the Benghazi camp run by the Libyan Red Crescent.

The delegation had unrestricted access to all these places of detention and was also able to hold discussions with guards and to collect testimonies from detainees, sometimes under the guards’ vigilant surveillance. Most migrants agreed to be photographed after being interviewed and informed about the purpose of the mission “so that people from the outside can see what is happening in these camps”.

The mission focused primarily on the plight of black Africans in Libya because of the abuse with which they are targeted as well as the spontaneous nature of their migratory movements which contrasts sharply to the migration patterns of labour migrants from Asia, who tend to migrate under employment contracts concluded in their countries of origin.

Even for those who are able to leave the camps or manage to escape controls, the situation remains dire. The delegation saw concrete evidence of their plight during visits to poor neighbourhoods of Tripoli where it found Eritrean and Somali communities living a semi-clandestine existence in deplorable conditions, deprived of any legal status.

This is the shocking and unacceptable reality that this report seeks to document and analyse, placing it in its complex historical, geopolitical and economic context.

As the report shows, actors operating at local, national and international level have a shared responsibility for the current situation in Libya.

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6. Tawargha, a town about 40 km from Misrata, whose population comprises almost exclusively descendants of slaves originating from sub-Saharan Africa, was emptied of its inhabitants following reprisal raids carried out by Misrata revolutionary militias who accused them of supporting and fighting alongside Gaddafi forces.

Consequently, recommendations are addressed to:

- Libyan authorities established through the electoral process
- The European Union and Member States that have already concluded – or that plan to conclude – bilateral cooperation agreements with Libya
- States of origin of migrants
- Regional and international human rights protection bodies
- International companies employing migrant labour in Libya, both directly and through subcontractors





**Bou Rashada Camp. Gharyan**

Migrants are assembled for a football match, improvised by the camp guards on the arrival of the mission delegation: "It's the first time that we have been allowed out for months".

AN ALARMING SITUATION  
EMERGING FROM A  
COMPLEX HISTORY

The alarming situation currently faced by thousands of migrants and refugees in Libya and the poor management of migration issues in this unstable period of transition cannot be attributed solely to the post-revolutionary chaos and the prevailing xenophobic climate.

Any attempt to understand the current tragic episode in Libya must take into account the broader historical and geopolitical context in order to gain insight into the complexity of migratory movements in this region and the factors that determined the various migration policies adopted by the previous regime.<sup>7</sup>

## A historic land of trans-Saharan migration

With the exception of the coastal area where 80% of the population is concentrated, Libya is a desert through which nomads and migrants from the Sahara and the Sahel have transited for centuries. The slave trade has also left deep traces in Libya, in the mentalities of the population, and more visibly in the presence of black African minorities who have been settled in Libya for centuries.



From the middle of the twentieth century, following the discovery of Libya's vast oil reserves, the demand for labour to modernise the country increased. A sharp surge in migratory movements towards Libya ensued, first from neighbouring countries (Chad, Egypt, Niger, Sudan, Tunisia), then from further afield. In addition, periods of drought and famine in the Sahel, and conflict and instability in Chad, Niger and Darfur (Sudan) drove thousands of people to flee to Libya.

7. See "The Libyan Migration Corridor", Sylvie Bredeloup and Olivier Pliez, European University Institute, Robert Schuman Centre for Advanced Studies, 2011. See also Said Haddad, "Fruits et défis de la normalisation libyenne", *L'Année du Maghreb*, I | 2004. <http://anneemaghreb.revues.org/307>.

The development of towns in the South was shaped by the presence of migrants of sub-Saharan origin and by a range of trans-Saharan commercial and transport activities. In the North, many migrants found jobs as masons, mechanics, carpenters, tailors, artisans and shopkeepers.

Until the early 1990s, Libya's migration policy basically consisted in allowing foreign workers unrestricted entry whenever the economy needed them, and expelling them just as quickly in periods of economic downturn (for example, some 80,000 migrants were reportedly deported over a two-month period during the 1985 economic crisis<sup>8</sup>).<sup>9</sup>

## Years of inconsistent policies towards sub-Saharan African migrants under Gaddafi

This pragmatic policy towards migrants changed abruptly in 1992, after the United Nations Security Council imposed an arms embargo and economic sanctions against Libya for supporting "terrorist" acts and as a consequence of the new direction given by Gaddafi to Libya's international relations.

After the failure of his pan-Arab ambitions and under the pressure of the embargo and economic sanctions, Gaddafi embarked on a pan-African political campaign. During his propaganda visits to numerous African countries, he officially encouraged labour migration to Libya. This "open-door" policy for Africans resulted in a massive influx of new migrants from neighbouring countries, but also from West Africa (Nigeria, Mali and Senegal), attracted by the promise of the Libyan *Eldorado*. However, the lack of a coherent immigration policy, exacerbated by arbitrary rules on regularisation, rapidly led to confusion and the emergence of racketing, abusive methods and arbitrary arrests. In addition, the growing presence of sub-Saharan migrants in conservative coastal cities began to provoke hostile reactions among the local populations.

8. See, The Libyan Migration Corridor, *op cit*.

9. Law N° 6 of 1987 on the entry, residence and exit of foreigners from Libya stipulates that persons originating from Arab states and Sudan, Ethiopia and Eritrea may enter Libya without a visa. Law N° 10 of 1989 granted Arab citizens the right to enter and reside in Libya, and to enjoy the same rights as Libyans. This policy was subsequently revised in 2005 and 2007 in order to strengthen visa requirements.

The anti-African riots in Autumn 2000, in which 130 African migrants died, led to a new twist in the erratic management of migration issues by Libya's "Guide". In an attempt to disguise the racist character of the violence, for fear it might tarnish the image he sought to project to the outside world only a year after the air international embargo had been lifted, Gaddafi's public statements began to criminalise migrants, accusing them of drug dealing, spreading infectious diseases and prostitution. Stricter measures of control were introduced and the "open-door" policy towards Africa gave way to a policy of deportation of African migrants. Some 200,000 migrants are estimated to have been deported between 2003 and 2006.<sup>10</sup>

## Mounting European pressure to control "illegal" migration

It was not until the first decade of the new millennium that the issue of controlling migrants "transiting" through Libya to Europe began to be addressed by the European Union and its Member States.<sup>11</sup> The Libyan government then began to forge closer ties with Italy, the European state most directly concerned.

**The history of the development of relations between Libya and Italy** is emblematic of the instrumentalisation of migration issues on both sides of the Mediterranean.

After years of tension between the two countries due to the legacy of the particularly bloody colonial period, relations began to improve after the year 2000, around issues concerning migration. Italy sought to pacify relations with Gaddafi, hoping to persuade him to strengthen migration controls in Libya so as to prevent migrants from reaching Italian territory.

Between 2000 and 2004, several agreements on migration were signed by Berlusconi's Italy and Gaddafi's Libya. Under these agreements Italy undertook

10. See "The Libyan Migration Corridor".

11. In 2000, Italy and Libya signed a first agreement "on the fight against terrorism, organised crime, drug trafficking and illegal immigration". In November 2002, the Council of Europe stated that it was "essential and urgent" to begin to cooperate with Libya on migration issues. See *Report of the first technical mission sent by the European Commission to Libya* (28 Nov. - 6 Dec. 2004), [www.statewatch.org/news/may/2005/eu-report-libya-ill-imm.pdf](http://www.statewatch.org/news/may/2005/eu-report-libya-ill-imm.pdf).

to supply Libya with logistical material for immigration control: assistance in the construction of migrant detention camps, training, charter flights (and even up to 1,000 plastic body bags to collect the corpses of would-be migrants in the Sahara desert).<sup>12</sup> Gaddafi's commitment to the agreements was not immediate and he continued to negotiate with Italy on such issues for many years, alternately allowing and clamping down on migrant departures by boat across the Mediterranean.<sup>13</sup>

The close cooperation between the two countries on migration issues continued under a left-wing Italian government, and they signed a new bilateral agreement to "fight against illegal immigration" on 29 December 2007.<sup>14</sup> On the same day, the two countries signed an additional protocol setting out the operational and technical arrangements for implementation of the agreement, which included provision for joint maritime patrols. Neither document was made public.<sup>15</sup>

In parallel, economic relations between the two countries were strengthened. In October 2007, the Italian petroleum company ENI, which built the pipeline that carries Libyan gas to Europe, signed a major agreement with the Libyan National Corporation authorising it to exploit Libyan oil and gas resources until 2042 and 2047, respectively. Libyan investments in Italy also expanded in various banking and communication sectors.<sup>16</sup>

But it was only after the signing of the Treaty on Friendship, Partnership and Cooperation between Italy and Libya on 30 August 2008<sup>17</sup> that Gaddafi really began to curb the departure of migrants from Libya to Europe. The main objec-

12. *Ibid.*

13. Regardless of whether a close relationship existed between smugglers and the authorities, as some have claimed, such "controls" could be assured by strengthening or relaxing surveillance of maritime borders.

14. On 4 February 2009, the two countries signed an additional protocol that partially modified the 2007 agreement.

15. Texts available in Italian at <http://fortresseurope.blogspot.com/2009/09/paleologo-inutileappellarsi-allaccordo.html>.

16. The Libyan Central Bank and the Libyan Investment Authority invested 2.5 billion euros to purchase 7% of the Italian bank Unicredit; the Libyan enterprise Lafico bought 7.5% of the capital of Juventus football team; the enterprise Lafitrade concluded contracts with Fininvest (a financial holding company controlled by Silvio Berlusconi's family) under which it acquired 10% of Quinta Communications and 14.8% of Retelit, an Italian telecommunications firm. See, for example: [http://qn.quotidiano.net/esteri/2011/02/21/462651-scheda\\_unicredit\\_alla\\_juventus\\_investimenti\\_libici\\_italia.shtml](http://qn.quotidiano.net/esteri/2011/02/21/462651-scheda_unicredit_alla_juventus_investimenti_libici_italia.shtml).

17. [www.migreurop.org/article1321.html](http://www.migreurop.org/article1321.html).

tive of the treaty, which also included provisions on military, energy (oil and gas), parliamentary, financial and economic issues, was to control immigration. As with previous agreements, the text of the treaty was not made public, nor was it submitted for parliamentary approval before signature.

The two states pledged to intensify “the fight against terrorism, organised crime, drug trafficking and illegal immigration”. It was agreed that Italian companies would provide technological expertise to reinforce Libya’s terrestrial border controls, with the Italian government and the European Union sharing the cost equally. The two states also undertook to cooperate in efforts to prevent irregular migration in the countries of origin of migrants.

Italy pledged to pay an estimated five billion euros in instalments of 250 million euros per year for 20 years to finance various programmes: the construction of a highway linking the Tunisian and Egyptian borders, the payment of pensions to Libyans who had served in the Italian army, scholarships for Libyan students, and the installation of a radar system to control Libya’s southern borders, to be carried out by the Italian company Finmeccanica (SELEX Sistemi Integrati).<sup>18</sup> In June 2009, Gaddafi was received in Rome by Berlusconi, as a friend and ally.

The immediate result of these agreements was a significant decrease in the number of migrants arriving on Italy’s shores from Libya, falling from 20,655 arrivals on Lampedusa between 1 August 2008 and 31 July 2009, to 403 during the same period in 2009/2010.<sup>19</sup> This decline was due not only to measures taken by Gaddafi but also to an Italian policy aimed at intercepting migrants at sea and systematically returning them to Libyan shores.

In 2009, it is estimated that at least 1,400 migrants were intercepted at sea and sent back to Libya, where many were held in detention for several months.<sup>20</sup> This Italian practice of intercepting and forcibly returning migrants to countries where they risk being subjected to torture and other abuse, violated international human rights law, international refugee law, customary international

18. [www.defenseindustrydaily.com/Libya-Buys-Border-Control-System-from-SELEX-05846/](http://www.defenseindustrydaily.com/Libya-Buys-Border-Control-System-from-SELEX-05846/).

19. Italian Ministry of the Interior data available at: [www.interno.gov.it/mininterno/export/sites/default/it/sezioni/sala\\_stampa/notizie/immigrazione/0065\\_2010\\_08\\_09\\_Statistiche\\_sbarchi.html](http://www.interno.gov.it/mininterno/export/sites/default/it/sezioni/sala_stampa/notizie/immigrazione/0065_2010_08_09_Statistiche_sbarchi.html).

20. See, for example: <http://fortresseurope.blogspot.com/2011/06/respingimenti-2009-si-chiude-il.html>; Human Rights Watch, “Italy/Libya: Migrants describe forced returns, abuse”, September 2009.

law and European law.<sup>21</sup> Yet, the then Italian Minister of the Interior, Roberto Maroni, applauded the results, stating that this strategy “not only works, but is producing more results than ever seen before”.<sup>22</sup>

In February 2012, this practice was condemned in a landmark decision by the European Court of Human Rights (*Hirsi et al. v. Italy*).

In May 2009, a complaint was filed with the European Court of Human Rights (ECHR) on behalf of 24 Eritrean and Somali survivors. They were part of a group of about 200 people who left Libya aboard three vessels with the aim of reaching the Italian coast. The vessels were intercepted off the island of Lampedusa by three Italian military ships (*Guardia di finanza*) and the Italian coast guard. The occupants of the intercepted vessels were transferred onto Italian ships and returned to Tripoli where they were handed over to the Libyan authorities.

In February 2012, the Grand Chamber of the ECHR condemned Italy, underlining that states which intercept individuals in international waters must respect international human rights law. According to the Court, Italy had breached Article 3 of the European Convention on Human Rights (hereafter European Convention) by exposing the migrants to the risk of inhuman or degrading treatment in Libya, and from there possible forced return to Eritrea and Somalia. The Court ruled that Italy had also violated the prohibition on collective expulsion (Article 4, Protocol 4 to the European Convention) and the right to an effective remedy (Article 13 of the European Convention). It noted that all intercepted persons are entitled to an individual and differentiated examination of their circumstances, as well as to an effective remedy against deportation measures.

### Increased cooperation with the European Union

Relations between the EU and Libya developed alongside the bilateral relations initiated by Italy. On 11 October 2004, the EU lifted the arms embargo and economic sanctions it had imposed in 1992 and embarked on a “policy

21. UN Human Rights Committee, General comment No. 20, 2004; Geneva Convention on Refugees, Art. 33§1; Convention against Torture, Art. 3; European Convention on Human Rights, Art. 3; European Union Charter of Fundamental Rights, Art. 19.

22. <http://corriere.com/2010/08/10/maroni-esulta-crollo-degli-sbarchi-in-italia/>.



of engagement” with Libya. On the same day, the Council of Europe decided to initiate a dialogue on the “fight against illegal immigration”.<sup>23</sup>

In November 2004, the European Commission sent a technical evaluation mission to Libya.<sup>24</sup> In June 2005, the EU Justice and Home Affairs Council adopted conclusions on initiating dialogue and cooperation with Libya on migration issues,<sup>25</sup> agreeing to “reinforce systematic operational cooperation between the respective national services responsible for the sea borders”; to develop “common operations in the Mediterranean” and to “examine the creation of a temporary EU Task Force to which EU Member State vessels and aircraft could be made available”. The Council invited Member States to send “immigration liaison officers” (ILOs) to Libya and to ensure their coordination at Tripoli airport and in maritime ports. The EU pledged to train Libyan authorities in migration control techniques and to “explore possibilities for formalised cooperation in the field of return of illegal immigrants to Libya...”.<sup>16</sup>

In 2005<sup>26</sup> and 2007,<sup>27</sup> Libya introduced major legislative reforms concerning the “organisation of the entry and residence of foreigners in Libya and their exit” aimed at strengthening visa and work permit requirements. Since 2007, all nationals from sub-Saharan Africa in Libya are required to have a visa to enter Libya.

From 2007 onwards, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) endeavoured to involve Libya in its operations. The main objective of a Frontex technical mission to Libya in May 2007 was to “encourage the Libyan authorities to participate jointly in the *Nautilus* project, coordinated by Frontex”.<sup>28</sup> This project aimed to combat “illegal” immigration towards Malta and Lampedusa.

23. Council of the European Union, Luxembourg, press release, 2609th Council meeting, 11 October 2004, C/04/276.

24. Report of the European Commission technical mission to Libya (28 Nov-6 Dec 2004), *op cit*.

25. EU Justice and Home Affairs Council, Cooperation with Libya on migration issues, Council conclusions, Luxembourg 3 June 2005.

26. General People’s Committee decree N° 125/1373 (2005) on the application of Law N° 6 (1987) covering visa entry and exit regulations for foreigners.

27. Decree N° 98/1375 (2007) on labour laws and mechanisms for labour organisation in Libya; Decree N° 6/1375 (2007).

28. See, Report of the technical mission on clandestine immigration conducted by Frontex in Libya, May-June 2007. [www.statewatch.org/news/2007/oct/eu-libya-frontex-report.pdf](http://www.statewatch.org/news/2007/oct/eu-libya-frontex-report.pdf).

A first Memorandum of Understanding was signed on 27 July 2007 by the then EU Commissioner for External Relations and European Neighbourhood Policy, Benita Ferrero-Waldner, and the Libyan Minister for European Affairs, Abdul Ati al-Obeidi. The following year, the EU Commission initiated negotiations over a broader agreement with Libya covering issues including strengthening political dialogue, migration management and the development of relations in the economic, energy security and other sectors. The agreement also provided for the conclusion of readmission agreements, concerning migrants who had transited through Libya to reach Europe. Negotiations continued until 2010, in opaque conditions and outside the supervision of the European Parliament.

On 4 October 2010, the EU and Libya signed a cooperation programme on migration issues.<sup>29</sup> However, NATO’s intervention in March 2011 led to the official suspension of all negotiations with Gaddafi’s Libya.

### Instrumentalising fear

During this period, Gaddafi sought to capitalise, both financially and in terms of his international image, on Europe’s strong political interest in seeing Libya play a policing role to help keep “illegal” immigrants out of Europe. He warned of an invasion of Europe by African migrants, citing massive numbers of migrants transiting through Libya that would swamp Europe if it failed to grant the financial aid demanded.<sup>30</sup>

The manipulation of facts and figures was extraordinary. How could a country with no system for recording arrivals and departures, without reliable migrant registration procedures, and thus with no realistic idea of the size of its migrant population (official estimates ranged between 1.5 and 2.5 million) possibly know how many Europe-bound “illegal” migrants were transiting through its territory?

Only the confusion fostered by the Libyan authorities – echoed by European states and the European media – between settled migrant workers (with or without valid documents) and migrants in transit, and between migrant workers

29. EU press release, *European Commission and Libya agree a Migration Cooperation agenda during high-level visit to boost EU-Libya relations*, 5 October 2010. Available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/10/472>.

30. See, for example, FIDH press release (in French), *Libye/UE: La FIDH et l’UFTDU condamnent les propos racistes du Colonel Khadafi*, September 2010. [www.fidh.org/Libye-UE-La-FIDH-et-l-UFTDU](http://www.fidh.org/Libye-UE-La-FIDH-et-l-UFTDU).

and individuals seeking refuge after fleeing repression or war in their countries of origin (Eritrea, Ethiopia, Somalia, Darfur-Sudan), enabled Gaddafi to brandish such exaggerated numbers, which no serious study corroborated.<sup>31</sup>

One of the most deplorable lasting consequences of this manipulation of data is its contribution to reinforcing a fear of migrants among populations both in Europe and Libya. The deliberately biased forecast of “migratory risk” from Libya persists to this day. This has contributed to “closed-door” policies in Europe, including for asylum seekers stranded in Libya’s border regions and continued pressure on Libya’s new authorities.

18 The first result of these new policies was an alarming *increase in repressive measures* against undocumented migrants, whether settled or in transit, which led to the creation of detention camps where migrants are subjected to brutal and degrading treatment, in violation of international and regional human rights protection conventions ratified by Libya.<sup>32</sup> Witness accounts about these camps are dramatic and various international organisations and bodies have reported abuses against migrants and asylum seekers held there.<sup>33</sup>

Repression and insecurity affect all migrants from sub-Saharan Africa, both migrant workers and asylum seekers. The situation of asylum seekers is particularly precarious because Libya has not ratified the Geneva Convention relating to the Status of Refugees. Moreover, while Libya has ratified the Convention Governing the Specific Aspects of Refugee Problems in Africa of the Organisation of African Unity (OAU Convention) and the African Charter on Human and Peoples’ Rights (which recognises the right to asylum<sup>34</sup>), it has no national asylum system in place. From 1991 until 2010, the Gaddafi regime authorised the UNHCR to maintain a presence in Libya, but its status was never formalised. During that period, the UNHCR registered requests

31. See The Libyan Migration Corridor, *op cit*.

32. For example, the International Covenant on Civil and Political Rights, ratified in 1970; the Convention against Torture, ratified in 1989; the Convention on the Elimination of All Forms of Racial Discrimination, ratified in 1968; the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ratified in 2004; the African Charter on Human and Peoples’ Rights, ratified in 1986. See also, *Amnesty International*, Libya of Tomorrow – What Hope for Human Rights?, June 2010.

33. See, for example, Human Rights Committee, final Conclusions, 2007, para. 18. Available at: [www2.ohchr.org/english/bodies/hrc/hrcs91.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs91.htm); Human Rights Watch, *Italy/Libya: Migrants describe forced returns, abuse*, September 2009.

34. Art. 12 (3).

for asylum, determined refugee status and provided humanitarian assistance, which represented a form of protection (without any guarantees). In June 2010, while negotiations between Libya and the EU concerning the amount and modalities of EU financial assistance to combat “illegal” immigration were ongoing, Gaddafi ordered the UNHCR to close its office and halt all activities in Libya, leaving thousands of refugees in an even more precarious situation.

The second perverse effect of the new policies was the *growing number of migrants seeking to leave an increasingly inhospitable Libya* in makeshift vessels, attempting to reach Lampedusa or Malta. This was particularly the case for refugees from the Horn of Africa who are unable to return to their countries of origin.

Prior to the outbreak of the conflict in February 2011, as Libya’s cooperation with Italy strengthened and the number of migrants intercepted at sea and returned to Libya significantly increased, European states expressed satisfaction with the results, apparently unperturbed by the human costs for migrants and asylum seekers who took to the sea or who were returned to Libyan detention camps, where they were subjected to inhuman and degrading treatment. While Italy implemented this policy, no EU Member State denounced it publicly. As for Frontex, its Deputy Executive Director, Gil Arias-Fernandez, stated: “Based on our statistics, we are able to say that the agreements [between Libya and Italy] have had a positive impact. On the humanitarian level, fewer lives have been put at risk, due to fewer departures. But our agency does not have the ability to confirm if the right to request asylum as well as other human rights are being respected in Libya”.<sup>35</sup>

19

## The devastating impact of nine months of war on migrants in Libya

The insurrection in Libya that began on 17 February 2011, following the “revolutions” in Tunisia and Egypt, prompted an immediate and increasingly violent reaction from the Gaddafi regime. The following nine months of civil war and NATO’s military intervention have had significant consequences for the country and the region which remain largely unpredictable.

35. Cited in Human Rights Watch, *Pushed back, pushed around*, *op cit.*, pp.36-37.

The consequences for migrants can be summarised in a few key points:

**Mass exodus towards African countries:** During the conflict, especially in the first few months of hostilities, the foreign population, having become even more vulnerable due to the violence, loss of employment and prevailing insecurity, massively fled the country. By 27 November, shortly after the official end of the conflict, the International Organisation on Migration (IOM) had registered 778,981 migrants (non-Libyans) who had fled Libya since its outbreak.<sup>36</sup> More than 96% crossed Libya's terrestrial borders – the majority into Egypt and Tunisia – before being repatriated to their countries of origin.

**European states close their doors:** Official figures show that only a very small proportion of migrants arrived by boat on European shores: according to the IOM, 25,935 arrived in Lampedusa and 1,530 in Malta, representing – less than 4% of the total. European states again resorted to exaggerating figures in order to fuel fears of an “invasion” of migrants from Libya and thereby to justify the extraordinary maritime surveillance measures put in place. The Italian Foreign Minister, Franco Frattini, spoke of 200,000 to 300,000 arrivals and warned of the risk of a “biblical exodus”.<sup>37</sup>

According to the accounts of migrants who reached Italy, the Gaddafi regime, particularly furious against its former ally Italy for joining the NATO coalition, forced migrants stranded in coastal ports onto boats to Europe, playing on fantasies of an “African invasion” of Italy and Europe in general.<sup>38</sup>

The large majority of European states refused to accept refugees who had fled Libya, including those detained at the Tunisian border in the Choucha camp and at the Egyptian border in Salloum who were granted refugee status by the UNHCR.<sup>39</sup>

36. IOM, Daily statistical Report, 27 November 2011.

37. See L'Humanité, *The Italian right believes it is facing a biblical exodus*, available in French at: [www.humanite.fr/23\\_02\\_2011-la-droite-italienne-croit-affronter-un-%C2%AB%E2%80%89exode-biblique%E2%80%89C2%BB-465763](http://www.humanite.fr/23_02_2011-la-droite-italienne-croit-affronter-un-C2%AB%E2%80%89exode-biblique%E2%80%89C2%BB-465763).

38. See, for example, IOM press release, *Migrant survivors speak of boat tragedy off the coast of Libya*, 9 May 2011, available at: [www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnAF/cache/offonce?entryId=29620](http://www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnAF/cache/offonce?entryId=29620); and <http://ricerca.repubblica.it/repubblica/archivio/repubblica/2011/08/27/era-gheddafi-mandare-barconi-voleva-un-inferno.html>

39. See, for example, FIDH Report, “*Exiles from Libya flee to Egypt: Double tragedy for sub-Saharan Africans*”, July 2011, *op cit.*; Joint Press Statement, *The Mediterranean: NATO finally comes to the aid of shipwrecked migrants, but the European Union refuses to admit them*, available at: [www.fidh.org/The-Mediterranean-NATO-finally](http://www.fidh.org/The-Mediterranean-NATO-finally).

**Targeted abuse against sub-Saharan Africans**, who were collectively accused of being “mercenaries” supporting Gaddafi, reviving latent racist sentiments.<sup>40</sup> Although the circumstances remain unclear, it would seem that most of the sub-Saharan Africans recruited by Gaddafi, who were far fewer in number than reports in the media led to believe, were not migrants living in Libya but “professional” mercenaries from Chad, Sudan and northern Niger. Many of those sub-Saharan African migrants who were unable to flee Libya were assembled in makeshift camps in Tripoli port, Misrata or Adjabiya for protection. The UNHCR, IOM and international NGOs provided assistance and many were evacuated by boat.

**Rapid return of migrants to countries already affected by poverty**, climate hazards and insecurity, depriving thousands of families of their main source of income, and compounding the problems of unemployment and social instability throughout the region.<sup>41</sup>

**Proliferation of arms throughout the Sahel-Saharan zone** constituting a serious threat to the security and stability of the entire sub-region.

**Increasing numbers of deaths in the Mediterranean Sea:** The year 2011 was the deadliest year in the Mediterranean. The UNHCR estimates that more than 1,500 migrants perished there in 2011, despite the presence not only of coast guards and Frontex surveillance patrols, but also of military ships engaged in operations in Libya.

In response to these dramatic events, the Parliamentary Assembly of the Council of Europe launched an investigation aimed at determining responsibility for these deaths.<sup>42</sup> The investigation focused on an incident documented in the press, involving a boat of 72 migrants which was left to drift for two weeks, despite issuing distress calls, resulting in the deaths of 63 of its passengers.<sup>43</sup> In March 2012, FIDH, Migreurop and other migrants' rights organisations supported survivors to file a complaint before the French courts for “non-assistance to persons in danger”. The complaint accused the French military contingent, deployed in the Mediterranean Sea as part of the Libya operation,

40. FIDH Report, *ibid.*

41. See Parliamentary Assembly ACP-EU Resolution of 28-30 May 2012, ACP-UE/101.157/A/def.

42. PACE, *Lives lost in the Mediterranean Sea: Who is responsible?* <http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=18095&Language=EN>.

43. See The Guardian, *Aircraft carrier left us to die say migrants*, 8 May 2011. [www.guardian.co.uk/world/2011/may/08/nato-ship-libyan-migrants](http://www.guardian.co.uk/world/2011/may/08/nato-ship-libyan-migrants).

of failing to respond to distress signals from the migrants' vessel.<sup>44</sup> Migreurop, FIDH, JSFM and other organisations also launched a campaign under the banner *Boats4People* to document and raise awareness on these tragedies.<sup>45</sup> In July 2012, *Boats4People* organised a flotilla of vessels to foster solidarity in the Mediterranean in order to prevent the death of migrants travelling in unsafe vessels.

**Testimony of Dan Haile Gebre, survivor of the “left-to-die boat”, April, 2011<sup>46</sup>**

Dan Haile, who worked as a mechanic in Tripoli, explains his decision to flee by boat, during the conflict.

*“The people are divided into two groups: pro Gaddafi and pro Benghazi. So anybody will ask you: whom do you support? If you say ‘rebels’ the person you are speaking to might be pro Gaddafi, and if you say with ‘Gaddafi’ he might be with the rebels. This is very difficult, especially for the blacks. They started killing black people. They come to our homes and steal everything you have. They stole everything from my workshop because of the green flag, which is mandatory to work under the Gaddafi regime.”*

*“At that time you could only go to Tunisia if you had a passport and if you could pay money to the police; but we had nothing [...], The only thing we could do was to make the crossing to Italy.”*

It is against this backdrop that the findings of the investigation mission, conducted some nine months after the fall of the Gaddafi regime, should be considered.

44. FIDH press release, Death of 63 migrants in the Mediterranean: Complaint in France holds the French military to account, 12 avril 2012, <http://www.fidh.org/Death-of-63-migrants-in-the-45.www.boats4people.org/index.php/en/>.

46. Interview on 22 December 2011 in Milan (Pieve Emanuele). See Heller, C., Pezzani, L., Situ Studio, Forensic Oceanography, Report on the “Left-to-die boat”, April 2012.



Ganfuda Camp, Benghazi





**Camp run by the Katiba “Free Libya”. Benghazi**

Young Somali migrants, arrested at the end of a long and difficult journey through the desert, arrive at the camp several hours before the delegation's visit.

**MIGRANTS INCREASINGLY  
THREATENED, MISTREATED  
AND VULNERABLE**

The experience of African migrants and refugees during the initial months of Libya's "liberation" from Gaddafi's dictatorship was summed up soberly by a Nigerian man, who had worked in Libya for five years and had been detained in a camp for five months at the time of the delegation's visit: "It was difficult before the war, terrible during the war, but it is worse now."

## Instability in Libya

Libya's National Assembly, elected on 7 July 2012, and the new government face major challenges to end the current chaos in Libya and establish a country governed by the rule of law.

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Events leading up to the fall of the Gaddafi regime led to a **fragmentation of political power** between multiple rival factions from eastern, western and southern parts of the country, underlining their respective participation in removing the dictator and exhibiting mistrust towards the transitional central authorities. The state apparatus, already weak and inefficient under Gaddafi, was even more so during the transitional period when it lacked democratic legitimacy and was undermined by the resistance and uncooperative attitude of former high-level officials.

**Risks of a generalisation of violence** and a worsening security situation in Libya are very real. All parts of the country are becoming increasingly militarised, with large quantities of weapons in the hands of *Thuwar* (revolutionary) militia groups who answer to no state authority. Clashes between rival militia groups in May and June 2012 that reportedly left more than a hundred people dead and attacks against symbols of Western presence in Libya, such as the headquarters of the International Red Cross in Benghazi, reflect the deteriorating security situation.

**An unstructured and paralysed economy:** with the exception of oil sector activity, which has resumed with the return of the international companies in areas controlled by militias, the rest of the productive economy, which was largely dependent on foreign investors, remains paralysed. The construction sector, in particular, which represents a huge market and a significant source of employment, has been virtually dormant since the outbreak of the conflict and foreign companies remain reluctant to reinvest in a country with such a high level of insecurity. Under a decree issued by the Ministry of Economy on 13 May 2012, foreign companies may again enter into joint ventures with

Libyan partners and acquire up to 80% of the venture capital.<sup>47</sup> However, business activity will only grow as and when the country becomes more stable and secure.

**Violence crosses borders:** In the already very unstable Sahel region, the circulation of arms and men who fought in Libya represents a threat to regional security. In Libya, controlling the southern borders presents a serious challenge that the Ministries of Defence and Interior are unable to meet, given the current disorganisation, power struggles, and the complexity of the task of protecting 1,800 kilometres of desert border. Meanwhile, self-styled "Desert Shield" militias have taken responsibility for border control in the south, with devastating consequences for migrants.

## Migration towards Libya resumes

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There is no way of knowing how many migrants and asylum seekers are currently present in Libya. None of those met by the mission delegation were able to provide accurate estimations of the numbers that had remained in the country during the conflict, or had returned to or entered the country for the first time since the cessation of hostilities.

During visits to detention camps the delegation met three categories of men and women detainees: migrants from West Africa who had been living and working in Libya for years; Chadian, Malian and Nigerian nationals who had left during the war and returned to Libya after the end of the conflict; and migrants from the Horn of Africa, Egypt, Sudan and Bangladesh who had entered the country since the beginning of 2012.

Despite the lack of quantitative data, all those met by the delegation, including Libyan officials, representatives of international agencies and camp guards, agreed that the number of migrants and refugees entering or re-entering Libya was increasing. In Tripoli and Benghazi, observers noted a "visible" increase in the number of migrants; in some places groups of migrants could be seen in the morning waiting by the roadside for employers to pick them up. Demand for unskilled labour is slowly recovering and daily wages are reported to have risen from 20 Libyan dinars<sup>48</sup> before the war to between 30 and 40 dinars today.

47. See The Tripoli Post, 9-15 June 2012, [www.tripolipost.com](http://www.tripolipost.com).

48. 1 Libyan dinar = approximately 0,6 euros.

The most pressing current labour needs are in the agriculture and pastoral sectors. They may rapidly extend to the service sector as well as to areas of unskilled labour not traditionally undertaken by Libyans, even before the resumption of major construction works. At the time of the mission, there was reportedly a significant demand for women migrant domestic workers; employers are said to pay up to 3.000 dinars to recruitment agents (which they subsequently recover through deductions from the employee's salary).

Only Syrian nationals are allowed to enter Libya freely without visas through its **eastern border**; visa requirements were recently introduced for Egyptians and nationals from other countries. The UNHCR delegation in Benghazi estimates that between 30,000 and 40,000 Syrians have entered Libya since the start of the conflict in Syria. No registration procedure exists and they generally do not approach the UNHCR, fearing reprisals by the Syrian authorities. The majority are skilled workers who find employment quickly with the support of the long established Syrian community in Libya and the Syrian Coordination Committee in Benghazi. Egyptian nationals who are caught trying to bypass border controls without a visa are often sent to detention camps and deported (as witnessed by the delegation in Benghazi and Tripoli).

But the most significant flow of migrants into Libya is through its **southern borders**, which is also the most difficult entry route. According to the Director of International Relations at the Ministry of the Interior, General Tunisi, some 1,500 people enter Libya from the South every day. This figure cannot be verified given the length of Libya's southern borders and the absence of any official control and registration of cross-border arrivals and departures. However, this phenomenon appears to be borne out by various migrant testimonies and reports by journalists and press agencies on the activities of people smugglers in the two "sensitive triangles", namely Libya's south-western borders with Algeria, Chad and Niger, and south-eastern borders with Chad, Egypt and Sudan.

This upsurge in migratory movements is attributable to multiple factors reflecting diverse individual and collective projects. Hopes of finding work in a country that needs rebuilding and the presence of numerous transport providers (taxis, pick-up trucks, merchandise transport, etc.) offering clandestine passage, albeit at a high price, are incentives that push many migrants and asylum seekers who lack the means to live a dignified existence in their countries of origin to try their luck in post-war Libya.

Many (including the majority of those met by the delegation) seek work in Libya and to be able to send money home to their families. For others, Libya is a transit route to reach Europe: this is particularly true of men and women fleeing repression and political unrest in their countries of origin, who seek asylum in a country which can offer the protection and assistance they need and to which they are entitled under international law.

In the current context, no country in the region is able or willing to offer such protection. In Libya, the prevailing insecurity and the widespread persecution of migrants reinforce the desire of some to attempt to reach Europe, despite knowing the dangers and difficulties they will face.

### Land routes: blackmail, exploitation and violence

The mission delegation heard many accounts of migrants' journeys to Libya, confirming the main migration routes through Libya's southern borders. Migrants from Niger and West African countries cross the Niger-Libya border and converge on the city of Sebha, while those from Sudan, Chad and the Horn of Africa (Eritrea, Ethiopia and Somalia) cross the Sudan-Libya border and arrive in the town of Kufra.

Migrants interviewed by the delegation confirmed that clandestine transport into Libya was negotiated in neighbouring countries at prices between USD 800 and 1,000 per person with "transporters" with four-wheel drive vehicles who are familiar with the desert region. Many migrants said that they had been tricked into believing that the "negotiated" price covered transport to Tripoli or Benghazi. In reality, once they had been driven across the border they were abandoned in the middle of the desert at the mercy of Libyan people traffickers. The delegation heard numerous accounts from migrants describing how they had been kidnapped by armed men on the Libyan side of the border, locked up, threatened and forced to pay money to be allowed to continue their journey to the North. Migrants who did not have enough money were often forced to call their families in their countries of origin to ask them to make a cash transfer via Western Union. A young Eritrean woman who had spent several days in detention in one of these "clandestine prisons" in Sebha described the physical violence and abuse she and other detainees had suffered at the hands of a gang leader. Once they had each paid a ransom of around USD 700, the migrants were hidden in merchandise trucks that were told to drive them to the outskirts of the main cities in the North. If they were arrested en route at one of the numerous checkpoints controlled by the militias, the result of all

these efforts would be detention for an indeterminate period, outside of any legal framework.

The delegation heard numerous accounts of migrants who had been detained and sent back across the borders to Chad, Niger or Sudan, regardless of their individual circumstances, or their potential refugee status.

At the time of the mission, Kufra was the most dangerous area for migrants, due to the high level of insecurity generated by deadly clashes between local tribes.

## Migrants in the hands of the *Katibas*

30 In the context of political fragmentation, administrative chaos and militarisation that characterize post-conflict Libya, ex-rebel groups (*Katibas*) have taken it upon themselves to assume responsibility for maintaining law and order in the country, beyond the control of government authorities.

The representative of the Ministry of the Interior met by the delegation acknowledged that, following the destruction of army and police infrastructure and equipment during the war, “the armed militias were the only ones left capable of protecting the country”, although he stressed that this resulted in many problems that needed to be addressed as soon as possible. It is estimated that there are some 200,000 militiamen to be integrated into the country’s armed forces or into civil society. Since the beginning of June 2012, a few thousand *Thuwar* militiamen in the Tripoli area have agreed to sign contracts with the Ministries of Defence and Interior, but the process is uncertain and fragile. In the South, several *Katibas* of former rebels, claiming to be members of the “Desert Shield” movement, continue to conduct patrols near border crossings to monitor the passage of goods and weapons and to intercept irregular migrants (i.e. all persons who cross the desert border via networks of people traffickers).

While the transitional authorities failed to take measures to address migration issues, *Katiba* militia brigades took control. As one leader of a *Katiba* called “Free Libya” said proudly: “After the war ended, we assumed our responsibilities by specialising in the control of migrants. The most important thing today is to ‘cleanse’ the country of foreigners without proper papers. We need to put an end to the practices of Gaddafi who let many Africans enter Libya.

We don’t want these people who bring disease and crime. Now we want all migrants to have valid visas and work permits.”

This “mission” taken on by former rebels, based on security considerations against a backdrop of racism and xenophobia, results in widespread practices of arbitrary arrest and detention of migrants and asylum seekers, in total disregard of human rights.

**Arrests** of foreigners, especially sub-Saharan Africans, are systematic at many checkpoints controlled by militias at the entry to towns and villages and on the main thoroughfares. Operating outside of any legal framework, *Thuwar* militias have vested themselves with authority to arrest migrants at random, using methods that often involve recourse to violence.

Since the beginning of 2012, militias have adopted the brutal and illegal police practices of the Gaddafi era against irregular migrants who do not have valid passports and visas or residence permits. However, it is virtually impossible for African migrants and asylum seekers to procure these documents; either they do not have a passport because they fled their countries of origin (e.g. Eritrean, Somali and Sudanese (Darfur) nationals); or they never possessed one; or they have passports but cannot obtain or renew their residence permits because there is currently no functioning administrative service to issue them.

Zealous militias enter migrants’ homes and places of work and arrest those without documents. Many migrants report having been mistreated and having had money and other valuables stolen. They are then transported – with only the personal effects they are able to carry – to a detention camp.

## Stigmatisation and racism

As we have seen, today’s Libya has a deep-rooted legacy of racism against sub-Saharan Africans, aggravated in recent years by Gaddafi’s policy of stigmatising African migrants. In a country where civil society organisations defending human rights have only now begun to emerge, the generalised contempt for and suspicion of black people within the Libyan population make fertile ground for acts of violence, triggered by the slightest rumour.

31



That is what happened during the anti-African riots of 2000. It is also what happened during the recent conflict when rumours spread throughout the country that Gaddafi was recruiting sub-Saharan Africans to fight alongside his forces and that they were committing rape and other atrocities. As a result sub-Saharan Africans present in Libya were threatened and abused on the grounds that they were or could potentially become mercenaries fighting for Gaddafi. The threatening climate prompted hundreds of thousands to flee Libya, or – for those who were unable to leave – to lie low in their homes in fear of being attacked. Cases of assassination, torture and other degrading treatment were documented by several international bodies and NGOs, including FIDH.<sup>49</sup>

32 There have been no effective investigations into these crimes and there is little prospect for justice at the national level. Law No. 38 on transitional measures, adopted by the National Transitional Council in May 2012, provides for an amnesty for those responsible for crimes committed “in the name of protecting or promoting the Revolution”. In March 2011, the International Criminal Court (ICC), on the basis of UN Security Council Resolution 1970, opened an investigation into the situation in Libya. In May 2011, the ICC Prosecutor stated that one of the main priorities of investigations would be “allegations of attacks against sub-Saharan Africans wrongly perceived to be mercenaries”.<sup>50</sup>

Months have passed, and although today these allegations are heard less often, suspicion and racism remain widespread. The current rumours, heard repeatedly by the mission delegation in numerous places inside and outside the camps, repeat the themes promoted by Gaddafi in the early 2000s: African migrants bring disease (in particular HIV), immoral behaviour (consummation of alcohol, womanising), prostitution and drugs. A conversation that the delegation had with a taxi driver in Tripoli is an illustration in point. After stating that Africans should not be allowed into Libya because they bring disease etc. into the country, he concluded that Libya should “use workers from Pakistan or India, like the Gulf countries”.

49. See for example, Human Rights Council, *Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya*, A/HRC/17/44, 1 June 2011; FIDH Report, “*Exiles from Libya flee to Egypt: Double tragedy for sub-Saharan Africans*”, July 2011, *op cit*.

50. Statement on Libya by the ICC prosecutor at press conference, 16 May 2011, available at: [www.icc-cpi.int](http://www.icc-cpi.int); see also: *First report of the International Criminal Court Prosecutor to the UN Security Council in application of Resolution 1970 (2011)*, 4 May 2011, para 36.

*Thuwar* militias arrest people on the basis of appearance and the detention camps they run are populated almost exclusively by black Africans. In some of the poorer neighbourhoods of Tripoli, sub-Saharan Africans encountered during the mission reported constant harassment and racist incidents in the form of insults and sudden raids on their homes by armed men who threaten them and steal the little money and few valuables in their possession.

## Absence of policy and vision to address migration issues

33 Despite the significance of political, economic and social issues linked to migration for Libya, since the outbreak of the conflict the only response has been a generalised “criminalisation” of migrants whose have been left to the arbitrary control of armed militias. Beyond security concerns, there is not even the outline of a policy on migration and at the time of the mission, there was no state representative to address arbitrary arrests, imprisonment and deportation. In the absence of a functioning justice system and application of the rule of law, serious violations against sub-Saharan African migrants and asylum seekers by individuals and armed groups are committed with complete impunity.

During the conflict in 2011, FIDH repeatedly called on the NTC to firmly and publicly condemn the violence perpetrated against African migrants in areas under the control of the “rebels”. In March 2011, the NTC issued an eight-point roadmap entitled, “A vision of a democratic Libya”. Point eight states: “Immigration, residency and citizenship will be managed by government institutions, respecting the principles and rights of political asylum and public liberties.” The roadmap also proclaimed that Libya, “[...] will join the international community in rejecting and denouncing racism, discrimination... while strongly supporting peace, democracy and freedom”.<sup>51</sup>

As far as the treatment of foreigners is concerned, these declarations of intent remain unimplemented. In large part, this can be explained by the lack of legitimacy of the transitional authorities vis-à-vis former rebel groups and the absence of functioning state bodies. Yet there also appears to be hesitation on the part of the authorities as to the direction to take on migration policy in the “new” Libya and whether to break with or continue past policies.

51. See [www.ntclibya.org/english/libya/](http://www.ntclibya.org/english/libya/).

In the meantime, the worst aspects of the practices under Gaddafi continue, including the most blatant manifestations of racism and xenophobia, with little reaction from the authorities. In international relations, Libya's declared intention to break with policies from the Gaddafi era is contradicted by the pursuit of negotiations with European countries aimed at reactivating previous cooperation agreements to "combat illegal immigration". The new government will soon have to take a position on these issues, which constitute a test of its democratic ambitions for the country.

It is obvious to all observers that Libya will need foreign labour to contribute to restarting the economy. However, meeting this demand in accordance with the law can only be achieved if clear procedures are established for the recruitment of foreign workers, their rights of entry and residence, ensuring decent working conditions, combating stigmatisation and discrimination, in particular against migrants from sub-Saharan Africa, and obtaining legal redress.

## Alarming signals from Europe

It is very worrying that, although the European political establishment is well aware of the situation of insecurity faced by migrants and asylum seekers in Libya and the serious violations of their human rights, the objective of controlling migration continues to outweigh all other considerations.<sup>52</sup>

The manipulation of facts and figures in relation to "illegal immigration" continues on both sides of the Mediterranean. As we have seen, almost all migrants who are currently present in Libya or who enter Libya now find themselves in a situation of "illegality" for the simple reason that there are no functioning regularisation procedures. Among them are several thousand people who are potential refugees, for whom, in the absence of a national asylum system and a formal agreement between Libya and UNHCR, no protection mechanism exists. The UNHCR has resumed its presence in Libya since 2011, but it is not authorised to register asylum claims or to conduct resettlement operations.

Departure by boat, with all the suffering and risks that such a voyage entails, is the choice of last resort for people who are mistreated in Libya, or who justifiably fear for their safety in the absence of any protection framework.

52. See also, Fargues, P. and Fandrich, C., *Migration after the Arab Spring*, MPC Research Report, 2012/09.

The pursuit of policies aimed at intercepting migrants at sea and returning them to Libya wilfully ignores this reality, in flagrant contradiction with humanitarian principles and the right to asylum that European states claim to uphold.

On the Libyan side, concerns about ensuring control of the southern border are understandable and legitimate in the context of the insecurity and unrest prevailing in the Sahel region, particularly in the wake of the Libyan conflict. Libyan officials have made it clear they need international assistance to control the vast desert border in the South. However, it is a totally different matter when this priority translates solely into efforts to control "illegal migration" in order to satisfy donor countries. The Director of International Relations at the Ministry of the Interior told the delegation that threats to unleash a migrant "invasion" on Europe had been made if European countries did not provide Libya with assistance to protect its southern borders, just as Gaddafi had done. Yet, the dangers at the southern borders stem from arms traffickers and armed groups seeking to destabilise the region, rather than from migrants entering Libya in search of employment.

The signals now coming from European countries are very disturbing because, despite general declarations made by the European Commission and the Council,<sup>53</sup> the policies pursued by the European Union in the area of migration not only display complacency and blindness towards continued violations of migrants' rights, but appear incompatible with the aim of consolidating a democratic regime, based on the rule of law, in Libya.

## Revival of agreements between Italy and Libya

Before the end of the conflict, in June 2011 Italy approached the NTC with a view to reviving the 2008 bilateral agreement (see above) under which Libya committed to controlling its borders and to accepting the readmission of migrants expelled from Italy.<sup>54</sup> On 21 January 2012, in Tripoli, the Italian Prime Minister, Mario Monti, signed the "Declaration of Tripoli", which encompasses the main provisions of the treaty previously signed by Berlusconi

53. European Commission (2011), Partnership for democracy and prosperity with the Southern Mediterranean, (COM (2011) 200 final).

54. Reuters, Italy signs migration accord with Libya rebels, 17 June 2011, <http://af.reuters.com/article/libyaNews/idAFLDE75G1BH20110617>.

and Gaddafi.<sup>55</sup> On 3 April 2012, a detailed agreement on migration control between the two countries was signed, the text of which remained secret until it was published by the Italian newspaper *La Stampa*<sup>56</sup> in June 2012. Among the main provisions of the agreement are the following:

- Training programmes for the Libyan police, the installation of a centre to detect false documents, and a nautical training centre;
- Construction or upgrade of migrant detention camps (referred to as “reception centres”). Italy undertakes to build a health centre in Kufra and to request the European Commission’s financial contribution to cover the re-establishment of reception centres in Libya;
- Strengthening the means to control maritime and terrestrial borders to combat “illegal” immigration. Italy undertakes to provide the necessary technical means for such purpose and underlines the need to relaunch the activities of the “Sah-Med” project<sup>57</sup> with the support of the European Commission;
- Implementation of expulsion procedures and the coordination of voluntary returns with the IOM.

In order to ensure the implementation of the agreement, follow-up mechanisms are to be established: “Friendship offices” jointly staffed by police personnel from both countries are to be opened in Benghazi and Misrata, as well as in Italy, and a “Joint Security Committee” is to be created. Following an inter-ministerial conference on border security, held in Libya on 11-12 March 2012, the two countries plan to establish a joint working group, with jurisdiction over issues related to voluntary return, expulsions, social and economic integration, respect for migrants’ human rights, and to explore solutions to the issue of “illegal” immigration.

In June 2012, the Director of International Relations at the Libyan Ministry of the Interior, General Tunsì, informed the delegation of a project to build a detention camp in the city of Ghat, near the border with Algeria. He stated

55. [http://qn.quotidiano.net/esteri/2012/01/21/656741-libia\\_monti\\_firma\\_tripoli\\_declaration.shtml](http://qn.quotidiano.net/esteri/2012/01/21/656741-libia_monti_firma_tripoli_declaration.shtml).

56. [www.lastampa.it/\\_web/tmplframe/default.asp?indirizzo=http://www.lastampa.it/\\_web/download/pdf/ruotolo.pdf&](http://www.lastampa.it/_web/tmplframe/default.asp?indirizzo=http://www.lastampa.it/_web/download/pdf/ruotolo.pdf&).

57. Since February 2010 the IOM has been implementing a project entitled «Prevention and Management of Irregular Migration Flows from Sahara Desert to Mediterranean Sea» (SAHMED) which aims to address “[...] the growing migratory pressure from sub-Saharan Africa”. It plans to improve border control management, and its activities are led by the IOM mission in close cooperation with the Italian Ministries of the Interior and Foreign Affairs, see [www.iom.int/jahia/Jahia/libya](http://www.iom.int/jahia/Jahia/libya).

that Italy would provide 10 million euros for this project (in addition to 10 million euros allocated by the IOM for the provision of equipment for migrant registration systems and to fund migrant readmissions).

### Towards renewed EU-Libya cooperation

Since the fall of Gaddafi, contacts between the EU and Libya have been restored, especially on the issue of border controls: an EU panel of experts was sent to Libya to gather information on this issue and presented its findings at the beginning of June 2012 (the delegation met with the head of the mission delegation, Deputy Commissioner Vincenzo Tagliaferri). General Tunsì confirmed that several meetings had been held in Libya with EU officials to discuss, among other matters, funding for a three-year (2012–2014) migration-related cooperation plan.

This plan will be drawn up in the context of the “Euro-Med Migration III” project,<sup>58</sup> launched in Brussels on 30 May 2012. The project involves ten countries to the south of the Mediterranean (Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the Occupied Palestinian Territory).<sup>59</sup> It has a five million euro budget and is elaborated in the framework of the European Neighbourhood Policy (ENP).<sup>60</sup>

The Euro-Med Migration III project aims at “[...] strengthening cooperation in the management of migration so as to build up the Mediterranean Partners’ capacity to provide an effective, targeted and comprehensive solution to the various forms of migration. It will assist them in creating mechanisms to promote opportunities for legal migration, support for measures to promote the linkage between migration and development and the stepping-up of activities to stamp out people trafficking and illegal immigration, and strengthen their

58. The “Euro-Med Migration III” project replaces “Euro-Med Migration I” (2004-2007, 2 million euro budget) and “Euro-Med Migration II” (2008-2011, 5 million euro budget), which did not involve Libya.

59. On 23 May 2012, the EU decided to suspend its cooperation with Syria due to the political situation in that country. However, it stressed that “[...] since in principle Syria is eligible for cooperation under the ENPI, activities may be taken up again once the situation improves”. [www.enpi-info.eu/mainmed.php?id=401&id\\_type=10](http://www.enpi-info.eu/mainmed.php?id=401&id_type=10) [http://www.enpi-info.eu/mainmed.php?id=401&id\\_type=10](http://www.enpi-info.eu/mainmed.php?id=401&id_type=10).

60. The ENP is a “[...] broad political strategy which has the ambitious objective of strengthening the prosperity, stability and security of Europe’s neighbourhood in order to avoid any dividing lines between the enlarged EU and its direct neighbours”.

border management capacities”.<sup>61</sup> There is no specific reference to the issue human rights protection.

As for the issue of those who, as a result of persecution or other threats in their countries of origin, are entitled to international protection as refugees, there have been no serious proposals. In December 2011, the European Commission launched a Regional Protection Programme (RPP) in North Africa. The programme is already operational in Egypt and Tunisia, and its extension to Libya is planned. Its aim is to externalise management of refugee crises that occur outside European borders. In addition, a Joint EU Resettlement Programme was launched on 29 March 2012. Member States’ participation in the programme is voluntary, and those that join it receive financial support from the European Refugee Fund. Stated programme priorities for 2013 include the resettlement of refugees registered with UNHCR in Libya, Tunisia and Egypt. However, there is a dual problem: 1) the UNHCR is not authorised to register refugees in Libya, and 2) the number of resettlement places offered by EU Member States is generally derisory. In 2011, for example, a total of 700 refugees were resettled in EU countries.<sup>62</sup>

No genuine European or international proposal exists to find sustainable solutions for refugees in Libya, especially those from countries in the Horn of Africa (Eritrea<sup>63</sup>, Somalia<sup>64</sup> and Ethiopia)<sup>65</sup> who continue to flee conflict and dictatorial regimes.

On 25 June 2012, the Council of the European Union adopted a series of measures in the field of human rights (Strategic Framework for Human Rights and Democracy, EU Action Plan for Human Rights and Democracy, the appointment of an EU Special Representative for Human Rights), pledging to promote human rights “[...] in all areas of external action of the European Union without exception”, and that the EU “[...] will place human rights at the centre of its relations with all third countries, including its strategic partners”. It is essential to ensure that this commitment applies to migration issues.

61. [www.enpi-info.eu/mainmed.php?id=401&id\\_type=10](http://www.enpi-info.eu/mainmed.php?id=401&id_type=10).

62. Fargues, P. and Fandrich, C., Migration after the Arab Spring, MPC Research Report, 2012/09.

63. See, for example, [www.amnesty.org/fr/region/eritrea/report-2012](http://www.amnesty.org/fr/region/eritrea/report-2012).

64. See, for example, [www.amnesty.org/fr/region/somalia/report-2012](http://www.amnesty.org/fr/region/somalia/report-2012).

65. See, for example, [www.amnesty.org/fr/region/ethiopia/report-2012](http://www.amnesty.org/fr/region/ethiopia/report-2012).

International law and European law<sup>66</sup>, as well as regional stability, require the following: the cessation of all activity which contributes to the conception and/or implementation of politics aimed at reinforcing measures to “contain” migrants within Libyan borders, despite the persistence of grave human rights violations; that cooperation activities surpass technical issues and deal with issues including impunity for crimes of racism and xenophobia, arbitrary arrests and detention, torture, inhuman and degrading treatment, forced labour etc.

The European Union must, for example, ensure that cooperation programmes concluded within the framework of the Euro- Med Migration III project contribute to accompanying democratic reforms, aimed at establishing migration policies that benefit migrants, countries of departure and arrival and create opportunities for regular migration with full respect of international human rights obligations.

### Maritime border controls: a test of EU-Libya cooperation

The head of the Libyan military coast guard, General Abdallah Toumia, who met with the delegation, stated that, following the destruction of naval vessels by NATO bombing, his force lacked equipment. Two of the six patrol boats donated by Italy to the Gaddafi regime had been destroyed while the other four required spare parts and Italian technicians to become operational. He said he expected that negotiations with the EU and Italy would result in the replacement of the patrol boats and radar control equipment (“only loans, we will pay later”) and the establishment of joint maritime patrols.

General Toumia took pains to stress the “humanitarian” character of his forces’ “life-saving” operations, noting that they had “rescued” 710 migrants between 27 April and late May 2012. The term “rescue” refers to the interception of migrant boats at sea, regardless of whether or not they are in distress, and returning them to the Libyan coast where they are handed over to “those responsible for illegal immigration”, who, as witnessed by the delegation, place them in detention camps for indefinite periods. The Libyan coast guard cooperates closely with the Italian maritime authorities, as well as with commercial vessels that it encounters in its operational zone and oil platform personnel, who they can call upon to temporarily “house” intercepted migrants before they are returned to Libya.

66. Treaty on European Union, Treaty on the Functioning of the European Union and the EU Fundamental Rights Charter



The delegation had access to data on the interception of migrants at sea in recent months: 635 migrants were intercepted between November 2011 and the end of January 2012.

Between 28 March and 27 May 2012, the following interceptions took place:

- 28 March 2012: 24 Somali and 1 Malian migrant, including 6 women.
- 30 March at 12.35: 125 migrants in a zodiac.
- 1 April: 15 migrants who had survived an incident in which 60 fellow passengers died; some of the bodies were found at sea, 65 miles from the coast.
- 9 April: 54 migrants. In this case the Libyan coast guard acted at the request of and based on information provided by the Italian coastguard.
- 26 April: 31 Somali migrants in a 6-metre plastic zodiac.
- 27 April: 30 Eritrean and 1 Sudanese migrant in a 6-metre zodiac.
- 40 – 25 May: 91 survivors, all Somalis, and another boat with 10 people in poor health. 11 bodies recovered at sea, floating around the boat. The same day, a large group of persons aboard a vessel in distress were intercepted outside Libyan territorial waters by a Croatian cargo vessel and a Lebanese cargo vessel. At the request of the Libyan coast guard, the two vessels took the group to the port at Tripoli. The delegation later received confirmation of these events from a group of Somali survivors met in the Toweisha detention camp. They claimed to be victims of collective refoulement because at the time of their interception they were inside the Maltese search and rescue zone.
- 27 May: 89 Somali migrants, including 12 women.

This previously unpublished information reveals the desperation of potential refugees trapped in Libya. Almost all those intercepted are men and women from war-torn countries without effective state structures (Somalia and Eritrea), who seek protection in Europe. European countries should take this reality into serious consideration as a matter of urgency.

#### **Toweisha Camp. Tripoli**

Young Somali woman detained in the camp since May 2012. She was one of the only survivors when the boat in which she was travelling with other migrants ran into difficulty off the Libyan coast.





**Bou Rashada Camp. Gharyan**

Migrants are detained in conditions of overcrowding, poor hygiene and unbearable heat.

**ARBITRARY DETENTION:**  
A key instrument of Libyan  
migration policy

Starting in the early 2000s, Gaddafi used the mass detention of migrants as proof of his willingness to cooperate with the European policy of externalising control of migration flows. During the Gaddafi era it is estimated that Libya had at least 20 detention camps for irregular migrants, operating outside any legal framework, where occupants could be held indefinitely.<sup>67</sup> The only way to escape from detention was to bribe the guards. The detention policy was financially supported by European governments, which helped build the camps for “illegal” migrants. For example, the Bou Rashada camp visited by the delegation was donated by the Berlusconi’s government to Gaddafi who, instead of holding migrants there, used it as a military training facility.

During the 2011 conflict these camps were emptied, either because the detainees were able to flee in the prevailing confusion, or because the guards opened the camp gates to let them out.

Since the fall of the dictator, the militias composed of former rebels who have assumed management of migration issues have taken control of camps that existed under the previous regime and opened other makeshift places of detention. Up to 100 migrant detention camps reportedly existed in the immediate post-war period. According to those met by the delegation, at the time of the mission there were 20 camps for irregular migrants. The delegation was able to locate 14 of them, concentrated mainly in the South, around Kufra and Sebha (see map in Appendix 1). During interviews with migrants, other camps located on Libya’s border with Tunisia were mentioned. The IOM representative stated that the Libyan authorities aimed to establish six detention camps in the South and another four on the main migration routes.

After the mission, the delegation was alerted to the existence of another detention camp in Tripoli called Sibrata Mentega Delila where, according to the NGO Habeisha, 350 Eritrean refugees intercepted at sea (including 50 women – 6 in an advanced state of pregnancy – and 2 young children) were detained. The NGO denounced alleged cases of violence and mistreatment in this camp.

67. Law N° 6 of 1987 “regulates [the] entry, residence and exit of foreign nationals to/from Libya”. It criminalises irregular migration. Violators face imprisonment (duration not specified), a fine of 200 Libyan dinars, or both (art. 19). In reality, those arrested and detained were not formally charged and tried. The law also authorises the detention of migrants prior to expulsion; it does not specify any detention period and there is no provision to appeal decisions (art. 18). For a summary of the situation under Gaddafi see “Libya Detention Profile”, Global Detention Project. [www.globaldetentionproject.org/countries/africa/libya/introduction.html#c2476](http://www.globaldetentionproject.org/countries/africa/libya/introduction.html#c2476)

## Violations of fundamental rights

The practice of systematically detaining migrants suspected of being in an irregular situation, for indefinite periods, is contrary to international human rights norms, which require that detention should be of a limited duration and sanctioned by law.<sup>68</sup> International standards also require that refugees, asylum seekers and migrants should only be detained in exceptional circumstances in which authorities are able to demonstrate in each individual case that detention is necessary and proportionate to the specific task at hand (e.g., identity check, measure to prevent a person from going into hiding, or execution of a deportation order). Alternative measures to detention should be preferred in all circumstances.<sup>69</sup>

**An uncontrollable situation in the absence of a legal framework:** Almost all the camps are outside of the control of state authorities. They are run by local brigades of former rebels who manage them in an improvised manner determined by local conditions. In some cases, they report to the local council, while in others they respond to armed militia leaders recognised by the Ministry of Defence or the Ministry of the Interior. The management of other camps is delegated to private individuals, who exploit migrants and are linked to racketeering networks.

Most camp managers and guards claim to be unpaid “volunteers” who take on this work to prove their “commitment to the revolution”. However, it appears likely that most receive the contributions paid to ex-combatants and that some supplement this income by demanding payment from migrants in return for their release or by taking “commissions” from employers who recruit cheap labour in the camps (see further below).

**Improvised registration procedures:** the registration of persons entering and leaving the camps is random, rudimentary and not centralised. This makes it particularly difficult to determine the identity and the numbers of people who die in custody, as well as to identify individuals entitled to international protec-

68. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, (Principle 4) adopted by the General Assembly, Resolution 43/173 of 9 December 1988; ICCPR, Art. 9.

69. For more information on international standards regulating migrant detention, see UN High Commissioner for Refugees, Global Roundtable on Alternatives to Detention of Asylum-Seekers, Refugees, Migrants and Stateless Persons: Summary Conclusions, July 2011, [www.unhcr.org/refworld/docid/4e315b882.html](http://www.unhcr.org/refworld/docid/4e315b882.html)



tion. The UNHCR has sought permission to establish a system of registration of potential refugees or vulnerable individuals (pregnant women, children, unaccompanied minors, sick persons), but so far its requests have either been turned down or could not be pursued due to the absence of persons in charge of such issues.

**Inhuman and degrading conditions:** migrants interviewed reported brutality of guards, insufficient quantity and poor quality of the food and water, and the lack of access to health care. Inmates spend most of their time confined in overcrowded cells or in overheated sheds. They are generally only allowed to leave their cells during meal times when they queue to collect a bowl invariably filled with rice or pasta (with or without spicy sauce). Permission for detainees to access open-air spaces or sports activities appears to be random, depending on the mood of the guards, who only rarely allow detainees out of their cells. These conditions of detention do not comply with international standards<sup>70</sup> and can be qualified as inhuman and degrading.

Camps are not dependent on public authorities and do not receive state funding. Despite claims by managers at the camps that they pay for food “out of [their] own pockets or by raising funds locally”, it seems that this is only partially true: staple foods (rice and spaghetti) are provided by the humanitarian organisation LIBAID, which has access to World Food Programme provisions. Mattresses, mats and sometimes clothes are supplied by the International Red Cross, the Libyan Red Crescent or local councils, and health kits are provided by the UNHCR.

**Physical and psychological violence:** Prisoners are subjected to constant humiliation and sometimes severe physical violence, according to interviewees. This is particularly the case when they complain about their living conditions, following attempts to escape, or after interceptions at sea. The delegation observed bruises and scars on the arms and chests of some migrants. The delegation also observed psychological violence by guards manifesting brutal and racist attitudes towards the detainees.

70. Including the following Conventions ratified by Libya: ICCPR, CAT, African Charter on Human and Peoples’ Rights.



**Bou Rashada Camp:** Nigerian mother and child, held since March 2012.

**Presence of unaccompanied minors and young children:** Men and women in the camps are separated and often couples are not even allowed to greet each other. The delegation observed the presence of unaccompanied minors in both the men’s and women’s cells, and young boys and girls between 13 and 17 years old held in the same cells as adults. The delegation also met with detained pregnant women and mothers with babies and very young children. The deplorable living conditions in the camps are entirely unsuitable for young children and violate international standards, including the Convention on the Rights of the Child, ratified by Libya in 1993.<sup>71</sup>

**Forcible recruitment of detainees** appears to be fairly commonplace in all detention camps. Camp populations represent a captive reserve of low-cost labour subject to the whims of the camp guards and opaque agreements concluded between camp managers and external employers.

According to the directors of the camps visited by the delegation, the “contracts” signed by employers stipulate a fee calculated in advance on the basis of the duration of employment. The work may require migrants to leave their camps for several hours or days, or even months, depending on the employers’ needs. In principle, they must return to their camps when the work is finished, unless employers offer them further employment contracts. If an employer is not satisfied with the work, migrants can be forcibly returned to the camp. The camp directors claim that migrants are paid for their work. However, migrant

71. CRC, Article 37, states: “b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time... Every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so...”.



interviewees said they were either not paid at the agreed rate or were not paid at all, and that the camp management took a cut when payments were made.

Outside of any legal framework, migrants, who are selected according to their physical condition (“lined up like slaves”, according to a representative of an international organisation who had witnessed such a scene), lack any form of protection or redress against violations of their rights (unpaid wages, violence, etc.). Even if they can theoretically refuse to accept these jobs they seldom do so because if they offer an opportunity to escape from the inhuman conditions they are subjected to in the camps.

In view of the conditions in the camps, migrants cannot be considered to exercise a choice in accepting these jobs. This arrangement can be qualified as forced labour as defined under ILO Convention N° 29 (1930), ratified by Libya in 1961, which stipulates: “[...] the term forced or compulsory labour shall mean 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” (Article 2).

**Unlimited detention periods:** permission to leave the camps is accorded arbitrarily by the camp managers and local *Katiba*. Four different scenarios were reported to the mission:

- detainees released when camps become too crowded and the guards no longer have the means to house and feed them;
- collective return: the embassies concerned are invited to provide passes to their nationals and the IOM organises repatriation in chartered aircraft;
- detainees hired by Libyan employers under the conditions described above;
- corruption: payment of significant amounts of money to the camp managers or well-placed Libyan intermediaries to secure release from the camps (a practice said to be particularly commonplace in southern regions).

This uncertainty about their fate and the fear of remaining locked up for months or even years, generate anxiety and stress among detainees, particularly for those who risk their lives if they are returned to their country of origin.

**No legal redress:** In this context, migrants have no access to lawyers, national justice mechanisms, or organisations to defend their rights.

### **Extreme vulnerability of migrants in need of international protection**

The same conditions of arbitrary arrest and detention apply to undocumented migrants and asylum seekers. Until now, the Libyan authorities have refused to allow the UNHCR to register requests for asylum and protection, in conformity with its mandate. The organisation is not yet formally recognised in Libya and its mandate there would in any case be limited because Libya is not a signatory to the Geneva Convention relating to the Status of Refugees.

Camp directors seem to recognise that Eritreans and Somalis cannot be forcibly returned to their countries of origin, but there is no procedure for dealing with the cases of these men, women and children being held in detention for indefinite periods. The only way that asylum seekers can hope to be freed from these camps and to benefit from the international protection to which they are entitled would be first to obtain UNHCR documents recognising their status as protected persons, and then to be granted visas to settle in Europe or North America.

The prevailing insecurity and lack of any legal protection framework in Libya, which has no tradition of welcoming refugees, explain the desperate attempts of asylum seekers now stranded in Libya to reach Europe. It is mainly these people who can be found aboard the makeshift vessels that leave the Libyan coast for Europe. They are the people who are sent back to camps after being intercepted at sea by the Libyan coast guard or pushed back to Libya by European maritime patrols supported by Frontex. European governments that continue to brandish the threat of an invasion of “illegal” migrants from Libya should realise that the vast majority of the latter are potential asylum seekers in need of protection.

### **Visits inside the camps**

#### **→ TOWEISHA Camp - Tripoli**

This camp is located in a suburb of Tripoli near the airport. It was one of the places of detention used by the Gaddafi regime that the IOM helped to equip, and consists of large sheds in poor condition, fairly large windowless cells with small openings in the ceilings, each holding about 50 migrants. The “revolutionary” graffiti that can be seen throughout the city is displayed on the camp’s outer walls.

The camp is run by local *Katiba* militiamen armed with Kalashnikovs and dressed in military fatigues. Its director was keen to show the delegation around and appealed to international organisations to help them to “empty the camp” because he and his colleagues could not free the detainees. At the time of the visit, the camp held 508 migrants, including 468 Somalis, 33 nationals of various sub-Saharan African countries and 11 Egyptians. Among them were around 100 Nigerian and Somali women.

The migrants denounced their unbearable living conditions as they showed their cells to the delegation. They are locked up all day in bare spaces, with mats or blankets that are never changed laid out on the cell floors. The doors and openings are shut most of the time and the lack of ventilation and heat create an insufferable atmosphere. The only time detainees are allowed out of their cells is to collect their food bowl during meal breaks in the camp kitchen. They are forced to drink water directly from the tap. Hygiene conditions are poor, with toilets installed inside the cells and clogged drainage systems that discharge foul odours. Inmates never have access to a doctor inside the camp. Migrants who had been intercepted after five days at sea were in extremely poor health and were taken to hospital on their arrival in Tripoli, but had not been examined since they were brought to the camp.

**Somalis intercepted at sea:** Most of the Somalis present in the camp during the visit entered Libya after the fall of Gaddafi. They said it had taken them two months to cross the desert and find boats to leave for Europe. After being intercepted at sea in inflatable boats, they were brought back to Libya by the Libyan coast guard, or by commercial cargo. Many were still traumatised by the deaths they witnessed at sea.

Several Somalis were among the survivors of a group of 142 migrants who left Tripoli for Europe by boat. After five days at sea, 32 had died. When their vessel approached Malta, they were intercepted and taken aboard before being handed over to the Libyan coast guard which brought them back to Libya, where they were forcibly placed in the camp.

**Vulnerable women:** The delegation met with a group of 48 Nigerian women, some pregnant, who had been locked up for more than three months in the camp. They had been in Libya for between three and five years, working as maids in Libyan households. Since their arrival in the camp they had not seen a representative of their embassy. Some had their passports with them, others had lost theirs. They stated that they did not want to return to Nigeria, and

preferred to continue living and working in Libya. Some of them had children in Libya. The camp director said that they had been arrested in relation to allegations of prostitution and drug use, allegations firmly denied by those concerned, who said they were arrested in their homes.

Several women from Benin who had been in the camp for three months shared the same cell. One of them, lying on the ground, said she was suffering from fibroids and that she had twice been taken to hospital to be examined, but had no regular access in the camp to medication or a doctor.

At the time of the visit, some 60 Somali women were grouped in a neighbouring cell. They had planned to travel to Europe after arriving in the country at the end of the war. At least ten of them were pregnant. They denounced the living conditions in the camp and complained about the spicy food and poor quality of the water. Like their male counterparts, they had just experienced the drama of a deadly attempt to reach Europe by sea. One woman, who was six months pregnant, had witnessed the death of her husband, who was among 32 Somalis who perished during the voyage. Traumatized by this tragic experience, these young women said they would never again board a boat.



Toweisha Camp. Tripoli

A Somali woman (left) tells her story:

*“My husband died in front of my eyes. We had been in the boat for five days, lost, without eating. My husband fainted from weakness and fell down, injuring himself when he fell in the water, and he drowned in front of us. Nobody could do anything. I saw him cry. We left our six children in Somalia with my*

*mother and I am six months pregnant. I lost all my clothes. Look, all I have left is a sheet that the sailors from the ship gave me and a jacket from the Red Crescent. I can't return to Somalia like this! I just want to find a place to work to support my children."*

**Sub-Saharan African migrants present in Libya for many years.** In another shed, the delegation met with a group of 33 West Africans from Gambia, Ghana, Guinea, Mali, Nigeria and Senegal who had been locked up for three to four weeks. The majority had lived in Libya for many years and had remained in the country during the conflict. They had worked with regular residence permits, but since the end of the war had not been able to renew them because there was nowhere to do so. They thus became "illegal" and, as such, risked arbitrary arrest and detention.

- 52 They reported having been arrested in their homes or workplaces. They asserted they had no intention of going to Europe and wanted to continue working in Libya. Some of them had employers willing to help them to leave the camps and return to work.

*"I have been living in Libya for 19 years and I was arrested five days ago and locked up here. I was in the African fruit shop where I work when armed men came in at eight in the morning to arrest everyone in the shop, me and eight other people. They told me that my residence permit had expired, but there is no place to renew it! The Libyan owner of the shop came to see me to get me released, but the guards refused."*

**Egyptians awaiting expulsion:** The delegation also met a group of 11 Egyptians in another cell who had been in the camp for several days. A number of them had passports, some with entry visas, but they were all arrested because they had no work permit (currently impossible to obtain). Their phones were confiscated upon arrival. They had requested assistance from their embassy to obtain their release.

## Camps in the GHARYAN REGION (Djebel Nafussa, Western Libya)

### → Transit camp in Gharyan

While searching for the Bou Rashada camp, the delegation stumbled across a small transit camp, located just outside the town of Gharyan amidst the rubble of what was once a military camp before it was bombed by the NATO

coalition. The camp consisted of a few small, dilapidated and grubby sheds serving as temporary places of detention for migrants arrested by the *Thuwars* in the region. Living conditions were rudimentary and the guards complained about the lack of cooperation from the authorities to provide food to the camp.

During the visit, 20 migrants were held in the camp, mainly nationals of Chad, Ghana, Niger and Nigeria. Some had been there for a few hours, others for a few days. The militiamen explained that migrants arrested at checkpoints around the city of Gharyan were first brought to this transit camp for registration prior to their transfer to the Bou Rashada camp and that some 1,200 migrants had passed through the camp since the militia took control in October 2011.

The migrants interviewed said they had been working in Libya prior to the war and had returned to look for work in Gharyan, as they had done in the past. Since the beginning of the year, however, checkpoints had sprung up everywhere: those who travelled from Niger said it had taken them 14 days to reach Gharyan via the road through Sebha. Never in the past, they said, had they been arrested and detained. Now, they added, migrants are stopped at militia checkpoints where they have to show their residence permits. They expressed concern about the uncertainty of their futures.

### → BOU RASHADA Camp

The Bou Rashada camp, which is the largest migrant detention camp in the western region, is located in a desert area some 80 km south-west of Tripoli and ten kilometres from the town of Gharyan. Located in the middle of nowhere, in a treeless rocky plain at the foot of the Nafussa Mountains, it consists of some 40 prefabricated sheds with sheet-metal roofing, all exposed to a blazing sun. Each shed can accommodate 60 people and is ringed by an iron bar enclosure. This gives the shocking image of a camp composed of large cages with sub-Saharan African migrants locked inside. The camp is said to have a capacity to hold 2,200 people. At the time of the visit, 1,089 migrants, including 120 women and seven babies, were held there.

The delegation arrived unannounced and was received briefly by the camp director before being presented to the guards, who took its members on a tour of the facility. The camp was built by "the Italians" during the Gaddafi era to serve as a place of detention for irregular migrants. In reality, however, the former regime used it as a military training centre. The rebels seized control of the site by force and it has served as a migrant detention camp since

31 January 2012. The delegation was able to walk around the camp and speak with the detained migrants, to the extent that it was possible to do so with men behind bars.

Like the other camps, the Bou Rashada facility is run by the *Thuwars* outside the control of the Ministry of the Interior: “We are doing our duty as revolutionaries,” the guards proclaimed, proudly presenting themselves as unpaid volunteers working for their homeland. They repeated the view (largely contested by the migrants interviewed) that all detained Africans were trying to reach Europe by sea and that they were arrested in accordance with agreements between Libya and Europe.

54 The camp has for some time had a large turnover due to the interventions of the embassies concerned and the organisation by the IOM of collective returns by charter flights. Around 350 Nigerians were held in the camp at the time of the visit. They had been there between three and six months during a period when the Nigerian embassy in Libya was closed. It has now reopened and it was anticipated at the time of the mission that the Nigerian nationals held in the Bou Rashada camp would soon be repatriated. The militia referred to these repatriations as “voluntary” returns, but those interviewed used the term “deportation”. Nonetheless, they considered it the only option they had to be released from the camp.

The Libyan Red Crescent and the Gharyan municipal council provide water and food to the camp. The guards nonetheless said that there were insufficient supplies, in particular of water. Given the excessive heat in the sheds, the water shortage increases the risk of dehydration and hygiene problems.

Guards impose rules as they see fit: migrants remain trapped in their “cages” day and night, and are only let out to join a queue to collect their meals or on exceptional occasions. At the end of the visit, the delegation witnessed a sudden decision by the guards to let detainees out of their cells for an improvised football match. Those migrants interviewed claimed that it was the first time in over three months that they had been allowed out for exercise. The delegation observed hundreds of men showing no enthusiasm gathered on a huge field. It is highly likely that once the doors closed behind the delegation, they were forced to return to their “cages”.

## Unacceptable living conditions for women and children

The sheds in one corner of the camp were reserved for women, children and sick persons. The barred railings around the sheds were open at the time of the visit, except for those housing sick persons.

Most of the women were Nigerian. At the time of the visit there were 104 in total, including 12 pregnant women and some accompanied by young children (7 on the day of the visit, including babies). The majority were already in Libya before the war, working as hairdressers and seamstresses, etc. During the conflict they hid themselves as best they could, terrified because they knew that many migrants were being killed or beaten. Militiamen arrested them at the beginning of 2012 in their homes or workplaces. Most said they had passports, but no work visas. Some had been in the camp for three months, others for six months. The husbands of some women were being held on the other side of the camp, while those of others were in Tripoli, as were the children of some of the detained mothers. A number of the women said their children were in Nigeria. If given the choice, these Nigerian women said they would prefer to stay and work in Libya and could not bear the idea of returning home with nothing more than the clothes they were wearing after years working in Libya.

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A young Nigerian woman said she used to live in Gharyan where her husband worked until their landlord denounced them and the whole family was taken to the camp by militiamen. Her husband, whose papers were in order, was released but she remained in detention with her 18-month-old daughter living in fear of being “deported” while her husband continued to work in Gharyan.

The situation of women and young children is particularly alarming in this hostile and violent environment. A Chadian woman detained with her children aged 4 and 6 said the water posed a health risk for the children. Pointing to the sheds, she added: “This is not a place for children.” The delegation observed a one-year-old girl approaching the “cage” holding her father, who exclaimed: “What must my daughter think of me, even though I have done nothing wrong!”

## Sick persons behind bars

The two cells reserved for sick persons were located next to the women’s sheds: one, in which a man was sleeping on the floor, was reserved for those detainees who were seriously ill or contagious; the other, for the “mentally ill”, was occupied by a man from Benin and another from Ghana (a Malian

man had recently been released and repatriated). Occupants of the cell for the “mentally ill” are kept under lock and key day and night, and never allowed out; their meals are passed to them through the iron bars.

### Humiliated and without rights

Men grouped by nationality from countries including Chad, Mali, Niger, Nigeria and Senegal were held in 26 sheds enclosed by iron bars and lined up in rows on the other side of the camp. Huddled together, they clung to the bars gasping for air in temperatures – already high in mid-June – that made the atmosphere inside the huts unbearable. The inmates said they were forced to sleep on the ground and were bitten by lice that thrived in the unsanitary conditions. Evoking the misery of their everyday lives, many detainees spoke of the brutal and humiliating treatment they suffered at the hands of the militia guards who, they said, changed frequently. Seizing a moment when the guards’ heads were turned the other way, some detainees showed the delegation fresh wounds on their bodies from beatings, and bullet traces on the ceiling from gunshots fired by the guards to frighten them.

The men in the sheds reserved for Nigerians (some 350 at the time of the visit) said they had been detained for six months and could not endure it any longer. Before the war they said they had good jobs, mostly in the building trade as plumbers, electricians and bricklayers. As blacks, they said they were persecuted during the war, even though they had passports. After the conflict, they were arrested by armed men: “They told us that there was no place for blacks in this country and that we were going to be sent home”. Shortly before the visit, Nigerian embassy officials had visited the detainees to organise their return. “We have no choice,” one of the detainees said, “Anyway, it’s better than continuing to live in these conditions”.

A group of 88 Malian men, who had also worked in Libya before the war, gave similar accounts. They had been in the camp for two months at the time of the visit without a change of clothes – some with no shoes – after being arrested at their workplaces or at checkpoints. Those who no longer had anything to wear were given military clothing. However, they feared that these clothes could give the impression that they had participated in the war in support of Gaddafi and that they would be deported.

Some of the 160 Chadian nationals in the camp had been in Libya prior to the conflict while others had arrived in the country since its end. The majority

had been detained in the camp for several months. They expressed concern that their embassy had not been in touch for nearly two months. One had lived for 13 years in Misrata and had lost everything after being arrested on his way to renew his passport. Another had worked as an agricultural labourer in the country for 18 months. Members of the group told the delegation that a Chadian man in poor health had died in the camp two days before the delegation’s visit. Nobody knew where his body was, and “we were not even able to say a prayer for him”.

Migrants from Niger (approximately 200) occupied two large sheds. They had all arrived in Libya hoping to find work after the fall of Gaddafi.

*“I was brought to this camp 15 days ago after 4 months of struggling in Libya. It was my first time in this country. People said there would be work after the end of the war and I needed to earn money to help my family because my plantation didn’t work last year. I had planned to work for 5 or 6 months before returning home. I never thought of going to Europe! With a small group, we entered Libya through the desert by taxi and got as far as Sebah. There, we went into hiding and paid 250,000 CFA to Libyan transporters to take us to Tripoli. They hid us behind crates of vegetables. But we were stopped by armed men at a checkpoint. We were put in prison and then brought here. The truck driver was also arrested, but he was released the next day. If we had known we would be treated like this, we would never have come! We all want to get out of here and go home. A person from the embassy of Niger came a few days ago to give us passes. The trip was very expensive, and we will be going home with nothing but debts.”*

Numerous migrants met by the delegation contradicted the assertion of the militias that all Africans are “potential candidates for migration to Europe”, a contention invoked as justification for the way they treat migrants and to “protect Europe from illegal migration”.

### Forced labour?

While the delegation was speaking to detainees, a van driven by a Libyan man pulled up in front of the iron bar gates of one of the sheds and started negotiating with one of the camp guards. The guard shouted something through the iron bars, opened the gate and let out six migrants who climbed into the van after much shouting and agitation. The scene, as explained to the delegation afterwards, showed a Libyan employer recruiting labourers for his farm.



The men driven away had no idea how long they would work, whether they would be paid, or how much they would receive. The delegation asked such questions to the Libyan employer, but he refused to respond. It appears that those locked up in cages all day long view this practice, which is clearly organised with the active complicity of the camp director and guards, as a lesser evil, even though it constitutes a form of forced labour.



**Bou Rashada Camp. Gharyan**

An employer recruits migrants at the bars of the cells. They do not know for how long they will be required to work, nor whether they will be paid.

### **Gesture of solidarity**

The final image of the visit was a gesture of solidarity by a Libyan employer who arrived by car to hand over the personal belongings of a Nigerian family about to be deported. For most migrants it is important to recover their personal effects prior to being deported: having clean and proper clothes makes the shame of being sent home less hard to bear.

### **→ GANFUDA Camp - Benghazi**

This “prison”, as the sign at the entrance calls it, also served as a place of detention for migrants under the Gaddafi regime. It consists of large sheds ringed by high walls topped with barbed wire. The interior has several large,

bare and grubby rooms with openings near the ceilings that offer hardly any light. The camp has a capacity to accommodate around 300 people, but up to 1,800 migrants were held there in March 2012. On the day of the visit there were 206 men in the camp, mainly Eritreans and Somalis.

The camp is run by *Thuwars* belonging to a unit called “Preventive Security”. Its director explained that this unit is composed of “revolutionaries” who ensured the security of Benghazi early in the conflict. When that task was taken over by the army and police, he explained, the *Thuwars* “specialized” in migrant control, and refused to cooperate with the Ministry of the Interior because “there are still people from the former regime in the Ministry”. Currently, the *Thuwars* respond to no formal authority and manage the camp by their own rules. The *Thuwar* leaders change frequently and apply different policies depending on who is in charge at any given time. For example, the director at the time of the visit decided one evening that he no longer wanted any women in the camp: at 10 p.m. all the women were taken without warning to the nearby camp run by the Red Crescent.

### **An atmosphere of terror**

On entering the sheds the delegation was struck by the tense atmosphere generated by the armed guards in these unlit places where migrants are locked up all day long. The guards said they no longer let them out of their cells for fresh air or to play football because they feared they will try to escape.

More than in other camps visited, the delegation was struck by the violent and aggressive attitude of the guards against migrants. Guards resorted to a technique of terrorising the migrants to prevent any outbreak of unrest. A young Eritrean man said that sometimes, just for fun, the guards might single out a migrant, point a gun at his head, and ask laughingly: “Shall we kill him or not?” The militiamen may regard this as a game, but for the victims it is a form of psychological torture, as defined under international conventions.<sup>72</sup> An example of such odious behaviour was witnessed when guards brutally

<sup>72</sup>. According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1, the term “torture” designates “[...] any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as [...] 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.”



pushed away a group of men, shouting to the delegation: “Don’t go too close, they stink!”

Migrants recounted how, after entering the camp, their mobile phones were confiscated and they were deprived of all means of communication. No medical care was available inside the camp and, according to witnesses, it was almost impossible to convince the guards to allow sick persons to be taken to hospital, except in cases of extreme urgency.

### Trapped asylum seekers

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Eritreans and Somalis met by the delegation inside the camp were often desperate. Theoretically, they fall under the UNHCR’s protection mandate. However, the UNHCR still has no official status or authority in Libya to secure their release from the camp. The UNHCR delegation in Benghazi was trying to arrange the transfer of minors and sick persons there to the Red Crescent camp, but its efforts were hampered by the lack of space there. During the visit to the Eritrean group, the delegation was alerted to 10 cases of minors aged 16 or 17 years who had been detained alongside adults for several months.

The delegation visited two cells, one holding around 60 Eritrean men and the other 48 Somalis. These young men had been in the camp for periods ranging from several weeks to five months, and had hardly seen daylight since their incarceration. Graffiti on the walls reflected the anguish and hopes of those who had passed through the camp. A young Somali requested to be photographed under graffiti that read “freedom”.

These migrants felt they have been abandoned by the UNHCR, whose representatives had visited them, but offered no solution to their situation. They felt trapped in this prison, not knowing when and how they will be set free. Their immediate demand was to be transferred to the Red Crescent camp so that they no longer have to live in conditions of constant terror and degradation. Ultimately, however, their goal is to be accepted for asylum in a country that offers them protection where they can rebuild their lives. Libya is not a potential host country because it cannot offer international protection. Moreover, these migrants felt that in Libya they run the constant risk of being sent back to their countries of origin – where their lives would be endangered.

### Organisation of “forced” labour

The director proudly explained the system developed in his camp for the recruitment of detained migrants by Libyan employers. Under the system the guards establish lists of “healthy and well-behaved” migrants “available” to work for Libyan employers. Somalis are excluded because “they only think about fleeing to Europe”. The lists are then sent to the director, who contacts employers seeking to hire labour. Camp management then arranges medical examinations for the selected migrants, identifies the employer, and makes the latter sign a document whereby he agrees to pay the migrant at a rate acceptable to both parties. If the employer fails to pay he can be arrested. The jobs offered are mainly as farm workers. Depending on demand, between 30 to 70 detainees are hired in this manner every week.

What freedom do these migrants held captive in inhuman conditions have to “choose” this work? What rights do they have since they have no residence permit and are at the mercy of their bosses? What guarantees do they have that they will be treated and paid correctly? What happens to them when the work is finished? What financial gain does the camp management receive from the “arrangements” it makes with the employers? The delegation received no answers to any of these questions, but witnessed a scene in the director’s office, which fuelled concerns. A young Eritrean was brought into the director’s office by a guard (coincidentally during the interview). The director said that he should have worked for two months but the Libyan boss had fired him after only one month on the grounds that “he was a Christian”. The young man handed over his pay to the director, who counted it meticulously before the delegation and then placed it in an envelope in his desk drawer because “this migrant prefers not to keep the money on him”.

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### → Transit camp run by the “Free Libya” *Katiba*

Just outside Benghazi, there is another migrant camp run by *Thuwars* affiliated with the “Free Libya” *Katiba*. This camp occupies the buildings of an old abandoned factory. Its sheds serve as temporary accommodation for African and Egyptian migrants arrested by militias on roads in the region. Remnants of the war, including canons and military vehicles, are stored at the back end of the camp courtyard. Unlike militia in the Ganfuda camp, the director and guards of this camp said they were paid salaries by the Ministry of Defence or the Ministry of the Interior, and asserted that they recognised the authority of the NTC.

The *Thuwars* in charge of the camp made it clear that their role was to “cleanse the country” of “illegal” immigrants after the fall of Gaddafi. They said that Gaddafi had used “illegal” migrants to exert pressure on Europe, and that they no longer wanted Libya to be a “place of transit for these people”.

### **In transit to despair**

According to the person in charge of the camp, many migrants had passed through the facility, mostly originating from Chad, Egypt, Eritrea, Ghana, Mauritania and Somalia. They were arrested by former rebels in east and south-east Libya because they had no valid papers, and dealt with according to their nationality and other criteria:

- Syrian nationals were released immediately and handed over to the Syrian revolutionary committee in Benghazi;
- Egyptian nationals were taken to the Libyan-Egyptian border by road (some 40 Egyptian workers were waiting in the camp for a bus to take them to Egypt at the time of the visit);
- Eritrean and Somali nationals – who cannot be returned to their countries of origin – were sent to Ganfuda where the UNHCR provides assistance;
- Migrants without passports from countries bordering Libya were sent back: 7 migrants from Chad who had just arrived after walking for days across the desert were about to be transferred to Ganfuda and from there sent back to Chad;
- African migrants with passports but without a work permit were “taken by employers” to work as farm labourers. To illustrate the “contract” system in place at his camp – similar to the one in Ganfuda – the director showed the delegation a copy of a contract with a letterhead “NTC, Katiba Free Libya”, signed by an employer. According to the director, there had never been a problem with workers’ pay, though he acknowledged that he received a cut for serving as an intermediary, adding that there was a strong demand for (cheap) labour in the agriculture sector.

The guards led the delegation to a group of 14 migrants – 8 male and 6 female Somali nationals – who had arrived in the camp on the day of the visit. The migrants said they had crossed Sudan in two four-wheel-drive Toyotas that left them at the Libyan border. From there they walked for hours in the desert, until they were stopped and detained by armed traffickers who took them to a house and told them they would only be released if they each paid USD 700. Since they did not have that amount of cash after paying for taxis

in Sudan, they were forced to ask their families to send the money via Western Union. After being paid, the traffickers accompanied them to the outskirts of Benghazi where they were stopped by *Thuwars* and taken to the camp. Despite the presence of the delegation, the guards forced them to line up in the yard, their eyes still reflecting the terror induced by what they had seen, the fear of being killed, the suffering of the journey, and the anguish of an uncertain future. Their clothes were still speckled with desert sand.

### **→ Libyan Red Crescent reception centre - Benghazi**

The Libyan Red Crescent, with the support of the UNHCR, has installed a “reception centre” for refugees and displaced persons in camps originally set up for construction workers building the Benghazi sports stadium. Unlike the other camps, the facility is open and is not controlled by militias. It hosts “vulnerable” refugees placed by the UNHCR, women alone or with children, sick persons, unaccompanied minors – mainly from the Horn of Africa (453 on the day of the visit) – as well as displaced Tawarghan families (79).

Occupants are allowed to go exit the camp on condition that they request authorisation from Red Crescent personnel who manage the centre, and they report feeling far more secure there than in the other camps. All the Eritrean and Somali migrants met by the delegation in Ganfuda wanted to be transferred to this centre, but it lacks the space to accommodate them. The camp barracks were full at the time of the visit and the UNHCR said its search for other appropriate sites to place persons falling under its protection mandate had so far been unsuccessful. This issue is all the more urgent since the centre is a temporary installation located in barracks that can be reclaimed by the construction company that owns them as soon as business picks up and because accommodation needs are increasing with the continued flow of migrants from the Horn of Africa.

Living conditions are rudimentary. The World Food Programme provides the food for meals prepared and distributed by the Red Crescent. The UNHCR provides hygiene products and sanitary installations and visits the centre twice weekly. The Red Crescent is responsible for health issues and transports the sick to city hospitals as necessary.

Migrants interviewed inside the centre reported the torment they experienced of not knowing what the future holds for them. They know that if they leave the centre they risk being arrested and locked up again. Their only option is to

wait, a wait that seems interminable, especially for the young who idle away their time, deprived of any activity and, above all, of a future.

In one of the rooms, the delegation met a young Somali boy injured in clashes between tribes in Kufra during his journey through the South. He had a broken leg placed in a metal encasement that was hurting him, and complained about the lack of medication to cope with the pain. He said he had been bed-ridden for the past two months and that he could no longer bear the heat and anxiety, adding in desperation that he wanted to go to Italy for treatment, even if he had to cross the sea.



Young Somali migrant injured during clashes in Kufra.

## Hunted down and forcibly displaced in their own country: the Tawargha population

By 11 August 2011, all 30-40,000 inhabitants of the city of Tawargha had fled their homes to escape reprisal attacks by militias from Misrata and scattered throughout the country, mostly in makeshift camps. In June 2012, the majority were located around Tripoli, others had found refuge in the Benghazi region or in towns in the South. They have lost everything, their home town has been destroyed, and, one year after the tragedy, they continue to live in fear of abuse or acts of vengeance at the hands of *Katiba* militia brigades from Misrata.

The origin of the drama dates back to March 2011, when Gaddafi's armed forces decided to use the town of Tawargha as a base for attacks against Misrata. Gaddafi's forces in Tawargha carried out deadly attacks against Misrata for six months. On 10 August, the Misrata militias seized control of Tawargha and gave its population 24 hours to leave the town or be killed. The fury of the militia was triggered by the support they alleged that the inhabitants of Tawargha had given to Gaddafi's forces. The militia claimed that they had participated in violence against the population of Misrata, in particular in rapes of women. The militias' thirst for revenge targeted the entire Tawargha population, fanned by latent racism towards Libyans of sub-Saharan African origin. The ensuing violence left more than 100 people dead, 200 unaccounted for and 1,300 were imprisoned in Misrata where, according to Amnesty International, they were subjected to torture and inhuman and degrading treatment.

The delegation visited one of the camps, set up in the barracks of a construction site run by a Turkish company near Tripoli, where 215 Tawarghan families (1,300 people) were living in poverty and fear at the time of the visit. On 6 February, one of the main Tawargha camps in the Tripoli area close to Janzour port was violently attacked by militiamen from Misrata. The day before the delegation's visit, a young man who left the camp to pray in a nearby mosque was shot dead and his body was thrown onto a rubbish dump. His brother lodged a complaint, but no investigation was opened. The authorities have thus far chosen not to oppose the powerful militias from Misrata and have abandoned the Tawargha population to their fate. The Tawarghans depend on the assistance they receive from UNHCR and other humanitarian organisations and the solidarity of certain members of the community.

A small school had been established in the camp visited by the delegation but education was minimal due to the lack of resources. Despite such efforts, it is impossible to create satisfactory conditions for these families, partly because they live a precarious existence in construction site barracks from which they can be evicted if construction resumes, but above all because they feel threatened and stigmatised by the Libyan population. The occupants showed the delegation a sign to an office for voter registration as an indication of their attachment to their citizenship and their hope to see Libya become a state governed by the rule of law with a functioning justice system.

A representative of the Tawargha Transitional Council expressed bitterness at the lack of international attention to the fate of the Tawargha community: “NATO claimed to protect civilians. So why did they abandon us after the conflict?”.

- 66 A genuine and effective justice process is required for this community to escape collective vengeance. The road to national reconciliation will remain blocked until this barrier is overcome. This is just one of the many challenges facing the new Libyan government.



**Bou Rashada Camp. Gharyan**

3 year-old, Nigerian girl, detained with her mother since March 2012.



**Ganfuda Camp. Benghazi**

A young Eritrean migrant.

## CONCLUSIONS AND RECOMMENDATIONS

The investigation undertaken by FIDH, Migreurop and JSFM documented serious and widespread violations of the basic human rights of migrants, refugees and asylum seekers, in particular sub-Saharan Africans, trapped by militias acting outside the control of the national authorities. These violations have their roots in the criminal and irresponsible policies on migration adopted by the Gaddafi regime, with the support of European states and the tacit complicity of the states of origin of migrants.

Following the peaceful outcome of the electoral process and with the gradual stabilisation of the country, Libya will once again need foreign labour to rebuild and develop its economy. The country will therefore continue to be a hub of intra-African migration. Foreign companies, the majority of them from European states, will resume investments in Libya and will once again seek to hire migrant labour.

Under Gaddafi, Libya ratified many international human rights conventions<sup>73</sup>, which remained unimplemented. It is important that the new government transforms these formal ratifications into policies and takes immediate steps to stop flagrant violations of migrants' rights, in particular arbitrary arrests and detention, inhuman and degrading treatment of detainees, torture and forced labour.

Without underestimating the difficulties encountered by the central government in attempting to impose authority across the country, it is noted that measures taken since the end of military operations have tended to favour arbitrary action by militias and a climate of impunity. Law No. 38 on transitional measures, adopted by the NTC on 2 May 2012, which contained provisions on the transfer of detainees held by the various militias to central government control within two months of its adoption, also provided for an amnesty for those guilty of crimes carried out in order to «promote or protect the revolution».

73. Although Libya has not ratified the 1951 Convention relating to the Status of Refugees, it has ratified a number of international conventions, including: the International Covenant on Civil and Political Rights (1970), the International Covenant on Economic, Social and Cultural Rights (1970), the Convention on the Elimination of All forms of Racial Discrimination (1968), the Convention against Torture (1989), the Convention on the Elimination of all Forms of discrimination against Women (1989), the Convention on the Rights of the Child (1993), and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (2004).

As the new government takes form, and as new cooperation agreements between the EU, European states and Libya are negotiated, FIDH, Migreurop and JSFM underline the co-responsibility of the Libyan and other states and international bodies and call upon them to:

- avoid repetition of the errors of analysis and policies of the past, which were and remain the cause of serious human rights violations and risk contributing to growing instability in the region;
- cease all instrumentalisation of migrants for political and economic purposes and ensure respect for their human rights, in accordance with international and regional conventions.

Given Libya's burdensome legacy of an absence of democratic political, administrative or social structures during the decades of Gaddafi's reign, the process of building a state governed by the rule of law will be long. Cooperation must be re-established to support and accompany this process. In this context, migration issues must cease to be dealt with from a security perspective and measures to ensure the protection of human rights, within a legal framework that conforms to international law, must be promoted.



FIDH, Migreurop and JSFM make the following recommendations:

## TO THE LIBYAN AUTHORITIES

- Put an immediate end to the practices of arbitrary arrest and detention perpetrated by former rebel groups and retake control of migration issues.
- Immediately close migrant detention camps, where living conditions violate human dignity. Take specific measures to protect the rights of particularly vulnerable detainees including pregnant women, the sick, children and unaccompanied minors.
- Take measures to ensure that border control activities are conducted by state employees, with adequate training and salaries.
- Regularise the administrative situation of detained migrants who seek to work in Libya.
- Put an immediate end to practices of forced labour of detainees and establish recourse mechanisms with the assistance of the ILO.
- Authorise the UNHCR to carry out asylum procedures and to facilitate resettlement, or at least humanitarian evacuation, to third countries.
- Cease all practices of deportation to countries where migrants face risks of torture and threats to security and ensure respect of the absolute principle of non-refoulement.
- Put an end to practices of exploitation and corruption at border checkpoints and on migration routes.
- Combat racist and xenophobic acts by issuing public condemnations, adopting criminal sanctions and conducting public awareness-raising campaigns.
- Adopt provisions in the new constitution that guarantee human rights protection for all, in accordance with international standards and enshrine the principle of non-discrimination.
- Develop a migration policy within the framework of the rule of law and respect for international law and which marks a real break with the repressive, murderous and illegal policies of the previous era.
- Refuse to allow European states to impose the blocking of Mediterranean borders as a condition for the conclusion and implementation of cooperation agreements and put in place centres for accessing rights, which can deal with cases on an individual basis, with the support of the international community.
- Put an end to the criminalisation of migrants transiting through Libyan territory as well as to the systematic detention of migrants intercepted at sea.

- Establish an independent and effective justice process to identify and prosecute the perpetrators of crimes committed during the conflict, including in the context of hostilities that opposed the Tawarghan community and the population of Misrata, in order to allow for a genuine process of national reconciliation, the return of displaced people to their homes, and reparations for victims.

## TO THE EUROPEAN UNION AND MEMBER STATES

- Renegotiate cooperation agreements in full respect of international and European human rights law, and make them public.
- Suspend (where necessary by suspending existing agreements) all cooperation activities in the area of migration, in the absence of respect by Libya of measures guaranteeing human rights protection. To Italy in particular, cancel the clauses of the bilateral cooperation agreements concluded with Libya in April 2012 aimed at “curtailing the flow of migrants”, which concern the adoption and implementation of further repressive measures.
- Ensure that the design and implementation of migration policies respect international human rights and European law. Cease all deportations or forced returns to Libya. To Italy and Malta in particular: refrain from any practice of forced return to Libya after the interception of vessels at sea, in accordance with the judgement of the European Court of Human Rights of 23 February 2012 (Hirsi and others v. Italy).
- Ensure that cooperation projects concluded in the framework of the Euro-Med Migration III programme contribute to democratic reforms aimed at establishing migration policies that benefit migrants, countries of arrival and countries of departure, and that promote opportunities for regular immigration, in strict compliance with international human rights standards.
- Provide legal entry opportunities for asylum seekers located in Libya, where they do not benefit from the international protection for refugees to which they are legally entitled, in order to avoid the risk of desperate departures by sea and deaths in the Mediterranean.
- Publish the details of cooperation and support actions conducted in the area of border control and management of migration.
- Put an end to the policy of externalising control of European borders in neighbouring countries, in particular in Libya.

## TO STATES OF ORIGIN OF MIGRANTS

- Monitor respect for the fundamental rights of their citizens in Libya, and ensure their defence and protection in cases where their rights are violated.
- Demand that the Libyan authorities condemn all xenophobic practices and attitudes that stigmatise citizens from sub-Saharan Africa.
- Establish cooperation on migration issues with Libya that benefits migrants, countries of departure and arrival, and ensures respect for the fundamental rights of migrants.
- Demand the immediate release of their nationals from detention camps in Libya where they suffer inhuman and degrading treatment.
- Develop consular networks to enable all migrants who require such assistance, including migrants in detention, to benefit from administrative, legal and material support.

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## TO INTERNATIONAL AND REGIONAL BODIES

### UNHCR

- Reiterate calls for the Libyan government to authorise the UNHCR to register and recognise asylum seekers on its territory.
- Strengthen requests and appeals to Western countries to offer resettlement opportunities to asylum seekers currently trapped in Libya and at its borders.
- Grant visas to persons who cannot find a host country in the region capable of ensuring the protection and assistance to which they are legally entitled.
- In the longer term, once a state based on the rule of law is established in Libya, resume negotiations with the Libyan authorities for the ratification of the Geneva Convention relating to the Status of Refugees, and the assumption of their obligations under the Convention.

### ILO

- Monitor respect for the rights of migrant workers in Libya, in accordance with international labour law, and intervene in cases of flagrant violations, in particular with regards to cases of forced labour.
- Provide assistance to the Libyan authorities to develop migration policies that respect the rights of migrant workers in Libya.

### IOM

- Refuse to organise forced collective expulsions.
- Contribute towards the reinforcement of mechanisms to protect migrants' rights.

## AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

- Pay special attention to the treatment of African migrants in Libya and call on the Libyan authorities to invite the Special Rapporteur on refugees, asylum seekers, migrants and displaced persons to carry out a mission on its territory.
- Seize the African Court of Human Rights on cases of violations of the rights of African migrants present in Libya on the basis of communications submitted by NGOs.

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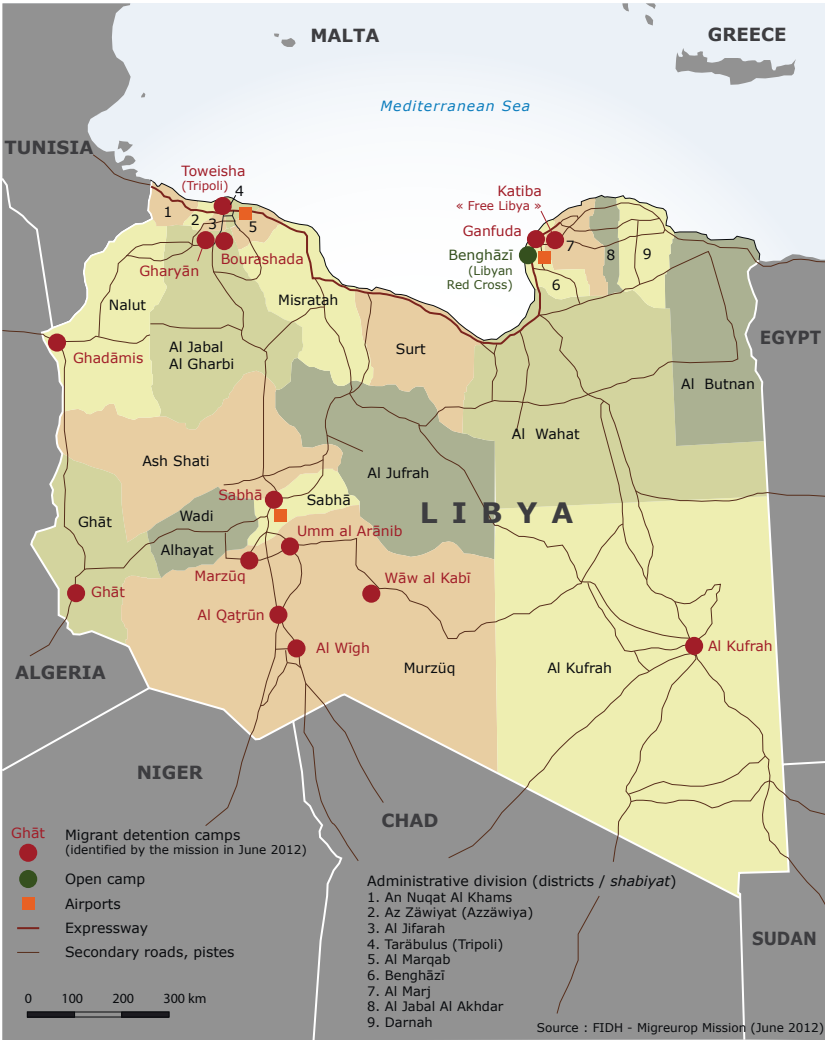
## TO FOREIGN COMPANIES THAT EMPLOY MIGRANT LABOUR

- Ensure that contracts concluded with the Libyan state or with Libyan companies are only signed on condition that they contain clauses that guarantee strict respect for the rights of migrant workers, including with regards to salaries, social protection and living conditions.

# APPENDIX 1

# APPENDIX 2

MAP OF DETENTION CAMPS IDENTIFIED BY THE MISSION IN JUNE 2012



LIST OF PERSONS MET BY THE DELEGATION

**Libyan authorities**

- Brigadier General Abdel Monem Tunsi, Director of international relations, Ministry of the Interior
- General Abdellah Toumia, Director of the maritime coast guard
- Detention camp managers and guards

**Representatives of international humanitarian organisations**

- Yolande Ditewig, UNHCR Head of office, Benghazi
- Samuel Cheung, Senior protection officer, UNHCR, Tripoli
- Jeremy Haslam, Head of mission, IOM, Tripoli
- Laurent Saugy, Protection coordinator, International Committee of the Red Cross
- Father Alan, Caritas, Tripoli
- Kahled Ben Ali, Director, LIBAID
- Vincenzo Tagliaferri, Border control expert and member of the EU delegation in Libya

**Justice Without Borders for Migrants** is a multinational network that seeks to combat violations of migrants' rights linked to deportations and refoulements.

It aims to work through transnational action that combines utilization of legal mechanisms, advocacy, documentation and reporting of abuses, capacity building, and strengthening collaborations and communications between partners.

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**Migreurop** is a network of organisations, activists and researchers based in the European Union, Sub-Saharan Africa, North Africa and the Near-East. It aims to identify, denounce and raise awareness on European policies that marginalise migrants (detention, expulsions and externalisation of migratory controls), considered "undesirable" on European territory, and the consequences of these policies for countries in the South.

The network's original feature is its capacity to promote synergies between actors from the North and the South to reach a shared vision and analysis of these processes, in particular concerning the externalisation of migration controls, detention of migrants and the strengthening of border controls.

Migreurop raises awareness on these issues through campaigns, cartographic and photographic work and annual international meetings aimed at elaborating joint strategies to decode and fight policies and processes that violate migrants' rights.

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## ESTABLISHING THE FACTS

### → Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis. FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

## SUPPORTING CIVIL SOCIETY

### → Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

## MOBILISING THE INTERNATIONAL COMMUNITY

### → Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

## INFORMING AND REPORTING

### → Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.



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# LIBYA

## THE HOUNDING OF MIGRANTS MUST STOP