



EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK

RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME

الشبكة الأوروبية - المتوسطية لحقوق الإنسان

## ASYLUM AND MIGRATION IN THE MAGHREB

2012



COUNTRY FACT SHEET:  
**LIBYA**

Copenhagen – December 2012  
Euro-Mediterranean Human Rights Network  
Vestergade 16 – 1456 Copenhagen K – Denmark  
Telephone: + 45 32 64 17 00 - Fax: + 45 32 64 17 02  
Website: www.euromedrights.org

© Copyright 2012 Euro-Mediterranean Human Rights Network

### **Bibliographic Information**

**Title:** Asylum and Migration in the Maghreb - Country Fact Sheet: Libya –  
**Author:** Nejla Sammakia – **Corporate author:** Euro-Mediterranean Human Rights Network (EMHRN) – **Publisher:** Euro-Mediterranean Human Rights Network (EMHRN) – **Date of first publication:** September 2010 – **Date of second publication:** December 2012 – **Pages:** 54

**ISBN:** 978-87-92990-05-1

**Original language:** English – **Translation into Arabic:** Aiman Haddad –  
**Translation into French:** Pascal Roy – **Translation Coordinator:** Jaime Guitart Vilches – **Layout:** Sarah Raga’ei (Studio Mostafhazan) – **Index terms:** Human Rights, Migration, Asylum, Legal protection, Right to seek asylum, Right to education, Right to employment, Right to health, Detention, Deportation –  
**Geographical terms:** Mediterranean Countries / Maghreb



<b>Introduction</b>	6
<b>General Framework</b>	10
<b>A. Asylum</b>	18
A.1. De Jure	18
A.2. De Facto	19
A.3. Role of UNHCR	19
A.4. Rights of Refugees and Asylum Seekers	27
<b>B. Migration</b>	30
B.1. Regular Entry and Stay	30
B.2. Irregular (Undocumented) Entry and Stay	33
B.3. Rights of Migrant Workers	37
B.4. Role of IOM	40
<b>C. Civil Society Organizations</b>	43
C.1. Presence and Actions	43
C.2. Violence against Migrant Women	45
<b>D. Reporting on the Human Rights of Migrants,   Refugees and Asylum Seekers</b>	47
D.1. General Reporting	47
D.2. Violence against Migrant Women	48
<b>Appendix: List and Contacts of Local Civil Society Organisations   Active on Migrant and Asylum Issues</b>	51



## Introduction

While the Arab countries that underwent uprisings and change in 2011 are still struggling to establish functioning governments and stability, the situation of migrants, asylum seekers and refugees in the region remains neglected. This is especially true in Libya, a major hub for mixed migration flows in North Africa. Under the former leadership of Moammar Gadhafi, Libya pursued an erratic and confusing policy regarding migrant workers, the country also lacking any laws to guarantee the rights of refugees or asylum seekers. These policies led to mass expulsions, ill treatment, torture and other violations at the hands of security agents and human traffickers.

After the revolution and war that ended Gadhafi's rule in August 2011, the fate of migrants, asylum seekers and refugees has unfortunately not improved, and indeed has deteriorated in many respects. This is mainly due to increased suspicion and resentment of persons from sub-Saharan Africa, who form the bulk of migrants, and the general absence of a central authority as militia groups retain control over border areas.

Despite official statements recognizing asylum rights, the issue has not been addressed in a concrete manner and is overshadowed by political and security concerns, leaving migrants to be viewed as criminals or carriers of disease.

This factsheet is an update of the legal and administrative regimes that were in place before the revolution broke out in February 2011, and it traces the changes introduced in practice regarding the treatment of migrants, asylum seekers and refugees. It is based on a mapping mission to Libya in September 2012 that focused on the legal framework in place, conditions on the ground and the stance of civil society actors vis-à-vis the issue.

### *Libya's mixed migration flows*

Libya has been a destination country for foreign workers since the early 1960s, its oil wealth and small population allowing for hundreds of thousands of job opportunities, especially in areas of work that Libyan nationals found unsuitable or for which they lacked the required expertise. In more recent years, as Libya came under an international economic embargo, foreign workers were subjected to sudden changes in policy, being invited in and suddenly expelled, depending on the political and economic situation of the moment.

A multitude of laws, administrative measures, and government orders added to the confusion and inconsistency in the management of migrant workers from Africa, the Arab world, and Asia. As a result, the number of migrant workers in informal employment grew, many finding themselves in an unstable situation; estimated figures by 2010 for irregular, or illegal migrants ranged between 1.2 and 1.5 million.

Irregular migrants were arrested for not possessing valid documents or work permits and often detained or deported. Very often registered refugees and asylum seekers were rounded up with them in security sweeps that targeted, for the most part, black Africans. By the mid-2000s Libya also became an important transit country, attracting migrants fleeing wars and famine through its porous southern borders, from where they hoped to cross Libya to its northern coastline for boats to Europe.

Then as now, the answer to stemming the flow of irregular migrants was to arrest and detain them and take measures to seal or control the southern borders and Libya's Mediterranean coast. With the lifting of sanctions against Libya in 2004, this was made possible through Italian or EU funded projects for the training and equipping of Libya's security staff, often resulting in situations where the rights of migrants and asylum seekers were overlooked.

The clearest illustration of this came in the judgment by the European Court of Human Rights (ECHR), which in February 2102 found that Italy was in breach of the European Convention prohibiting torture, inhuman or degrading treatment by sending migrants caught at sea during 2009 back to Libya. This was due to the fact that, upon return to Libya, they were knowingly exposed to detention, ill-treatment and often refoulement to their country of origin regardless of the risk of torture and other violations they faced upon return.<sup>1</sup> The ECHR ruling applies to this day, and in a statement issued in April 2102, the UN Special Rapporteur on the Human Rights of Migrants referred to a new cooperation agreement with Libya on migration management and warned against Italian cooperation in returning migrants to Libya, given the country's widespread human rights abuses against them.

Violations of the rights of asylum seekers, refugees or irregular migrant perpetrated under the Gadhafi regime by human smugglers, police, and border guards included physical abuse at the time of arrest, beating and ill treatment during detention in overcrowded, substandard conditions; exposure to the threat of deportation with no access to asylum screening; rape of women migrants; trafficking of women for sex work; and racial discrimination against sub-Saharan Africans in the form of public hostility, harassment by landlords, and exploitation by employers.

Migrant workers' rights were abused, salaries were often withheld, dismissals were made arbitrarily, and workers from sub-Saharan Africa faced mass expulsions and discrimination. Until 2010, Libyan labour law did not cover domestic and agricultural jobs, which were mostly filled by foreign workers.

#### *Migrant, refugees, and asylum seekers in post-Gadhafi Libya*

The situation regarding the rights of migrant workers may stand a better chance for improvement when Libya becomes politically stable. The ministry of Economy

<sup>1</sup> *Hirsi Jamaa and others v. Italy* [GC], no. 27765/09, E.C.H.R. 2012.

has issued a decree for joint Libyan foreign companies, signalling a willingness to resume investments and revive the construction and oil sectors. It is based on a previous decree governing relations between employer and employee and providing, in theory, for most of the rights prescribed in the Convention on the rights of migrant workers.

Meanwhile, however, many of the abuses against irregular migrants are being repeated as the migrant flow into Libya has resumed after the end of the conflict, following a lull during the war and the evacuation of nearly 800,000 migrants.<sup>2</sup> Moreover, migrants from sub-Saharan Africa who remained trapped in Libya during the war were arrested by rebel groups or caught, detained, and ill-treated by private citizens on suspicion of having been mercenaries for Gadhafi.<sup>3</sup>

While the hunt against African migrants has somewhat abated, thousands continue to be arrested for entering the country without valid identity documents or visas; they are most often caught at the border areas with Egypt, Sudan, Chad or Niger, where, according to research and anecdotal evidence, they are held in make-shift camps or farmhouses, ill-treated and often traded for money by one group to another, before being sent to one of the autonomous or semi-official detention centres in the main towns or cities.

Only four of the known 38 centres in Libya come under full interior ministry control, while most are run by militia who cannot be held accountable by any authority. Once detained, irregular migrants are forced to take medical tests to show they are free of skin disease, HIV/AIDS, tuberculosis or other infectious diseases, in which case they may be able to obtain work and regularize their residence in Libya, in accordance with a renewed strategy to help regularize their stay. But, in many cases the practice amounts to slavery or forced labour, as payment is low, or withheld and provided instead to the detention centre management.

Those migrants who are found to suffer from any infectious disease are quarantined and deported as soon as possible without access to treatment. Additionally, most irregular migrants from Sudan or Chad are quickly sent back, sometimes at the border area where they were caught, with no chance for asylum screening and in violation of international protection standards. Only those from Eritrea or Somalia are allowed to remain, under an informal policy that has been in place since the previous regime. Nonetheless, they are held in detention for indefinite periods of time, in conditions inferior to those acceptable by international standards, with cramped sleeping quarters, poor hygiene and insufficient food or water.

Of significance, while the authorities and some militia groups have expressed

<sup>3</sup> Human Rights Watch "Libya: As Deadline Passes, Militias Still Hold Thousands," July 14, 2012.



the intention to address asylum rights, there is little awareness or training on the relevant international standards derived from conventions that Libya has ratified, as the unstable security and political situations hold top priority. Libya is not a party to the 1951 UN Refugee Convention, and while it has ratified international and regional human rights conventions it has not applied them to refugee and migrant rights.

Its new government has recognized the need for asylum protection. Nonetheless, while the current Constitutional Declaration, similar to the previous one, referred to the protection of political refugees and asylum seekers, no implementing laws or administrative measure have been put in place, and the United Nations High Commissioner for Refugees operations in Libya remains limited.

Since 2008 the UNHCR has operated with varying degrees of constraints in partnership with two other international organisations focusing on refugee and asylum seeker rights, and carried out Refugee Status Determination (RSD) with limited access to irregular migrants held in detention camps. In 2010, it was ordered to leave the country, and only returned during the revolution. The UNHCR is now present in Tripoli and Benghazi; it has no official status at present and cannot carry out RSD but is authorised to renew previously registered refugees, visit detention centres and provide protection to vulnerable cases among Somalis, Ethiopians and Eritreans.

The Libyan media reports regularly on the arrest by Libyan coast guards of migrants trying to reach Europe by boat, sometimes with information provided by the Italian coastguard.<sup>4</sup> They are mostly from Somalia, Eritrea or Ethiopia and should therefore be considered as asylum seekers, but that possibility is absent and they are instead held in indefinite detention in Libya.

### *Conclusion*

In a reflection of the atmosphere regarding irregular migrants as a security threat or carriers of disease, civil society has expressed little interest in the problem, except for a handful of non-governmental organizations and lawyers who have monitored the situation and are willing to engage the authorities and the public on asylum and refugee rights.

In the new pluralistic and democratic Libya of today and as the country prepares for a new constitution, the input of civil society actors is fundamental for establishing better migration management that will meet the country's commitments to the international and regional conventions it has ratified.

<sup>4</sup> Interview with Libyan activist. See also FIDH "Libya: The Hounding of Migrants must Stop," based on a mission in June 2012, p. 40.

## General Framework

### Ratification of International Instruments

**Geneva Convention relating to the status of refugees (1951):** No

#### Explain

The previous regime in Libya had not signed or ratified the 1951 Geneva Convention relating to the status of refugees. Following the revolution and the overthrow of Gadhafi, the new leadership has not addressed the issue in any concrete way, other than to mention asylum rights in public declarations.

During the revolution, the Transitional National Council issued a roadmap for its vision of the new Libya, which stated in point 8 that “Immigration, residency and citizenship will be managed by government institutions, respecting the principles and rights of political asylum and public liberties.”<sup>5</sup> A temporary constitutional declaration, issued in early August 2011, provides for the right of asylum according to the law, and prohibits the extradition of political refugees.<sup>6</sup> This is similar to a constitutional declaration issued under Gadhafi in 1969, which stated that, “The extradition of political refugees is prohibited.”<sup>7</sup>

In practice however, the issue of asylum and refugee rights remains low on the priority list of the country’s newly elected parliament and there is no indication that the 1951 Refugee Convention will become an item in decisions or legislation in the near future.

Under the Gadhafi regime, Libyan officials repeated publicly that there were no asylum seekers or refugees in Libya, only migrant workers and illegal migrants.

**International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families:** Yes

<sup>5</sup> <http://www.ntclibya.org/english/libya/>

<sup>6</sup> See: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=246953](http://www.wipo.int/wipolex/en/text.jsp?file_id=246953)

<sup>7</sup> <http://www.unhcr.org/refworld/docid/3ae6b5a24.html> (accessed 7th January, 2010)

**Specify date of ratification and reserves:**

Ratified, with accession on 18 June 2004. There have been no reservations.

**Recognition of competences of the UN Committee on the rights of migrant workers**

Communications by other states (article 76)	No
Communications by individuals (article 77)	No

**Last periodic report submitted:**

An initial report was due in October 2005, but according to the agenda of the last session of the Committee on Migrant Workers held in September 2012, it has not been presented since then.<sup>8</sup> According to Article 73 of the Convention, an initial report is expected one year after the entry into force of the convention, to be followed by a report every five years.

**Final observations from the Committee:** None

**Any other comments**

A relatively new practice of hiring migrants from detention centres has emerged after the end of the war as the number of migrants entering the country increased. Those caught without valid documents or visas are arrested and held in detention centres run mostly by the interior ministry or autonomous militia. There, they may be informally hired for jobs by Libyan individuals or companies. Migrant work conditions are not made clear, and employers have not been held accountable for not providing proper wages or meeting national or international standards of employment.

**Cooperation with Special Rapporteur on the Human Rights of Migrants**

Under the Qaddafi regime, Libya responded to at least three communications from the Rapporteur, but has never extended any invitation.

**Rapporteur's invitation status:**

No invitation by Libya was cited in the document on Special Rapporteur visits and there is no outstanding request for a visit.<sup>9</sup>

<sup>8</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Seventeenth session 10–14 September 2012, Item 2 of the provisional agenda, Adoption of the agenda. See <http://www2.ohchr.org/english/bodies/cmw/sessions.htm>.

<sup>9</sup> <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

**Last visit from the Rapporteur:**

None

**Last report from Rapporteur:**

None, as no country visit was undertaken.

**Comments**

The Special Rapporteur on the Human Rights of Migrants is to present a thematic report to the Human Rights Council by mid-2013 on EU border migration management and its impact on the human rights of migrants. In a report following a visit to Italy, he referred to a new cooperation agreement with Libya on migration management and warned against Italian cooperation in returning migrants to Libya, given the widespread human rights abuses committed against them in the country.<sup>10</sup>

In June 2011, the Human Rights Council expressed alarm at the plight of migrants and asylum seekers escaping conflict in North Africa (including Libya) by sea, a number of whom drowned while others faced detention and xenophobia. It reaffirmed the need to respect the principle of *non-refoulement* and requested that the Special Rapporteur on the Human Rights of Migrants reports regularly on the issue to the Council.<sup>11</sup>

Prior to these events, in a report submitted in May 2010, the Special Rapporteur referred to the interception in the high seas by Italian coast guards, as well as its navy, of migrant boats who had departed from Libya. The migrants were forced back to Libya without being provided access to asylum screening, in violation of Italy's obligations under international law.

This act was a result of the Italian-Libyan "Friendship Pact", which called for cooperation in fighting terrorism, drug trafficking and illegal migration.<sup>12</sup>

<sup>10</sup> See: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12640&LangID=E>

<sup>11</sup> Human Rights Council, A/HRC/17/L.13.

<sup>12</sup> Human Rights Council, A/HRC/14/30/Add.1.

**Has the Special Rapporteur made official requests to the authorities of the country?**

There have been no publicly released communications sent to the authorities following the 2011 revolution. The Special Rapporteur communicated several times with the previous Libyan regime since 2005, and many of the issues regarding detention, ill treatment or torture, lack of legal remedies, and the absence of an adequate asylum policy remain valid at the time of writing of this fact sheet.

**Any other comments**

Prior to the revolution, irregular migrants were poorly treated in general, but foreign migrant workers holding legal contracts, including Indian and Philippino medical professionals, were also exploited by public or private sector employers who held their passports or delayed payment of their salaries.

At the time, irregular migrants who could not be deported (from Eritrea and Somalia) were allowed to regularize their stay by obtaining a work contract, similar to the present situation. However, that measure was seldom applied, partly because some migrants preferred to remain in detention while waiting to gain refugee status and be resettled<sup>13</sup>, while others managed to pay their way out of detention and attempt to travel to Europe.<sup>14</sup>

**Other relevant instruments**

**International convention ratified by the country:**

ICCPR	Yes
ICESC	Yes
CEDAW	Yes
CIDE	Yes
CAT	Yes
CERD	Yes

<sup>13</sup> Interview with IOPCR executive director Jamal el-Amer, Tripoli, March 22, 2010.

<sup>14</sup> Opinion of various international experts covering Libya who preferred to remain unidentified, February, March 2010.

**Optional protocols:**

ICCPR – 1st	Yes
ICCPR – 2nd	No
ICESC	No
CAT	No
CEDAW	Yes
Declaration recognizing competence of the Committee against Torture to receive and consider communications from or on behalf of individuals (Art 22 CAT)	No
Declaration recognizing the competence of CERD to receive and consider communications from individuals or groups of individuals (Art 14 CERD)	No

**International Labour Organisation**

1949 Convention (N°97) on migrant workers	No
1975 Convention (N°143) on migrant workers	No

*ILO fundamental Conventions that are not yet ratified:*

Libya has ratified the eight fundamental ILO conventions (conventions listed under the Freedom of association and collective bargaining; Elimination of forced and compulsory labour; Elimination of discrimination in respect of employment and occupation; Abolition of child labour).

Libya has not ratified 59 conventions, including Conventions 97 and 143 that are specifically related to the employment security of migrant workers.<sup>15</sup>

In total, Libya has ratified 29 conventions, 28 of which are in force (it denounced the minimum-age Convention no. 59 as a result of ratifying Convention no. 138.)<sup>16</sup>

<sup>15</sup> ILO NORMLEX Up-to-date Conventions not ratified by Libya:  
[http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:4370903941827358:::P11210\\_INSTRUMENT\\_SORT2](http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:4370903941827358:::P11210_INSTRUMENT_SORT2)

<sup>16</sup> <http://www.ilo.org/ilolex/english/docs/declworld.htm>

Table of ratified conventions<sup>17</sup>

Convention	Ratification date	Status
C1 Hours of Work (Industry) Convention, 1919	27:05:1971	ratified
C3 Maternity Protection Convention, 1919	27:05:1971	ratified
C14 Weekly Rest (Industry) Convention, 1921	27:05:1971	ratified
C26 Minimum Wage-Fixing Machinery Convention, 1928	27:05:1971	ratified
C29 Forced Labour Convention, 1930	13:06:1961	ratified
C52 Holidays with Pay Convention, 1936	20:06:1962	ratified
C53 Officers' Competency Certificates Convention, 1936	15:11:1974	ratified
C59 Minimum Age (Industry) Convention (Revised), 1937	27:05:1971	Denounced on 19:06:1976
C81 Labour Inspection Convention, 1947	27:05:1971	ratified
C87 Freedom of Association and Protection of the Right to Organise Convention, 1948	04:10:2000	ratified
C88 Employment Service Convention, 1948	20:06:1962	ratified
C89 Night Work (Women) Convention (Revised), 1948	20:06:1962	ratified
C95 Protection of Wages Convention, 1949	20:06:1962	ratified
C96 Fee-Charging Employment Agencies Convention (Revised), 1949	20:06:1962	ratified
C98 Right to Organise and Collective Bargaining Convention, 1949	20:06:1962	ratified
C100 Equal Remuneration Convention, 1951	20:06:1962	ratified
C102 Social Security (Minimum Standards) Convention, 1952	19:06:1975	ratified
C103 Maternity Protection Convention (Revised), 1952	19:06:1975	ratified
C104 Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955	20:06:1962	ratified

<sup>17</sup> ILO NORMLEX Ratifications for Libya:  
[http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200\\_COUNTRY\\_ID:103130](http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103130)

C105 Abolition of Forced Labour Convention, 1957	13:06:1961	ratified
C111 Discrimination (Employment and Occupation) Convention, 1958	13:06:1961	ratified
C118 Equality of Treatment (Social Security) Convention, 1962	19:06:1975	ratified
C121 Employment Injury Benefits Convention, 1964	19:06:1975	ratified
C122 Employment Policy Convention, 1964	27:05:1971	ratified
C128 Invalidity, Old-Age and Survivors' Benefits Convention, 1967	19:06:1975	ratified
C130 Medical Care and Sickness Benefits Convention, 1969	19:06:1975	ratified
C131 Minimum Wage Fixing Convention, 1970	27:05:1971	ratified
C138 Minimum Age Convention, 1973	19:06:1975	ratified
C182 Worst Forms of Child Labour Convention, 1999	04:10:2000	ratified

## African Union

### African Union Convention on Refugees

Yes

Libya has ratified the 1969 African Union Convention Governing the Specific Aspects of Refugee Problems in Africa, which expands the definition of refugee to include anyone compelled to seek refuge because of events seriously disturbing public order. Article 8 of this Convention requires member states to cooperate with the UNHCR. Libya has not established any laws to implement the African convention since its ratification on 25 April, 1981. There has been no change in that situation after the revolution.

Libya has, however, sporadically respected since 2008 the right of migrants from Eritrea and Somalia to not be deported. This continues to be the case after the revolution, but with no clear asylum laws in place and with multiple, autonomous militia in control of migrant detention centres, the measures remain shaky.

The Euro-Mediterranean Human Rights Network has heard from international representatives that a large number of Somalis, following protest disturbances, were to be repatriated from an Interior Ministry-run detention centre, and that only intervention by the prime minister at the time stopped their deportation.



## General remarks

Although it ratified international human rights conventions such as the ICCPR, the Convention against Torture, CERD, and the International Convention on the rights of migrant workers, the Libyan government was, until the 2011 revolution, responsible for ignoring gross violations of the rights of asylum seekers, migrants and refugees. These included, among others, ill treatment, torture, arbitrary arrest and detention, as well as discrimination at the hands of Libyan law enforcement agents encountered by migrants along their route across Libya, or in its settled areas and urban centres. The victims included registered refugees from sub-Saharan Africa who were exposed to racist discrimination and gender-based violence.

After the revolution, similar violations – especially arbitrary arrest and detention, and deportation without asylum screening – continue to be perpetrated by militia groups to varying degrees, in violation of international conventions that Libya has ratified, including the ICCPR, CAT, and CERD. Central government authorities have little control over the whole of the country.

Militia and others responsible for holding irregular migrants have also acted in contravention to ILO conventions and codes of practice that Libya has ratified, especially the Slavery Convention and the Protection of Wages Convention. The practice of allowing some irregular migrants to be hired by Libyan employers amounts to forced labour in some instances; it is carried out with no formal contract or agreement and fees are usually too low or withheld. According to international experts, both autonomous militia and government agents are responsible for this practice.<sup>18</sup>

Additionally, irregular migrants can be hired for work with Libyan employers only if they are proven to be free of diseases, such as Hepatitis B or C, HIV/AIDS or skin diseases, in contravention of ILO codes of practice. These measures reflect continuity with the previous regime, when Libyan law and administrative orders required foreign workers to submit to a test proving they were virus-free, basically meaning HIV/AIDS free, in order to obtain either a work contract or a temporary residence permit until they could find work.

The ILO Code of Practice on HIV/Aids and the World of Work prohibits discrimination against workers infected with the disease, “HIV/AIDS screening should not be required of job applicants or persons in employment.”<sup>19</sup>

<sup>18</sup> Interviews with members of international organisations in Tripoli and Benghazi, September 2012.

<sup>19</sup> <http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/normativeinstrument/kd00015.pdf>, 4.6, p.4 as accessed March 2, 2010.

## A. Asylum

### A.1. De Jure

#### Main texts and/or articles of law governing refugees and asylum seekers' status

**In the constitution/basic law:** Yes

#### Specify the date of adoption, n° of article, and content of article:

Article 10 in the Libyan Constitutional Declaration, issued on 3 August, 2012 and to be considered the basis of rule until the passage of a new Constitution provides that "The State shall guarantee the right of asylum by virtue of the law. The extradition of political refugees shall be prohibited."<sup>20</sup>

**In an organic law (and implementing law):** Yes

#### Specify the date of adoption, reference of law, scope:

Law 20, 1991, on Enhancing Freedoms, Art. 21 states "the Great Jamahiriya provides shelter for oppressed people and those struggling for freedom. It is prohibited to extradite to any destination refugees seeking safety in the Jamahiriya."<sup>21</sup> However, there is no specific law or administrative measure implementing this law, or otherwise governing refugee and asylum issues.

#### Any other remarks

There has been no change to the situation of asylum seekers, and no new laws or executive framework for the implementation of either the pre-revolution Law 20, or the constitutional declaration of 2011.

Over the past ten years, Libya has changed from being primarily a destination country for migrant workers to also being a transit country for migrants heading for Europe. Since then, it has generally regarded all migrants as illegal, with no official provisions in place for screening asylum seekers.

<sup>20</sup> See [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=246953](http://www.wipo.int/wipolex/en/text.jsp?file_id=246953)

<sup>21</sup> <http://www.unhcr.org/refworld/pdfid/3dda542d4.pdf> (accessed November 8, 2012).

## A.2. De Facto

**Is there a specific ministry/administration responsible for granting legal status to refugees?** No

**Concretely, is this (legal) framework implemented by the authorities?** No

### Explain

Libya has not signed the Refugee Convention, and provisions in place for the protection of refugees in the new Constitutional Declaration have not resulted in legislation. Refugees registered with the UNHCR are provided with certificates that would allow them protection and benefits.

### Any other remarks

Libya has provided refuge to Palestinians. Under King Idriss and before Gadhafi's rise to power in 1969, Libya endorsed the 1965 Protocol for the Treatment of Palestinians in Arab States (the Casablanca Protocol which allows Palestinians the right to reside, work, and obtain travel documents in Arab states endorsing the protocol), while maintaining a reservation on the right of Palestinians to work. This was reversed by a 1989 law granting Arabs the same rights as Libyans (Law 10/1989).

Palestinian refugees in Libya are outside the mandate of the UN Relief and Works Agency for Palestinians in the Near East (UNRWA) and therefore they fall under the protection of UNHCR's mandate. Accordingly, they have been recognized by UNHCR on a prima facie basis since 1991.<sup>22</sup>

## A.3. Role of UNHCR

**Existence of UNHCR office(s) in the country?** Yes

<sup>22</sup> ICMPD, "A Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya, 2010," p. 72, [www.icmpd.org](http://www.icmpd.org).

**Specify the year activities started and contacts of office(s):**

The UNHCR office opened in 1991 in Tripoli during the first Gulf War, during which it resettled some 300 Somali Refugees from Saudi Arabia and briefly run a refugee camp for them. In 2008 the UNHCR was allowed to operate through a Memorandum of Understanding with three partners: the Libyan semi-autonomous International Organisation for Peace, Care and Relief (IOPCR); the Vienna-based International Center for Migration Policy Development (ICMPD); and the Italian Council for Refugees (CIR) in a € 2.5 m EU-funded capacity-building project to assist the Libyan government in designing protection-sensitive asylum management strategies.<sup>23</sup> The UNHCR office closed on government orders in 2010.

UNHCR resumed activities during the conflict, with its country office located in Tripoli; it has a sub-office in Benghazi that covers the eastern and south-eastern regions, and a community centre in Tripoli, managed by the Libyan charity Al-Wafa, that provides legal assistance in cooperation with the Danish Refugee Council.

The UNHCR moved to a new location in September 2012:

UNHCR Representation in Libya  
Almawashi Street,  
Sirraj, Tripoli  
Tel: +218 214770257  
Chief of Mission: Emmanuel Gignac

UNHCR Benghazi Office  
Al-Fuyhat, Benghazi  
Benghazi  
Head of Office: Saleh Najem

**Does UNHCR have a legal status in the country?** No

UNHCR has no official status (statut de siege), or Memorandum of Understanding with the Libyan authorities. It is therefore not authorized to carry out refugee status determination (RSD) of asylum seekers, but it can provide protection to Somali, Ethiopian and Eritrean migrants who are held in detention centres and who are tolerated by the authorities and the militia as being vulnerable migrants.

<sup>23</sup> UNHCR, "UNHCR signs agreement aimed at ensuring refugee protection on libya," Tripoli, July 4, 2008, at <http://www.unhcr.org/486e48534.html>.

**Is UNHCR allowed to freely travel across the country?** Yes

UNHCR can travel freely, unless the agency advises against visiting certain areas for security reasons.

**Is UNHCR allowed to visit detention camps/centres where asylum seekers may be detained?** Yes

**Specify which camps/centres:**

UNHCR has access to most of the detention centres in Libya. It has visited some 25 detention centres out of a total of 38 identified centres across the country. Of these 38, twelve are under full control of independent militia and nine were under full government control, the rest being run by militia that report to varying extents to the Ministries of Interior or Defence, or to local councils.<sup>24</sup>

**Since the start of 2012, the UNHCR has visited the following detention centres:<sup>25</sup>**

- Under the control of the Ministry of Interior:
  - » Towisha Detention Centre, near Tripoli, holding mostly Somali migrants as of September 2012;
  - » Al-Khoms, east of Tripoli, holding 600 migrants, including some 60 women, as of early October 2012. Migrants consisted mainly of Somali and Eritrean nationals, as well as of a smaller number of Nigerians, Chadians, Nigeriens and Bangladeshis;
  - » Al-Zawiya;
  - » Sabratha;
  - » Kufra, in southern Libya, housing mostly migrants caught at border crossings from Sudan and Chad;
  - » Sebha, 800 km south of Tripoli, several detention centres in the area, housing sub-Saharan Africans;
  - » Souq el-Hadayeq, Benghazi;
  - » Surman, west of Tripoli;
  - » Obari, a new detention centre in south-western Libya, holding 196 sub-Saharan Africans as of September 2012.
- Militia-held, some of which report to the Interior Ministry or Defence Ministry:
  - » Ganfouda, in the eastern city of Benghazi, under the Preventive Security Brigade militia, holding 832 persons including Somalis, Eritreans,

<sup>24</sup> Interviews with international organisations in Libya, September and November 2012. It is worth noting that detention centres have changed hands several times between government and militia control.

<sup>25</sup> Information obtained in interviews with UNHCR and from UNHCR Libya monthly updates, February – September 2012.

- Ethiopians, Bangladeshis, Egyptians, Chadians, Sudanese, and Pakistanis, as of September 2012;
- » Libyan Red Crescent Society camp at Ajdabya, holding mainly vulnerable migrants transferred from the Ganfouda detention centre. As of 24 October, the LRCS camp population consisted of 400 people, most of them from Somalia and Eritrea, with others from Ethiopia, and a few from Sudan and Gambia. This is an open camp, but its residents are afraid of getting arrested again if they go out;
  - » Moaskar Jallah, and Al-Watar, near the eastern border town of Tobruk, housing mostly Egyptian migrants before their return, as well as migrants from Chad, Somalia, Eritrea, Ethiopia and Sudan;
  - » Al-Kharouba military camp, between Benghazi and Tobruk, holding 184 migrants, mostly from Somalia, as of June 2012;
  - » Misrata, about 200 km east of Tripoli;
  - » Umm Elaraneb, Gatroun, Alwegh and Waw in Southern Libya, where a total of nearly 3,000 migrants were held in June, 2012, mainly from Chad, Darfur, Niger, Nigeria and Ghana;
  - » Six centres in and around Benghazi held by various militia: Free Libya Brigade Centre; Aly Hassan al-Jabri Brigade Centre; Popular Theatre Centre; the Sports Village Centre, and Ajdabya, open camp, managed by LRCS, guarded by Libya Shield Brigade militia that report to interior ministry;
  - » Abu Rashada, in the region of Gharyan, was to be handed over to the Department for the Combat of Illegal Migration at the interior ministry. As of 15 October, it held 840 people, including 30 women and 50 minors, mostly from Niger, Sudan, Nigeria, Chad, Cameroon, Mali and Somalia;
  - » Alsilaa, holding 140 migrants from Eritrea, Somalia, Chad and Nigeria as of early October 2012. Irregular migrants were detained together with Libyans held on crime charges.<sup>26</sup>

In the past, UNHCR carried out asylum screening in detention camps, arranged RSD interviews and obtained the release of some of the mostly Eritrean asylum seekers and refugees.<sup>27</sup> It had access to about 15 detention camps.

**Is the current location of the UNHCR of nature to guarantee the free access of refugees to its premises?**

Yes and No

<sup>26</sup> UNHCR Libya External Update, October 2012.

<sup>27</sup> ICMPCD, "A Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya, 2010," [www.icmpd.org](http://www.icmpd.org), p. 83.

**Explain**

UNHCR has extended its activities to Benghazi, opened a community centre in Tripoli, and has access to most of the known detention centres, making it relatively more accessible. Migrants and potential asylum seekers who are kept in detention centres paradoxically have better access to UNHCR than in the past, when asylum seekers heading for Europe did not know about UNHCR presence in Libya. At the time, its location and mandate were not provided to potential asylum seekers rounded up with irregular migrants and held in detention under the Gadhafi regime.

**Does the UNHCR proceed with Refugee Status Determination (RSD) and registration?**

No

As UNHCR is operating without an official status or agreement, it is not authorized to carry out RSD. It can visit migrant detention centres, register asylum seekers and provide protection to particularly vulnerable migrants, such as women and children, and nationals from Eritrea, Ethiopia and Somalia who need medical attention, mainly by moving them to an “open” camp run by the Libyan Red Crescent Society, or to a hospital.

A main function of UNHCR is the renewal of documents of previously recognized refugees and asylum seekers. It also provides legal aid to refugees and asylum seekers through a refugee community centre in Tripoli managed by the Al-Wafa organization, in collaboration with the Danish Refugee Council.

Prior to its expulsion in 2010, the UNHCR mainly processed Eritreans and Somalis for refugee status, while the rest of the detainees, mostly from Nigeria, Mali, Ghana, Niger, Sudan and Chad were deported, or returned voluntarily.

Similar to the current situation, the Libyan authorities unofficially recognized Somali and Eritrean nationals as legitimate asylum seekers; they did not provide them with residence cards but tolerated their presence.<sup>28</sup>

**Number of refugees by country of origin:**

Before the outbreak of the revolution, UNHCR had registered some 11,000 refugees and asylum seekers in Libya, and of these about 9,400 remained in Libya after the end of the conflict. Hundreds more are considered to be migrants in need of protection, and they include those who were not able to register with UNHCR or who entered Libya after the end of the conflict, especially from Eritrea, Ethiopia and Somalia, but also from other sub-Saharan Africa countries.

<sup>28</sup> Interviews with various sources, March, April, 2010.

The table below reflects figures released by UNHCR for registered refugees in September 2012,<sup>29</sup> and shows a drop from 8,171 refugees registered by the end of 2009.

### Number of Refugees by Country of Origin

Country of Origin	Number
Iraq	2,469
Palestine	2,661
Eritrea	473
Sudan	651
Somalia	176
Ethiopia	27
Egypt	3
Chad	19
Liberia	23
Ivory Coast	1
Algeria	6
Cameroon	1
Democratic Republic of Congo	12
Nigeria	1
Togo	1
Rwanda	6
<b>Total</b>	<b>6,530</b>

<sup>29</sup> UNHCR Libya, Factsheet September 2012.



**How many asylum seekers are presently recognized by UNHCR?**

The table below reflects figures released by UNHCR for registered asylum seekers in September 2012,<sup>30</sup> and shows a significant increase from 1,886 in June 2009.<sup>31</sup>

The June 2009 figure for asylum seekers was less than half those registered in 2008, which had doubled since 2007.

**Number of Asylum Seekers by Country of Origin**

Country of Origin	Number
Iraq	582
Palestine	60
Eritrea	1,244
Sudan	339
Somalia	589
Ethiopia	75
Egypt	1
Chad	50
Liberia	2
Democratic Republic of Congo	13
Syria	1,371
Morocco	3
Ivory Coast	2
Sierra Leone	1
Stateless	1
<b>Total</b>	<b>4,340</b>

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

**Specify the different types of statuses allocated by UNHCR and the procedure to receive these:**

The UNHCR is not authorized to carry out RSD. Under its previous agreement for work in Libya, UNHCR procedure for refugee recognition was based on its mandate and not on the Refugee Convention. Prima Facie/groups accounted for 97 percent of total refugees, and individual recognition and other types formed the rest.<sup>32</sup>

**Is the refugee status attributed by UNHCR, including prima facie status, officially recognized by local authorities?** No

As before the revolution, Libya has no law that legally differentiates between refugees, asylum seekers and migrants. However, law-enforcement agents and militia generally recognise UNHCR-issued refugee or asylum seeker cards if they are updated; they detain refugees and asylum seekers if their cards are expired, and are not consistent in notifying UNHCR of the arrest.

**In addition to recognition of refugees, what other forms of assistance does UNHCR offer to refugees (direct aid, micro projects, etc) and how is it provided (local partner, procedures, etc)?**

During the conflict, the UNHCR provided emergency shelter, cash assistance, hot meals, and medical care to vulnerable persons, including IDPs, and assisted with the evacuation of third-country nationals. It worked in cooperation with other UN agencies and the IOM, as well as with the Red Cross Movement and Mediciens sans Frontieres, and entered into agreements with several other partners, including ACTED, the Libyan Al-Wafa charity organization, the Libyan Red Crescent Society (LRCS), International Medical Corps (IMC), Mercy Corps, and the Danish Refugee Council.<sup>33</sup>

This cooperation has continued since the end of the war.

UNHCR regularly monitors detention centres for protection issues, while also providing assistance with regard to provision of non-food and food needs - the latter in partnership with WFP - as well as organizing the release of vulnerable persons or pregnant women or arranging their transfer elsewhere, namely to an open camp run by the LRCS.

<sup>32</sup> 2005 UNHCR Statistical Yearbook Country Data Sheet - Libyan Arab Jamahiriya Country Data Sheets, 30 April 2007. <http://www.unhcr.org/4641be652e.html>

<sup>33</sup> Information obtained during mission to Libya, September 2012, and from UNHCR 2012 Country Operations, Libya, at <http://www.unhcr.org/pages/49e485f36.html> (accessed October 29, 2012).

For instance, UNHCR provides relief items to centres that are poorly equipped, such as the Asilaa detention centre, which held irregular migrants together with Libyan crime suspects. The IMC, a partner of the UNHCR, provided medical assistance to migrants who complained of ill treatment at the Abu Rashada detention centre when UNHCR visited in October.

UNHCR also conducts protection monitoring of Internally Displaced Persons, of whom nearly 60,000 were reported as of August 2012.<sup>34</sup>

Additionally, Syrian refugees have approached the UNHCR offices in Tripoli and Benghazi, which had registered 238 Syrian nationals by July 2012. Following their registration these refugees have been able to obtain food vouchers from the World Food Program.

UNHCR has also held a training session for Iraqi refugee students on scholarship opportunities through the EU-funded Erasmus programme, and has provided training to judges, lawyers, government officials, human rights activists, and detention centre staff on refugee and asylum seekers rights. It has also provided training to university students on displacement, human rights and asylum, and trained its implementing partner staff on protection standards.<sup>35</sup>

#### Any other remarks

While the UNHCR now has easier access to detention camps than in the past and has also launched a number of assistance activities, it cannot provide full protection to asylum seekers and irregular migrants until it is allowed to carry out RSD, and until Libya ratifies the UN Refugee Convention and puts in place domestic laws to implement international and regional conventions it has ratified.

#### A.4. Rights of Refugees and Asylum Seekers

**From your perspective, do you consider that this framework provides for an effective protection of the specific rights of refugees and asylum seekers?** No

The rights of asylum seekers and refugees are not protected in any legal and consistent

<sup>34</sup> UNHCR 2012 Country Operations, Libya.

<sup>35</sup> UNHCR Global report 2011. p. 154.

basis. The Constitutional Declaration briefly addressed refugees but no law or administrative procedure has so far been put in place. Libya has not signed the UN Refugee Convention, and has no official agreement with the UNHCR, which limits the extent to which it can operate.

The autonomous militia groups that detain migrants in centres around the country have had no training on the rights of migrants or of potential asylum seekers who are arrested and detained with irregular migrants. Detainees are thus at risk of deportation with no access to asylum screening, with the exception of nationals from Somalia, Eritrea and Ethiopia, who are not sent back but who remain held in detention for indefinite periods of time (this also constituting a breach of refugee rights).

Detention centres are poorly furnished, lacking in hygiene facilities and in medical care. In many cases detainees are badly treated, beaten and not allowed exercise or access to the outside, unless they are hired – with the latter being equivalent, as it has been already said, to forced labour.

#### **Do registered refugees have access to:**

##### *Residency documents:*

No, they have no access to residency documents, but they are provided with UNHCR certificates, which the refugee agency renews and which should allow them to remain in the country until they are resettled.

##### *The labour market:*

There is no special law for foreign asylum seekers or mandate refugees. Palestinian and Iraqi refugees are allowed to work, according to Law 10/1989, which provides for the treatment of all Arabs as Libyan citizens. However, according to the labour law (6/1987) and Law 2/2004, they must obtain a work contract, as is the case with all non-nationals.

##### *Health care:*

Registered refugees and asylum seekers have access to free health care – however some are afraid to go if their papers are not in order, in which case UNHCR and CESVI may help them.

This is an improvement from the days before the conflict, when only Palestinian refugees had access to free health care like Libyans, while all other foreigners, migrants, refugees and asylum seekers paid standard fees for medical care.

*Education:*

Primary and secondary level education in Libyan public schools is free of charge for Arabic speaking refugees.

**Comments**

With no law or system in place regarding registered refugees other than Palestinians and Arabs, social, educational and health service provisions largely depend on international humanitarian and rights organizations, local charity groups and individuals. A similar situation pertains to irregular migrants in detention centres, the latter being mostly held by militia with no special funding or means.

## B. Migration

### B.1. Regular Entry and Stay

**Text governing entry and stay in the country:** Yes

**Specify the date of adoption and reference of the law:**

The main laws governing entry and residence, in chronological order, are:

- **Law no 6/1987** on entry and residence of foreigners in Libya.<sup>36</sup> It regulates the entry and residence of foreigners in Libya and their exit. It specifies visa requirements (work, tourism, official business, multiple entry, study, transit, exit), allows three month stay, lifts visa requirements for Arabs, requires residence permit holders to obtain documentation within a month of their entry, and requires foreigners staying longer than a week to report to immigration authorities.

It requires all persons who provide accommodation to a foreigner, or who employ a foreigner, to report to immigration or security authorities, and restricts residence to the purpose stated in obtaining a visa.

Articles 14 – 19 cover conditions for revoking visas, expulsion, and fines in case of entry without a proper visa, visa expiry or cancellation of residency, if the person presents a danger to the security or public health of the country, or as a result of court-ordered deportation following a decision by the immigration authorities. A person to be deported may be confined to a special location until the deportation.

- **Law no. 10 of 1989** allows Arab nationals to enter the country and reside with the same rights and duties as Libyan citizens.<sup>37</sup>

Decision 125 of 2005 further regulates Law 6/1987 and Law 10/1989, specifying ports of entry, reciprocal dealings with other countries, exemption of Arab nationals, and a ban on the entry of previously expelled

<sup>36</sup> <http://www.aladel.gov.ly/main/modules/sections/item.php?itemid=157>

<sup>37</sup> [http://www.ilo.org/dyn/natlex/natlex\\_browse.details?p\\_lang=en&p\\_country=LBY&p\\_classification=17&p\\_origin=SUBJECT](http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=LBY&p_classification=17&p_origin=SUBJECT)

foreigners.<sup>38</sup> It also requires Arab migrants to apply for residence permits or risk becoming irregular immigrants.

- **Law 2/2004** amends Law 6/1987, and introduces measures against irregular migrants, including a jail penalty and a fine for those assisting them, (Article 19). Also under this law, foreigners who do not have work permits are allowed to reside for three months while they find work and gain residency.

The law introduces heavier penalties for not meeting immigration requirements and up to 20 years prison for entering Libya without legal documents, especially if associated to a criminal network.<sup>39</sup>

### Particular comments on the law, from a human rights perspective

There have not been any new administrative decrees regarding the entry and stay of non-nationals issued since the end of the conflict. Technically, laws governing the entry and stay in the country that were issued by the previous Gadhafi regime remain applicable; however the extent of their implementation is not clear.

Persons entering the country with no visa but with valid documents are generally detained, deported or allowed to be hired and to regularize their stay, depending on their state of health and their nationality. This applies legally to Arab nationals, but it has been put in practice with other nationalities as well on an informal basis.

Persons with no valid documents are detained and deported. Nationals from Ethiopia, Eritrea or Somalia are not deported.

Despite laws granting Arab nationals the right to visa-free entry and residence, nationals from Egypt have been required to obtain visas since 2009 and nationals from Morocco and Algeria since the end of 2011 (through invitations or job contracts). Tunisians, on whom visas were imposed in late 2009, are now allowed visa-free entry.

Libya has inherited a legacy of laws, administrative decrees and practices that were used by the former regime in an unpredictable way, varying between welcoming African and Arab migrant workers, or expelling them, depending on the political strategy of the moment and the economic situation.<sup>40</sup> Migrant workers, mainly (but not only) from sub-Saharan Africa, were at risk of sudden expulsion or arbitrary arrest and detention - this despite the fact that many had jobs or were eligible for refugee status, thus violating their rights.

<sup>38</sup> [http://www.gpc.gov.ly/html/show\\_decision.php?value=2005x1x1x000125](http://www.gpc.gov.ly/html/show_decision.php?value=2005x1x1x000125)

<sup>39</sup> Global Detention Project, Libya Detention Profile: <http://www.globaldetentionproject.org/countries/africa/libya/introduction.html>

<sup>40</sup> Between 2003 and 2005, Libya expelled around 145,000 sub-Saharan migrants, mostly irregular; several hundred Nigerians were deported in August and September 2009.

While the practice of mass expulsion has not been repeated under the new authorities, undocumented migrants, usually in mixed flows of economic and asylum seekers, continue to be ill-treated and denied basic rights, in contradiction to international and regional human rights conventions to which Libya is a party.

**Is there a specific ministry/administration responsible for migration issues?**

Yes

**Specify contacts:**

There are at least two departments that deal with migration and irregular migration at the interior ministry: the Passports Intelligence Office and the Department for the Combat of Illegal Migration. The latter was reopened in mid-2012 and since then has been attempting to establish official detention centres, while also trying to bring those run by the militia under its control. In addition, a Border Management Agency reporting to the Prime Minister has been created – though it had not yet become functional at the time of writing.

In practice, none of these offices seem to be in full power, given local authorities and autonomous militia are mostly in charge of arresting migrants without valid documents at or near Libya's border crossings, and detaining them.

**Are there available official statistics on the number of migrants present in the country?**

Yes

**If yes, provide details about the source of these statistics:**

The last national census was in 2006 and showed 359,540 non-Libyans out of a total population of 5.673 million, while a UN Population Division Estimate put the immigrant figure at 617,536.<sup>41</sup>

**Are there other existing statistics?**

Up to 400 migrants are believed to enter Libya on a daily basis, mostly without valid visas, work permits or identity documents. At any given time, there are an estimated 4,000 to 5,000 irregular migrants held in detention centres.

Before the revolution, the most accepted estimate cited in international reports and by Libyan authorities was that of 1.5 – 2 million migrants, three-fourths of whom were thought to be irregular migrants.

<sup>41</sup> CARIM *Mediterranean Migration report 2008-2009*, CARIM Mediterranean Migration report 2008-2009, Robert Schuman Center for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, October 2009.



**Specify sources of information and methodology used to gather it:**

The figures cited are unofficial figures provided by international and local organizations working on migrant issues, and obtained informally from Libyan officials.

**B.2. Irregular (Undocumented) Entry and Stay****Is there any text sanctioning irregular entry and/or stay in the country?**

Yes

**Specify date of adoption, reference and nature of text, purpose and scope:**

Law 6 of 1987 regulates the entry, residence and departure of foreigners in Libya Article 16 lists the reasons for which the Director General of Passports and Nationality may revoke a visa at any time.

Law n°19 of 2010 related to the combating of irregular migration addresses human trafficking, penalising all those who knowingly help in the entry or residence of illegal migrants, provide shelter to them, provide them with fake documents, or make a profit out of the act. It requires all foreigners residing in Libya to legalize their stay within a period of 2 months, or be considered illegal migrants and thus subject to penalties.

**What are the sanctions/measures related to?***Unauthorised entry and stay*

Under Article 17 of Law 6/1987, a foreigner who has entered without a visa, or who otherwise meets conditions of Article 16, is to be deported. Article 18 requires the Director General of Passports and Nationality to order a foreigner who is to be expelled to report regularly to the security authorities, or to be placed in detention until his expulsion.

*Discretion to expel and indefinite detention*

The law does not provide for indefinite detention, but only for detention until the deportation procedure is carried out. According to Article 18 of Law No. 6, the Director of Passports and Nationality has the right to restrict a foreigner who is to be expelled to a certain area of residence or to instruct him to visit the nearest security location, or to detain him until the completion of expulsion arrangements.

*Procedure for deciding expulsion*

Under Article 17 of Law 6/1987, the Director of Passports and Nationality will order the expulsion of a foreigner from Libya if he does not hold a valid visa, if he overstays his visa, or if his visa was cancelled under Article 16. A foreigner may also be expelled as a result of a court order.<sup>42</sup>

Article 16 of the same law allows the Director General of Passports to revoke a residence visa if the visa holder poses a threat to the internal or external security of the country or to public health; if he has been convicted of a crime or offence that violates honour or security; or if the reason for which he was given a visa no longer applies.

*Re-entry ban*

An expelled or deported foreigner may re-enter only upon a decision by the Director General of Passports and Nationality, according to Article 18 of Law 6/1987.

**Does the text foresee any exemption to specific categories of persons from such sanctions?** Yes

Law 6/1987 is not applicable to members of the diplomatic corps; nationals of countries that have treaties with Libya; staff of sea and air carriers; and other unspecified persons exempted by the government, according to Article 22.

The current Constitutional Declaration provides for the right of asylum according to the law, and prohibits the extradition of political refugees.<sup>43</sup> This is similar to a constitutional declaration issued under Gadhafi in 1969, and which stated, "The extradition of political refugees is prohibited."<sup>44</sup>

**In case of an expulsion decision, are any appeal procedures foreseen in the legislation?** No

Law 6/1987 does not provide for appeal, and provides for penalties to violators of expulsion orders, in Articles 19 and 20.

<sup>42</sup> Ministry of Justice website: <http://www.aladel.gov.ly/main/modules/sections/item.php?itemid=157>

<sup>43</sup> Article 10 in the Libyan Constitutional Declaration, the basis of rule until the passage of a new Constitution, provides for the right of asylum according to the law, and prohibits the extradition of political refugees, at <http://portal.clinecenter.illinois.edu/>

<sup>44</sup> <http://www.unhcr.org/refworld/docid/3ae6b5a24.html> (accessed 7th January, 2010).

## Comment

In practice, the situation regarding irregular migrants remains the same as under the previous regime: irregular migrants who are to be deported have no legal status to defend themselves and are detained and/or deported without being taken to court; the safeguard of appealing an expulsion order does not apply to them.

While new laws regarding irregular migrants have not been promulgated and old laws remain in place, in practice irregular migrants all face detention if they are arrested. Sub-Saharan Africans are particularly targeted, but even registered refugees, asylum seekers or migrant workers whose documents are not updated risk arrest and detention.

Irregular migrants are held in detention centres until their deportation, with the exception of nationals from Ethiopia, Eritrea and Somalia, who are unofficially considered vulnerable persons and cannot be sent back.

Migrants are reportedly sometimes able to bribe detention centre guards to secure release;<sup>45</sup> otherwise, when centres fill up, detainees are released or returned collectively with the assistance of their embassies and the IOM, or are hired by Libyan employers.

**Are there sanctions for assistance (housing, transportation, others) to persons having irregularly entered in the country and/or those irregularly staying in it?** Yes

### Specify types of sanctions:

Article 19 of Law 6/1987 provides for a penalty of jail and/or a fine of 200 LYD (around € 120) for anyone who has assisted a foreigner who has entered, or is residing, or has left in contradiction of this law by providing false statements and documents. It also penalizes anyone who has hired a foreigner without following the provisions in Article 9 of Law 6/1987. It requires anyone who has lodged or hosted a foreigner to report the visitor's details to the nearest passport office or police station.

Law 19 of 2010 imposes heftier penalties: up to one year in jail and a maximum fine of 10,000 LYD (€ 6000) for aiding irregular migrants; 1,000 LYD (€ 600) for hiring them; and up to one year in jail and a maximum fine of 1,000 LYD for failing to report them.

<sup>45</sup> FIDH, Migreurop and Justice without Borders for Migrants (JWBM) "Libya, the Hounding of Migrants Must Stop", October 11, 2012, p. 48 at <http://www.fidh.org/Press-Conference-Launch-of-Report-12256>.

It allows migrants to regularize their status within two months of passage of the law.<sup>46</sup>

There have been no new laws issued since the revolution. Moreover, the old laws that remain in place are not fully implemented in the absence of a fully functioning government and legal mechanisms.

### **What is the possible impact of such sanctions on the rights of migrants?**

Irregular migrants have no access to justice, are arrested arbitrarily and may be held in detention indefinitely, mostly in centres that are poorly equipped and run by autonomous militia with no training on migrant rights, and who are not accountable to any government authority.

#### *Registry of births and issuing birth certificates*

Children born to irregular migrants are given hospital certificates, as was the case under the previous regime. These may then be used to obtain birth certificates from municipal authorities, but this is not followed on a consistent basis.

#### *Economic and social rights - access to education, health care, employment*

Irregular migrants held in detention centres are usually tested for contagious diseases and, if they test positive, placed in quarantine pending deportation (unless they are nationals of Ethiopia, Eritrea or Somalia). Hospital care has been made possible in some cases with the assistance of the UNHCR and other international organizations.

Irregular migrants may be hired by Libyan individuals or companies and eventually legalize their stay if they obtain a work contract. However, this practice is carried out in an informal way and the extent of its success is not known. Moreover, hired irregular migrants are often underpaid or not paid at all, so many attempt to escape and travel by boat to Europe.

#### *Racism and discrimination*

Migrants from sub-Saharan Africa have faced discrimination for many years, mainly due to the previous governments' policies swinging from opening up to all people from Africa, to blaming them for crimes and disease. Latent racism has

<sup>46</sup> See Arabic version at <http://www.carim.org/index.php?callContent=401&callText=1345> (accessed October 30, 2012).

become more evident after the revolution, when migrants from sub-Saharan Africa were accused of being mercenaries for Gadhafi. While this accusation has abated somewhat, the attitude remains that Black Africans are carriers of disease and a danger to the country because of the large numbers entering illegally or staying on in transit to Europe. The majority of migrants held in detention centres are from sub-Saharan Africa.

### B.3. Rights of Migrant Workers

**Are there (legal) texts related to the protection of the rights of migrant workers?**

Yes

#### **Explain**

There is a host of old laws and regulations governing national and foreign employment. These address Arab and African workers separately, while also devoting a section to foreign workers in general, and specify conditions for work permits, wages, residence, housing, health services and education. It is not clear to what extent the laws and their regulatory orders are implemented at present. In any case, even under the previous regime laws and administrative orders changed frequently depending on the politics of the moment. The laws do not address rights of irregular migrants.

#### **Specify references, date of adoption and scope:**

In 2012, the ministry of Economy passed Decree 103 to regulate foreign investment and joint ventures in Libya, allowing foreign companies and individuals to partner with Libyans in the form of joint-stock or limited liability companies, with a ratio of 65 percent, subject to increase on approval by the ministry of economy to 80 percent.<sup>47</sup>

The Decree, which refers to Act 12 of 2010, provides in Article 5 for plans to replace foreign labour with national elements, and lists in Article 9 the fields open to foreign companies, including large contracting and civil works, electricity, oil, communication and the health sectors. Article 6 prohibits joint-venture companies in retail or import trade, catering services and legal and financial audit works, among others.<sup>48</sup>

<sup>47</sup> Sami Zaptia, "New decree regarding foreign ownership in Libyan companies released," Libya Herald, Tripoli, May 19, 2012. <http://www.libyaherald.com/2012/05/19/new-decree-for-foreign-ownership-in-companies-released/>

<sup>48</sup> Libyan Transitional Government, Ministry of Economy, Decision of the Minister of Economy no. 103/2012 concerning the participation of foreigners in the joint-venture companies and the opening of branches and representation offices for the foreign companies in Libya (13/05/2012).

A new labour law was being drafted as of early November 2012.<sup>49</sup> Until its passage the valid law is Act 12 of 2010, which has the effect of harmonizing the many labour-related laws and decrees, covering domestic and agricultural workers for the first time, and requiring approval by the competent authority before employing non-nationals. It excludes public administration service posts, which are strictly reserved for Libyan nationals, and specifies end of service compensation for non-nationals.<sup>50</sup>

Prior to that, the main law in this field was Labour Law no. 58/1970, promulgated May 1, 1970.<sup>51</sup> It has not been referred to in Act 103 of 2012, and it is not clear if this or if other related decrees are still valid.

It required foreigners to obtain a work permit from the ministry of labour and social affairs, specifying fees, wage structure and the obligatory percentage of Libyan workers in work places. Article 156 stipulates the penalty for breaching the law of not more than three months and/or a fine of 50 dinars, and makes both employee and employer responsible and subject to the penalty.

The law, which excludes agricultural and domestic workers, also regularizes work conditions, medical care, housing, holidays, protection of workers from accidents and stipulates conditions for female workers. It does not cover foreign workers' immigration status and deals only with employer-employee relations.

Another 27 government decisions contributed to the labour legislation but many are repetitive or overlapping. The ones mentioned here are the most significant.

Government Orders in the 1980s granted priority to Arabs for jobs with the same rights.<sup>52</sup> However in the 1990s the gradual reactivation of the private sector raised the demand for foreign workers, and the government issued decisions to prohibit non-Libyans from working in the public sector, which had become bloated by then.<sup>53</sup> In 2001, African workers were limited to the field of agriculture, building and cleaning, and required a medical certificate proving they were free of any viral disease. A 2004 order further restricted the list of jobs allowed for hired non-nationals, unless they belonged to a country with a bilateral agreement with Libya. This order also requires the employer to provide accommodation

<sup>49</sup> According to a senior labour ministry official, in an interview November 8, 2012.

<sup>50</sup> Section 9 of Act No. 12 of 2010 promulgating the Labour Relations Act.

<sup>51</sup> <http://www.aladel.gov.ly/main/modules/sections/item.php?itemid=155>.

<sup>52</sup> Azza K. Maghur, *Libyan Legislation on Labour: Political Tool or Legalization?*, CARIM AS 2009/33, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, [2009], pp 4-5.

<sup>53</sup> *Ibid* pp. 5- 6.

temporarily, and provides no preference to Arab nationals.<sup>54</sup>

In 2007, a government order allowed foreigners seeking work to a three-month visa, after which they had to leave if they had not found a job. It also required non-nationals to pay for medical services and education.

**Do they also provide protection to migrants who are irregularly present?**

None of the laws in place provide protection to irregular migrants, or refer to them other than in terms of illegal entry.

A 2009 interior ministry decree allowed employers from the public and private sectors to employ skilled workers from among detained irregular migrants. At will, migrants would in turn be permitted to leave the accommodation centres, accompanied by their respective employer, and proceed to obtain the necessary medical check-up, a legal employment contract by the employer, and a residence permit based on the employment contract.<sup>55</sup> This practice has been revived at present, but is apparently carried out informally and has led to cases of forced or slave labour where employers are not held accountable for failing to meet national or international standards of employment.

**From your perspective, to what extent do these texts comply with the Convention on the rights of migrant workers, and does the national framework effectively provide a protection of these rights?**

At present, the ministry of economy decree issued after the revolution does not directly refer to migrant worker rights, but cites old laws, such as Law 12/2010 on employer and employee relations, which meet acceptable standards in terms of prohibiting forced labour and child labour, regulating working hours and rest periods, providing for compensation and pension rights, requiring employers to ensure health certificates before employment and to provide insurance against occupational hazards.<sup>56</sup>

In the past, legal migrants sometimes received inadequate payment and generally worked under insecure conditions because of inconsistent administrative orders, often leading to their expulsion without due payment.

<sup>54</sup> Ibid, p. 6.

<sup>55</sup> ICMPD, p.130.

<sup>56</sup> Labor Relations Law 12/2010.

## B.4. Role of IOM

**Existence of IOM office(s) in the country?** Yes

**If yes, specify year of starting of activities + contacts of office(s):**

IOM started its activities in 2006. The coordinates of its office are:

IOM Tripoli

Acting Chief of Mission: Maurizio Santicola

Tel: +218 21 47 77 838

Fax: + 218 21 47 77 839

Web sites: [www.iom.int](http://www.iom.int); [www.un.org.ly](http://www.un.org.ly)

**Does IOM have a legal status in the country (headquarters agreements, etc.)?** Yes

Status Agreement (statut de siege) with the Ministry of Foreign Affairs, with an office in Tripoli. This agreement remained in place after the revolution, and after the end of the conflict the IOM's mandate was extended to Benghazi, where it has a sub-office, and Sebha.

**Specify references of agreement with local authorities:**

The Status Agreement reflects privileges and immunity that the UN enjoys, given its diplomatic status. Under the agreement the IOM implements projects with lead ministries, such as the ministries of health, justice, interior, defence and labour.

**Is IOM allowed to freely travel across the country?** Yes

Travel is limited only for security reasons.

**Is IOM allowed to visit migrants' camps?** Yes

**If yes, specify which camps (name, region, status):**

There is only one open migrant camp, run by the Libyan Red Crescent Society on Ajdabya, north of Benghazi.

**Is IOM allowed to visit detention centres?** Yes



**Specify which centres (name, region, status):**

IOM is only authorized to access detention centres run by the government - which are very few - thereby limiting their scope of work. The control of detention centres is fluid; they change hands among militia forces, local councils, and different departments within the ministry of interior and the ministry of defence.

Apart from the Ajdabya open camp, run by the LRCS, the detention centres that IOM was able to visit were Towisha, near Tripoli; Gharyan; Abu Rashada; Sabratha, west of Tripoli; Sebha, in the south central part of Libya; and al-Khoms, east of Tripoli. These centres mostly hold migrants arrested by various local authorities or militia along the southern and eastern borders, or migrants caught in urban centres and along routes to the north.

**What are the different forms of assistance IOM offers to migrants, and how is it provided (local partner, procedures, etc.)?**

IOM provides medical services and rehabilitation assistance to detention centres, or "migration processing centres," in partnership with the Libyan Red Crescent Society and LibAid, which provides food aid mainly to IDPs, especially in areas that IOM cannot reach for security reasons.

IOM has started a six-month, Italian-funded diploma course at the University of Tripoli on «Psychological Intervention in War-Torn Societies» to tackle the long-term emotional and social effects of the Libyan crisis. This was based on an IOM-run assessment of psychosocial needs following the conflict.

IOM is a partner in a number of EU, US and Italian funded projects worth € 21m and that will include assisted voluntary return; counter-trafficking efforts by raising the capacity of the judiciary and prosecutors; capacity building of Libyan law enforcement agencies; and increased protection of irregular migrants by improving eight migration-processing units around Libya and introducing biometric registration.<sup>57</sup>

During the conflict, IOM provided medical assistance to migrants stranded in Misrata, assisted with the repatriation of foreign migrants wanting to return home to Chad and Niger, and assisted with the evacuation of migrants to Tunisia and Egypt.

<sup>57</sup> IOM, Migration Crisis Libya, Global Daily Report on 3 November, 2011, at <http://www.migration-crisis.com/libya/reports/view/588> (accessed 8 November 2012).

**Does IOM practice voluntary based returns to the country of origin of irregular migrants?**

Yes

It carries out Assisted Voluntary Repatriation (AVR) - using chartered flights -, of all nationals except those from Eritrea and Somalia. The agency is contacted directly by embassies, migrants seeking to return, or by managers of detention centres that have reached full capacity.

**Specify number of persons returned and country of origin, possibly for the last 5 years:**

- More than 4,000 migrants were returned through IOM from January to September 2012.<sup>58</sup>
- As of November 2011, IOM assisted in the evacuation of more than 210,000 third-country nationals leaving Libya since the start of the war in February 2011.<sup>59</sup>
- In 2010, the total voluntary returns were 1,000 persons.<sup>60</sup>
- From 2006 to February, 2010, the cumulative figures were:<sup>61</sup>  
 Bangladesh 210; Benin 36; Burkina Faso 142; Cameroon 13; Chad 2; Congo1; DR Congo 21; Eritrea 4; Ethiopia 183; Gabon 1; Ghana 709; Guinea B. 3; Guinea C. 14; India 15; Iraq 44; Ivory Coast 55; Liberia 23; Mali 622; Mauritania 11; Niger 795; Pakistan 2; Senegal 272; Sudan 645; Togo 78.

**Any other particular remarks**

IOM work is generally hampered by insecurity surrounding the handling of detention centres and migrants, which changes hands among militia, local councils, and different government departments, such as the Passport Intelligence authorities and the Department for the Combat of Illegal Migration (both within the Ministry of Interior).

In addition, the absence of a single, constant authority has been an obstacle, and the requirement that IOM work only with the few official centres makes it difficult for the agency to carry out its projects, such as the renovation and rehabilitation of detention centres.

<sup>58</sup> Interview with IOM, Tripoli, September 2012.

<sup>59</sup> IOM Response to the Libyan Crisis, External Situation report, 10th October, 2011, at <http://www.iom.int/cms/jahia/jahia/libyan-arab-jamahiriya> (accessed 8, November 2012)

<sup>60</sup> IOM, Assisted Voluntary Return and reintegration, Annual Report, 2010, p.13.

<sup>61</sup> ICMPD, p. 106.

## C. Civil Society Organisations

### C.1. Presence and Actions

**List the different categories of civil society organizations working in the field of migration and asylum. Give a brief explanation of the type of actions they undertake in this field as well as of their main priorities.**

- **The Organization for International Cooperation and Emergency Aid (OICEA):**

The OICEA works on migration and refugee issues from a humanitarian and rights-based perspective, in partnership with the Italian Council for Refugees (CIR).

The OICEA-CIR partnership is an Italian-funded project on the improvement of migrant detention centres and the training in Italy of police officials, allowing for screening of migrants and the reform of migrant related legislation. OICEA and CIR staff have visited militia-held and official detention centres and provided recommendations to the Interior Ministry's Directorate for the Combat of Illegal Migration to improve reception conditions and establish official relations with the UNHCR.

OICEA administration staff was previously working for the now-defunct International Organization for Peace, Care and Relief, which before the revolution was the main migration-focused organization in the country and which, through a partnership with UNHCR, CIR, and ICMPD (signed in June 2008), acted as the main interface for the UNHCR with the government.

A number of Libyan lawyers, judges and human rights groups have started examining the situation of irregular migrants held in detention centres, looking at ways to hold the authorities accountable and increase awareness about migrant rights. These include:

- **Benghazi-based Centre for Fact-finding and Monitoring of Human Rights Violations:**

The centre includes lawyers and other activists, and the chairperson of the board is Aida Bayou, a woman lawyer. It focuses on general human rights violations, and documents torture in jails and violations against IDPs for presentation to the Ministry of Justice and Attorney General. It also provided the International Criminal Court with documentation of violations perpetrated during the conflict.

It started documenting abuse against irregular migrants in summer 2012, and interviewed 20 men and women detained at the Ganfouda centre in Benghazi about the abuse perpetrated against them by people smugglers and militia during their arrest and detention in the southern border area of Kufra. The centre will present its findings to the Attorney General and will press charges against Libyan militia involved, including over its treatment of women migrants.

- **Benghazi Judges Association:**

A few members of the Benghazi Judges Association are interested in pursuing the issue of migrant and asylum rights, mainly through reforming migration law and working on raising awareness among the judiciary and the prosecution about the rights of refugees, asylum seekers and migrants. The main judge leading this effort is Marwan al-Tashani.

- **Ahmad al-Amari Abukba, a Tripoli based lawyer and head of the Libyan Group for the Rejection of Human Rights Violations:**

This group documents violations by the Gadhafi forces during the conflict and by militia, as well as abuse against IDPs following the end of the conflict.

Other Libyan organizations that work on migrant issues are charity-based, state-affiliated or volunteer service providers, such as the Libyan Red Crescent Society, and al-Wafa.

- **Libyan Red Crescent Society:**

The Libyan Red Crescent Society is a humanitarian aid organisation, and member of the International Federation of the Red Cross and Red Crescent. It collaborates with UNHCR in monitoring the needs of refugees

and asylum seekers, and with the ICRC on educational and psycho-social projects. The LRCS manages an open camp in Ajdabya, to which the most vulnerable irregular migrants among the Somali, Ethiopian and Eritrean populations are transferred.

- **Al-Wafa Charity Society:**

The Al-Wafa Charity Society has assisted UNHCR by providing medical and management support; it is currently managing a new UNHCR community centre in Tripoli to provide assistance to refugees and asylum seekers.

**Do activists encounter difficulties which impact on their ability to work on protection of migrants and asylum seekers, such as state pressure, police intervention or intimidation, financial problems, or other?**

- The Benghazi-based Centre for Fact-finding and Monitoring of Human Rights Violations found no obstacles in drafting its report on migrant abuse. Its members interviewed detained migrants in private in a militia-run centre in Benghazi and had access to both the accommodation areas and to the management.
- The Libyan Group for the Rejection of Human Rights Violations encountered disapproval over its denunciation of some militia for their violations against IDPs, but this did not hamper its work. The centre was able to carry out its human rights training and outreach via the media with ease.

## C.2. Violence against Migrant Women

**Are there organizations dealing with the issue of violence against migrant women in their activities (prevention and rehabilitation) and do they organize specific actions to report and/or combat it?**

No

There are no organisations devoted to violence against migrant women. The following focus on migrant communities and human rights violations, respectively, while also monitoring violence against migrant women:

- **Caritas** monitors closely the situation of detained and non-detained migrants, and has recorded abuse against migrant women. These include sexual violence by people smugglers and sometimes militia; trafficking

into sex work, especially of those women unable to pay for their release; and racist abuse targeting sub-Saharan migrant women suspected of using their rental accommodation for sex work.

Caritas provides counselling and humanitarian help to the victims, and is in contact with the UNHCR, IOM and CIR.

- **The Centre for Fact-finding and Monitoring of Human Rights Violations** documented abuse against irregular migrants in summer 2012, and recorded abuse against women - including sexual violence and trafficking into sex work of those women who were unable to pay for their release from human smugglers. The centre will present its findings to the Attorney General and will press charges against Libyan militia involved, including over its treatment of women migrants.

## D. Reporting on the Rights of Migrants, Refugees and Asylum Seekers

### D.1. General Reporting

Please list the relevant reports analysing the human rights violations of migrants, refugees and asylum seekers in the country in question:

- Amnesty International, "We are Foreigners, We Have No Rights," Index: MDE19/020/2012
- Human Rights Watch "Libya: As Deadline Passes, Militias Still Hold Thousands," July 14, 2012.
- Amnesty International, "S.O.S. Europe, Human Rights and Migration Control", EUR/01/013/2012.
- FIDH, Migreurop and Justice without Borders for Migrants (JWBM) "Libya, the Hounding of Migrants Must Stop", October 11, 2012.
- Amnesty International, "Militias Threaten Hopes for New Libya," MDE19/002/2012.
- Christine Aghazarm, Patrice Queseda, Sarah Tishler, "Migrants Caught in Crisis: The IOM Experience in Libya," IOM, 2012.
- Hadi Fornaji, "Ten Europe-bound migrants perish off Libyan coast," Libya Herald, Tripoli, 5 November 2012.
- Human Rights Watch, *Stemming the Flow: Abuses Against Migrants, Asylum Seekers and Refugees*, September 2006, Vol 18 No. 5 (E).
- Azza K. Maghur, *Libyan Legislation on Labour: Political Tool or Legalization?* CARIM AS 2009/33, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2009.

- Human Rights Watch, September 2009, *Pushed Back, Pushed Around, Italy's Forced Return of Boat Migrants and Asylum Seekers, Libya's Mistreatment of Migrants and Asylum Seekers*. [www.hrw.org](http://www.hrw.org).
- ICMPD, A Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya, 2010. [www.icmpd.org](http://www.icmpd.org).

### **What are the main violations outlined in these reports?**

- Arbitrary arrest of irregular migrants, including potential asylum seekers;
- Torture of sub-Saharan African migrants arrested on suspicion of being pro-Gadhafi mercenaries by militia at checkpoints and detention centres;
- Detention for indefinite periods of time, deportation of migrants without providing access to asylum screening;
- Lack of provision for legal redress, absence of functioning judicial system that migrants, refugees or asylum seekers can refer to;
- Detention-related violations: physical abuse at time of arrest, ill treatment during detention and overcrowding and sub-standard conditions. Subjecting detained migrants to forced labour;
- Racial discrimination against Sub-Saharan Africans: public hostility, verbal and physical attacks by the public at large, and arbitrary arrest by militia and individuals.

## **D.2. Violence against Migrant Women**

**Are there specific reports dealing with the issue of violence against migrant women in the country?**

No

A number of the reports cited above, especially HRW, AI and FIDH address violence against women.

**From your interviews with NGOs and other actors, and in light of the above list, specify the different categories of violence which migrant women face in the hosting country.**



According to Libyan activists and lawyers interviewed in September 2012, women migrants smuggled into south eastern Libya who were unable to pay more money to their smugglers have been trafficked into sex work in cities in northern Libya. A representative of a Libyan NGO in Benghazi met a woman from Somalia who had managed to escape from a house where she was held with other women as sex workers.

According to a source with information from escaped migrants, women have been sexually abused at some detention camps, especially at Al-Khoms, which is controlled by a militia group. The same source, which requested anonymity, had heard that Somali women were trafficked into sex work rings, or kept hostage until they could pay money – up to \$ 1,000 to be freed.

Women held in some of the detention centres run by semi-autonomous militia apparently fared better, and were given better food and medical attention. Nonetheless, many of the women, including those who were pregnant, lacked proper medical care.

The most common abuses reported prior to the revolution consisted of beating and physical violence against migrants by guards while in detention; very little or no presence of women guards in the detention centres; lack of adequate sanitary conditions; and extortion by prison guards and by landlords. EMHRN interviews with the UNHCR indicated that this might have changed in one area: the refugee agency has been successful in moving women and children from the Ganfouda detention centre to a centre in Benghazi run by the Libyan Red Crescent, where residents have more freedom of movement. However, a recent FIDH report<sup>62</sup> on migrant conditions described unacceptable living conditions for women and children in at least one other camp.

Irregular migrant women, especially those from sub-Saharan Africa living in urban areas, encountered the same hardships as in the past. Sub-Saharan migrants in general often face racial discrimination and a xenophobic attitude by the public at large, but women suffer even more by being perceived as sex workers, which makes it more difficult for them to find accommodation.

In a report released in November 2012,<sup>63</sup> Amnesty International said that while women were subjected to less abuse than men, some reported they were hit or slapped during their arrest. Others said they had been beaten and given electric

<sup>62</sup> FIDH, Migreurop and Justice without Borders for Migrants (JWBM) "Libya, the Hounding of Migrants Must Stop", October 11, 2012, p.50, at <http://www.fidh.org/Press-Conference-Launch-of-Report-12256>

<sup>63</sup> Amnesty International, "We are Foreigners, We Have No Rights," Index: MDE 19/020/2012.

shocks with taser devices for allegedly trying to escape from a centre guarded by armed militia (though considered to be under the control of the Interior Ministry.)

The report also quoted Nigerian women in several detention centres who complained of being strip-searched and handled by men upon arrival.

According to the FIDH report some 48 Nigerian women were arrested and held in a camp near Tripoli in relation to allegations of camp and drug use. The women denied this and told FIDH they had been arrested in their homes, and that they had been working in Libya as housemaids for about five years. The arrest of women from their homes indicates that they may have been targeted simply because they were sub-Saharan African, as has been the case in the past, and would mean that sub-Saharan African women continue to be viewed with suspicion.

## Appendix: List and Local Contacts of Civil Society Organisations Active on Migrant and Asylum Issues

Name of Organisation	Status	Nature of Activities	Target Population	Contact details
Organisation for International Cooperation and Emergency Aid (OICEA)	NGO	Partnership with Italian Council for Refugees (CIR) in a project on monitoring migrant detention centres, advocacy and training for improved migrant reception conditions and protection	Irregular migrants, asylum seekers; law enforcement agencies and government departments dealing with migrants, in partnership with CIR since 2008	6049 Hay al-Andalus, Tripoli Tel: +218 21 478 2229 ioprngo@yahoo.com
Libyan Red Crescent Society	NGO, supports government work	Humanitarian and medical aid, manages camp for vulnerable migrants and asylum seekers in partnership with UNHCR; Cooperates with IOM and ICRC	Vulnerable populations in general	AL-Shat St. Tripoli P.O. Box 541 Benghazi Libya Tel: +218 61 9095202 Fax: +218 61 9095829 libyan_redcrescent@libyamail.net
Al-Wafa Charity Society for Humane Services and Relations	NGO	Humanitarian, medical aid in general; Manages refugee community centre in Tripoli in partnership with UNHCR	Vulnerable populations in general, and has a focus on refugees since 1991	Seidi Almasri square P.O. Box 82601 Tripoli Libya Tel: +218 21 361 68 01 or 02

## Appendix: List and Contacts of Local Civil Society Organisations Active on Migrant and Asylum Issues

Name of Organisation	Status	Nature of Activities	Target Population	Contact details
Centre for Fact-finding and Monitoring of Human Rights Violations	NGO	Monitoring and advocacy	Victims of human rights violations in general began reporting violations against migrants in 2012	Benghazi Aida Bayou, Chairman of the Board
Benghazi Judges Association	Professional association		A few members focused on migrants rights in September 2012	Marwan al-Tashani, contact person active on migrant issues
Libyan Group for the Rejection of Human Rights Violations	NGO	Monitoring and advocacy	Victims of human rights violations in general; In 2012, a few members began reporting violations against migrants	Tripoli Ahmed Abukba, Chairman of the Board
Caritas, at Apostolic Vicariate of Tripoli	International Catholic charity organisation	General humanitarian, medical aid	Migrant victims of abuse, and other populations in need in general	St. Francis Church P.O Box 365- Dahra Tripoli Libya Tel: +218 21 333 1863 Fax: +218 21 333 4696 Web: www.catholicinlibya.com





EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK  
RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME  
الشبكة الأوروبية - المتوسطية لحقوق الإنسان

Vestergade 16 - 1456 Copenhagen K - Denmark  
Telephone : + 45 32 64 17 00 - Fax : + 45 32 64 17 02  
[www.euromedrights.org](http://www.euromedrights.org)

Publication of this report was made possible thanks to the generous support of the European Commission, the Danish International Development Agency (Danida) and the Swedish International Development Agency (Sida).



The content of this report is owned by the Euro-Mediterranean Human Rights Network and cannot in any way be seen as representing or reflecting the position of the European Union, Danida or Sida.