

Detained youth: the fate of young migrants, asylum-seekers and refugees in Libya today

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Introduction

- Presentation about a study looking at what happens to migrants in Libya before they come to Europe.
- Study specifically focused on the detention of migrants and asylum-seekers in Libya's immigration detention centres.
- Commissioned by the “North Africa Mixed Migration Task Force” (MTF-NOAH) – a group of international organisations consisting of the Danish Refugee Council (DRC), the International Organisation for Migration (IOM), the Office of the High Commissioner for Human Rights (OHCHR), the Regional Mixed Migration Secretariat – Nairobi (RMMS), and the United Nations High Commissioner for Refugees (UNHCR). The Task Force was created in 2014 to promote a human rights-based approach to ensuring the protection of people moving in mixed and complex flows to, through and from North Africa.

- The study was carried out from November 2014 to February 2015 by a research team of several people
- Using a qualitative methodology
- In-depth interviews with 51 migrants and asylum-seekers
- Migrants and asylum-seekers were interviewed at arrival and destination points in Europe - in Calais/France, Sicily/Italy, Malta, and the UK.
- Main focus was on children (under 18) and young people (18 to 25 years)
- People from North-East Africa (Eritrea, Ethiopia, Somalia and Sudan) were prioritised and made up at least half of the sample. The rest were primarily from West Africa.

Objectives of session

In order to be relevant and useful to many audience members who are working on migration and asylum issues in the Slovakian context, the presentation aims to contribute to:

1. General understanding of international standards governing the detention of migrants, asylum-seekers and refugees which apply to countries across the world, including Slovakia
2. Insight into the situation of migrants and asylum-seekers in Libya prior to their arrival in Europe in order to help inform the wider debate on the migration crisis facing Europe.

Organisation of session

- Buzz groups – a short session involving discussion in small groups on detention standards
- Power point presentation on the study. [A handout of this presentation will be passed around after the buzz groups to make it easier to follow the presentation.]
- Video – clip of a documentary showing life inside Libya's detention centres

Definition of detention

- Detention is taken to mean the deprivation of liberty in a confined place from which the person is not permitted to or cannot reasonably be expected to leave at will or without authorisation.
- Study refers to 'Immigration detention' - the deprivation of an individual's liberty, usually of an administrative character, for an alleged breach of the conditions of entry, stay or residence in the receiving country.
- Various definitions available in international law and policy – this definition taken from UNHCR et al, Monitoring Immigration Detention, Practical Manual', 2014, available at <http://www.refworld.org/pdfid/53706e354.pdf>

- This refers to detention by the 'State'. This is not easily defined given the fragmentation of Libya today. In the current Libyan context, detention by the 'State' is taken to mean the governing authorities responsible for particular areas whether they represent the 'recognised' government, the de facto government or militias.

Buzz groups

Before proceeding further, we will carry out some discussion in buzz groups to explore assumptions about the law on detention. Questions for buzz groups:

1. Are States allowed to detain foreign nationals on their territory? Under what circumstances?
2. What processes should apply?
3. Who can or cannot be detained?
4. What are the conditions and standards?

International context

- Globally, countless numbers of migrants, asylum-seekers and refugees are at risk of immigration detention each year.
- This detention is often arbitrary or unlawful and involves incarceration for months or in some cases years, often in overcrowded and squalid conditions falling far below international standards.
- Many human rights violations can and do occur in these circumstances. Women and children are especially vulnerable to violence and abuse in places of immigration detention.

- Studies have shown that even short periods of immigration detention can have life-long negative impacts on physical and mental health.
- People who enter a country irregularly may be detained in prisons, closed camps, detention facilities, police stations or airport transit centres on either criminal or administrative grounds depending on the law of a particular country.

- Unauthorised entry by a foreign national is usually considered a violation of administrative law
(Body of law that governs the activities of administrative agencies of government. Government agency action can include rulemaking, adjudication, or the enforcement of a specific regulatory agenda.)
- In some countries, unauthorised entry is classed as a violation of criminal law. In such countries, those entering irregularly are subject to criminal penalties and may face prolonged detention, especially if they are unable to pay for their release.
(Body of law that relates to crime. It regulates social conduct and proscribes whatever is threatening, harmful, or otherwise endangering to the property, health, safety, and moral welfare of people. It includes the punishment of people who violate these laws.)

International standards

Key instruments:

- Universal Declaration of Human Rights (1948) guarantees to migrants, asylum-seekers and refugees in an irregular situation, the right to life, liberty and the security of person (art. 3) and protection from arbitrary arrest, detention or exile (art. 9);
- International Covenant on Civil and Political Rights (1966) (art. 9, para. 1) provides that everyone has the right to liberty and security of the person, no one shall be subjected to arbitrary arrest or detention and no one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law. The Human Rights Committee, which monitors the implementation of the Covenant, in its general comment No. 8 (1982) on the right to liberty and security of persons, stated that this provision is applicable to all deprivations of liberty, including immigration control;

- The International Convention on the Protection of the Rights of All Migrants and Members of Their Families (1990) protects the right to liberty and security of persons and provides all migrant workers, regardless of their status, with the right not be subjected individually or collectively to arbitrary arrest or detention and the right not be deprived of liberty except on such grounds and in accordance with such procedures as are established by law (art. 16, paras. 1 and 4);
- United Nations Convention (1951) and Protocol (1967) relating to the Status of Refugees (especially Convention art. 26 on freedom of movement and art. 31 on the non-penalisation of refugees and asylum-seekers for their irregular entry into a country);
- Convention on the Elimination of all f Discrimination against Women (1979);
- Convention on the Rights of the Child (2000);
- United Nations Convention on Transnational Organised Crime (2000) and its Protocols (2003-2005);
- European Convention on Human Rights (1950) especially articles 5 and 3.

Other standards specifically on the issue of detention are:

- United Nations General Assembly, 'Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment', 9 December 1988, A/RES/43/173;
- United Nations, 'Standard Minimum Rules for the Treatment of Prisoners', adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977;
- Deliberation No. 5 of the United Nations Working Group on Arbitrary Detention contained in E/CN.4/2000/4, 28 December 1999.

International law lays down the following general principles

- Principle 1 —> A presumption against detention should be established in law, and human rights-compliant alternatives to detention prescribed.
- Principle 2 —> Detention is a measure of last resort imposed only where less restrictive alternatives have been considered and found inadequate to meet legitimate purposes. Detention must have a legitimate aim, be proportionate to the aim pursued and strike a fair balance between the conflicting interests.
- Principle 3 —> Grounds for detention must be established by law, be of limited scope and duration and exhaustively enumerated in legislation.

- Principle 4 —> Detention must be ordered and approved by a judge and subject to automatic regular judicial review in each individual case.
- Principle 5 —> Detention must not be indefinite.
- Principle 6 —> Children should never be detained on the basis of their own or their parents' migration status.

International law lays down specific standards

Migrants, asylum-seekers and refugees have the following rights:

1. Right to be informed upon entry in the territory and while in detention of the reasons for their detention;
2. Right to communicate with the outside world;

3. Right to humane detention conditions and respect for the inherent dignity of every human person (adequate food, drinking water, furniture, sanitation, regular access to open air and recreational activities, and separate accommodation and sanitation for men, women and unaccompanied minor, adequate medical and health care, including mental health care);
4. Right to due process, including access to a lawyer/counsel and consular services, and the right to appeal, if desired by the individual concerned (this would not, for example, be appropriate for refugees and asylum-seekers fleeing persecution by their State of origin).

States have the following obligations:

1. Register the presence of any migrants, asylum-seekers and refugees placed either in custody or in detention;
2. Establish a maximum period of detention in national legislation;
3. Allow the independent monitoring of reception centres;

Prohibition against the detention of vulnerable persons:

- Any child who is exceptionally deprived of his or her liberty is to be treated in a manner which takes into account the particular needs of the child's age and his or her rights, among others, to be separated from unrelated adults. Child protection agencies, rather than immigration agencies, should take primary responsibility for children in detention. According to recent guidance from the Committee on the Rights of the Child, the immigration detention of children is never in the best interests of the child and always constitutes a child rights violation.

- Women should be detained in separated facilities where female staff are on duty. States should set up effective mechanisms for dealing with complaints of sexual violence, including within the detention system, and should also provide victims with protection, psychological and medical assistance.
- Refugees and asylum-seekers should have access to the national asylum systems or to UNHCR; and should not be penalised for irregular entry into a country (art. 31 of the 1951 Refugee Convention): as they are fleeing persecution or conflict, they cannot be expected to comply with administrative procedures.

Key points

- The ability of States to detain non-nationals even if they enter a country without authorisation is rigorously constrained by international law. Contrary to public perceptions, “illegal entry” does not give States an unfettered power to detain individuals whatever their immigration status.
- While States have a sovereign right to protect their borders and determine their own laws, including over the admission, stay, or removal of non-nationals present in their country, they are obligated to govern migration flows in a way that upholds the rights of individuals under their jurisdiction.
- Human rights are inalienable and should not be granted on the basis of citizenship.

- With regards to refugees, the principle of *non-refoulement* under both conventional and customary international law means that asylum-seekers and refugees should not be returned to their country of origin if their life or liberty is at risk.
- Underlining all this is the belief that the right to liberty and freedom from arbitrary detention is among the most fundamental of rights belonging to all human beings.
- The following guidelines can assist in monitoring of standards in practical settings and are used in the report:
 - UNHCR, Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC), ‘Monitoring Immigration Detention: Practical Manual’, 2014

Libyan context

Political context

- Since the Libyan conflict in 2011, successive transitional governance arrangements have been unable to establish a stable political and security environment.
- Conflict flared up in May 2014. Libyan Dawn, an alliance of Islamist militias and their allies have taken control of the capital Tripoli in the west of the country and ousted the internationally 'recognised' government to the city of Tobruk in the east of the country.

Migratory patterns

- Libya has long been an important destination for many people from sub-Saharan Africa
- It was the destination in itself for many years for people coming from countries in Sub-Saharan Africa, North Africa and the Middle East and as far afield as Asia.
 - Migrant workers: It was a relatively prosperous country compared to its neighbours and was a sub-regional magnet for labour migration.
 - Asylum-seekers: Libya is also home to a community of asylum seekers but they have a precarious legal status since the country does not officially recognise asylum seekers and refugees.
- It is a transit country for onward journeys to Europe.

- The 2011 conflict disrupted these patterns with many migrants forced to flee to neighbouring countries or return back to their home countries.
- Four years on, migrants are again making their way back to Libya. It remains a relatively prosperous country compared to its neighbours having achieved upper middle income status although living standards have declined since fighting broke out in 2014.

- Until the recent decline in the security situation, many non-nationals particularly Iraqis, Palestinians, Sudanese and Syrians who have longstanding ties and communities in Libya, said they wanted to stay there.
- However, the growing instability since 2014 is having a noticeable impact and Libya's role as a transit rather than as a destination country is taking on a more prominent role.
- Record numbers of migrants and asylum seekers are embarking on the perilous sea journey from Libya to Europe with 170,000 reaching Italy alone in 2014. The Italian navy's rescue operation, Mare Nostrum, rescued around 100,000 from unseaworthy boats, but at least 3,000 still perished at sea.

Management of irregular migration

- Pre- and post-2011 conflict governments have publicly stated that irregular migration is a priority. A number of bilateral agreements exist between Libya and other countries namely, Italy, France, Algeria, Niger, Chad, and Sudan, Tunisia and Egypt.
- Libya has also cooperated with the EU, and received funding for several initiatives including the fight against trafficking and assistance to voluntary return and reintegration from Libya to the respective origin countries. In 2013, the EU renewed its interest to commence initiatives to secure Libyan borders but a number of EU projects are currently suspended or adapted due to the ongoing political crisis.

Legal and administrative framework

- Libya is party to over 20 key international human rights instruments relevant to the protection of migrants from arbitrary detention as well as commitments to various treaties concerned with forced labour, trafficking, and smuggling as well as regional conventions under the African Union. However, many of these obligations are not being implemented.
- Entry into Libya is regulated by Law No. 6, Regulating Entry, Residence and Exit of Foreign Nationals to and from Libya of 1987. The Law prescribes that a prison sentence (up to 3 months) and fine are applicable to irregular entry and stay in Libya. This law also stipulates the grounds for the deportation of foreign nationals.

- There is no official list available of Libya's immigration detention facilities. Some of these facilities are described as "holding/accommodation centres" and may include prisons, informal camps, police cells, or specialised centres. Libya, unlike other countries in the region, has a number of dedicated immigration detention centres, possibly due to the long-term European involvement in Libyan migration management.
- After the 2011 conflict, militias took over some detention centres and operated them without official oversight. By mid-2013, the relevant government body, now known as the Directorate for Combating Illegal Migration (DCIM), had regained control of many facilities formerly run by militias.
- As of May 2015 indicates that there are at least 34 detention facilities in the country, 18 of which are managed by DCIM.

Libya's track record

- Estimates from 2014 suggested that there were some 5,000-10,000 migrants, asylum-seekers and refugees held in detention facilities where they faced torture and other abuses, overcrowding, dire sanitation, lack of access to adequate medical care, and inhuman or degrading treatment.
- Such reports of human rights abuses are not new: even before the 2011 conflict, most detention centres were of a low standard, overcrowded and with inadequate sanitation and health facilities. Detainees were held on an arbitrary basis for indeterminate periods and corruption was said to be rife.

- The agreements between Libya and various European countries regarding the management of migration flows including support to the expansion of Libya's detention structure have attracted much criticism from human rights groups on the grounds that they have contributed to poor detention conditions, and corruption.
- The situation has now deteriorated further; the descent of Libya into lawlessness has created an environment where police, militias, smugglers, traffickers, criminal gangs, and civilians can detain migrants, asylum-seekers and refugees with impunity, use them to extort money or force them into unpaid labour.

Findings from primary research

The study arrived at findings based on primary data on the following aspects: the drivers of migration, the journey to Libya, the circumstances and conditions of detention, and life after detention.

Drivers of migration:

- Interviewees gave varying reasons for leaving home depending on where they came from.
- Those from North-East African countries cited political reasons, violence and conflict. The picture from West Africa is the reverse with nearly all interviewees reporting family tensions and inter-personal difficulties as the reason for leaving their countries of origin.

One young asylum-seeker from Somalia was hindered from carrying out his work as a grave digger,

“One day I was busy digging a grave as usual, then out of nowhere came a group of Al-Shabab supporters.... they were shouting at me and one of them was poking his gun at my ribs ...they kept asking me who gave me the permission to bury females...saying it was indecent of me and that I am not supposed to be ‘touching’ women...I tried to explain that I was doing my job and normally I don’t handle the bodies but this particular family did not have a male presence so I’m helping them out”. He said the Al-Shabab group whipped him “to wash away his sins” and then came to his family home, threatened his mother for my “filthy and un-Islamic behaviour” and said they would “not hesitate to behead me..if they ever saw me again”.

[20 year old male asylum-seeker from Somalia interviewed in London, UK in December 2014]

- The picture of migrants from West Africa is the opposite; nearly all report family tensions and inter-personal difficulties as the reason for leaving. One boy from Gambia said his mother struggled to make a living after his father's death and turned to prostitution to make ends meet,

– *“It became unbearable for me to live in my village. I was always fighting with people who offended my mother and I started hating my mum. ...I always quarrelled with her when I was at home. So I decided to go away, far away from her, to find some peace in my life”.*

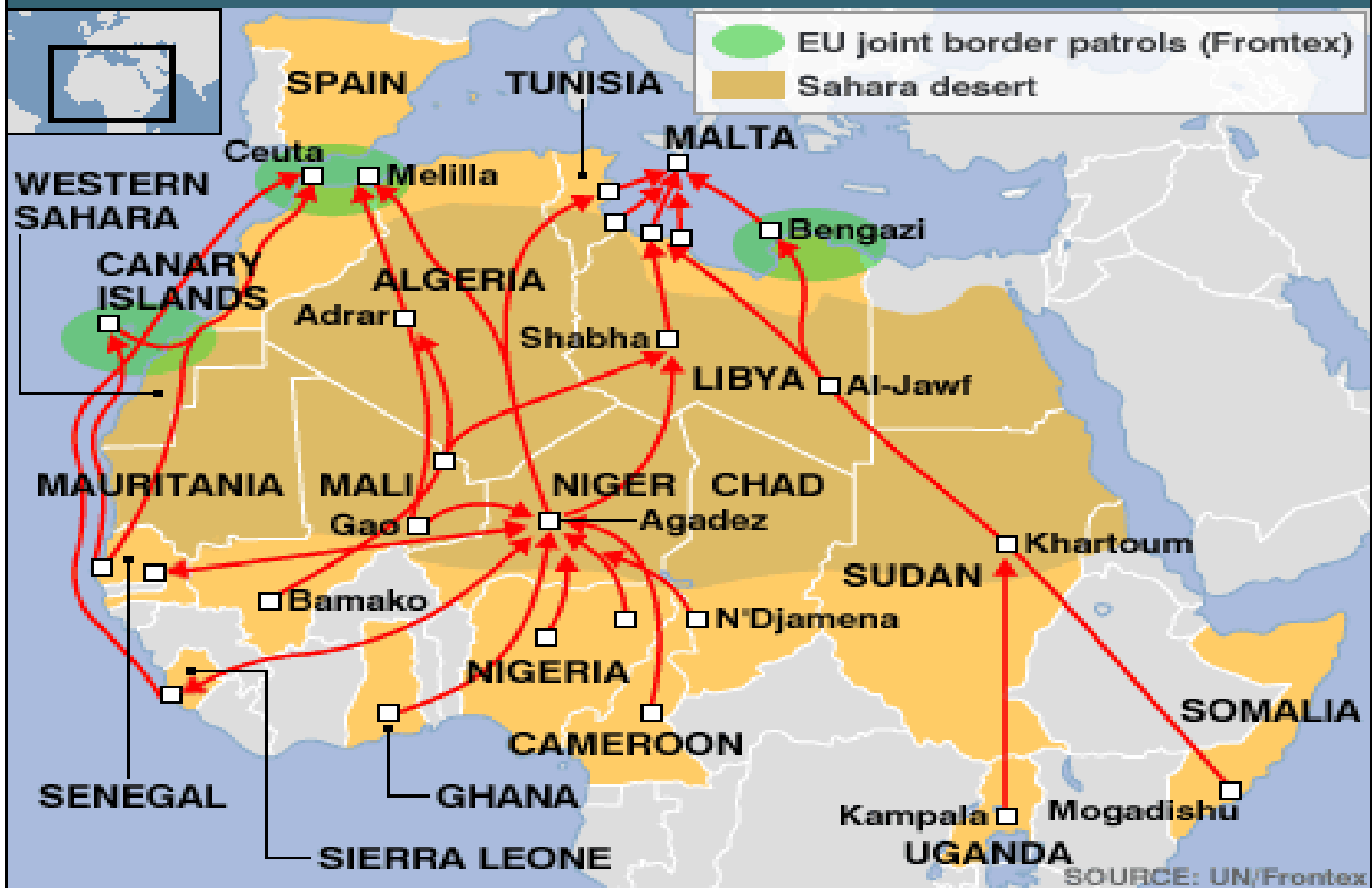
[18 year old male migrant from Gambia interviewed in Sicily, Italy in January 2015]

- Minors gave differing reasons for leaving home alone rather than with family members, for example, because they personally faced imminent threats and harassment; because their families could not afford to send more than one person or because they were orphans and had to fend for themselves.

Journey to Libya:

- The route to Libya nearly always involved coming through Sudan in the East or Niger in the South.
- West Africans make their way through multiple countries depending on their starting point, Senegal, Mali, Burkina Faso, then continue through Niger and the Sahara desert into Libya.
- If they are from Nigeria, they enter Niger directly and then straight on to Libya. The Economic Community of West African States (ECOWAS) 'Protocol on Free Movement of Persons, Residence, and Establishment' facilitates movement around the region.
- Those coming from North-East Africa make their way to Sudan as a gateway to Libya whether their starting point is Eritrea, Ethiopia, and Somalia. A handful come via other routes – Kenya – Sudan – Libya; Egypt – Libya; Chad – Libya; or Senegal – Mauritania – Algeria - Libya.

KEY MIGRANT ROUTES FROM AFRICA TO EUROPE



- The journeys are often graduated and the final destination is not always known at the outset. Migrants and refugees may only hear about prospects in Europe from other people that they encounter on their journeys.
 - One young asylum-seeker, forced to leave Somalia under the threat of Al Shabab, first went to Ethiopia and spent a year eking out a living by doing odd jobs (cleaning shoes), earning as little as USD \$3/day and sometimes not being paid at all. He lived in an abandoned house three hours from the city, and faced the daily danger of beatings and robberies from local gangs. He eventually saved up enough money for the journey to Sudan. As he did not have enough money for his carriage across the Sahara, he ‘paid’ for this through two months of unpaid labour for the smuggler after his arrival in Libya.

- In a similar story, a young man made his way across several West African countries by sleeping in bus stations and making money from tips (helping people with luggage, cleaning, loading goods) until he had saved up enough (1500 Gambian Dalasi or USD \$35) to cross the Sahara.

- Family members often provided financial support for the journey. Those from North-East Africa frequently received money from relatives in the Middle East or Europe. Interviewees from West Africa also received family support though to a lesser extent, and none reported financial assistance from abroad.
- The journeys are fraught with danger. Transit across the Sahara desert was extremely arduous, migrants and refugees said they had to travel for days with little food and water,
 - *“there was no water on the way, the wheels of the car kept bursting, the weather during the day in really hot and really cold at night, we didn’t have blankets’.*

[26 year old Eritrean male interviewed in Calais, France in January 2015]

- They face police corruption on their way through West Africa, particularly in Burkina Faso and Niger as well as new demands for cash as well as violence from smugglers and tribes in the desert.
- Women faced the danger of sexual violence. One asylum-seeker wept as she reported that it had happened to her,
 - *“The smugglers took me and did what they wanted with me in front of my husband. They just did it for their own pleasure. I was an animal to them”.*

[23 year old female asylum-seeker from Eritrea interviewed in Calais in January 2015]

- On arrival in Libya, migrants and asylum-seekers were sometimes immediately held by smugglers seeking to extort more money from them.

“When we reached Baahe, the Libyan village on the border with Niger, the smuggler sold all of us to another Libyan smuggler who wanted 10,000 Gambian dalasi (USD \$ 230) to let us go. We did not have so much money so they kidnapped all 25 of us and locked us up in a ramshackle house for 15 days. We were made to work as cleaners, gardeners and doing loading and unloading, and other heavy jobs”.

[17 year old male migrant from Senegal interviewed in Sicily/Italy in February 2015]

Circumstances of detention:

- Once free to go in Libya, it is not long before they are arrested abruptly and arbitrarily whilst going about their daily business. The reason for arrest, where given, was usually stated to be ‘illegal’ entry or lack of papers, usually identity documents or sometimes health cards. Arrests were typically accompanied by violence and demands for payment to be released.

“I was punched, thrown on the ground, the soldiers tie your hands, kick you, spit at you and keep punching you until you pass out....they said I have no documents, I am illegally in their country and will have to pay USD \$2000 or stay in detention until I die”.

[20 year old male asylum-seeker from Somalia interviewed in the UK in December 2014]

Due process:

- None of the migrants and refugees reported any kind of legal process in terms of being informed of their rights or having access to a lawyer.
- They were only allowed to call families and friends to ask for money to be released; they were not able to apply for asylum and none were offered support to return home.

Treatment of vulnerable persons:

- Men and women were usually kept separately but unaccompanied boys were often detained with unknown adult males.

Experiences of ill-treatment:

- Beatings by guards with belts, guns and other types of ill-treatment were the norm. Other forms of ill-treatment included electric shocks, water spray, verbal abuse (being told “*you are animals*”), threats, humiliation. Detainees frequently said they were beaten for the slightest thing, simply for speaking or asking for water. One Gambian migrant said,

– *“I spent two months in prison. They beat me regularly. They came to ask me if I had found the money to pay them since I didn’t, they beat me violently”.*

[18 year old Gambian male held in detention in ‘Griana’, Tripoli in 2014. Interviewed in Sicily, Italy in December 2014]

- Sexual violence by guards is reported by interviewees and two female interviewees said this had happened to them.
- According to key informants, young boys are at risk of rape.
- There was typically no recourse for complaint and the perpetrators are not held accountable by the authorities.
- Discrimination against Sub-Saharan Africans was frequently cited.

Food, water and sleeping arrangements:

- Food was generally very inadequate; most said they only received one meal a day consisting of basic staples such as pasta, bread, rice, biscuits, broth, or couscous, and drinking water that was sometimes salty or unclean:
- *“Once a day we were given some bread and a small glass of water...I adapted to eating very little”.*
 - *[23 year old Somali male asylum-seeker detained in a facility known as Duishi, Tripoli in late 2012 to mid 2013. Interviewed in Malta in December 2014]*
- Most reported sleeping in crowded cells without bedding or mattresses.

Sanitation and hygiene:

- Sanitation conditions were deplorable; toilets were filthy and insufficient in number, sometimes as few as two or three toilets for 400-500 people. Toilets were often in the cells, afforded no privacy and consisted of little more than a waste bucket. One interviewee described the facilities,
 - *“We had a bucket for a toilet shared between us and used in view of everyone in the room. This was emptied outside in the garden on a daily basis, one of us, usually me since I was small and thought unlikely to run away were taken out in the early hours of the morning when it was still dark outside to empty it”.*
- [26 year old Mauritanian male refugee detained in Adjabya in 2012-2013. Interviewed in Calais, France in November 2014]*
- Access to showers or bathing facilities was rare.

Activities:

- Outdoor access was restricted except in situations where detainees were taken out to do unpaid work for detention centre staff or outside employers, such as handyman jobs, cleaning weapons or doing household chores, work on farms and construction projects.
- In the best case, in one of the larger detention centres, Sabha, detainees had access to the yard four times a day, in the worst case; a migrant was kept imprisoned in an underground cell for a year resulting in lasting damage to his eyesight,
 - *“The problem was light, there was no light and I had problems with my eyes when I came out”.*

[26 year old Mauritanian male migrant detained in Adjabya in 2012-2013. Interviewed in Calais, France in November 2014]

Health care:

- Medical treatment was usually lacking.
- None of the migrants, asylum-seekers and refugees reported having a health check.
- Detainees said they were healthy on entering the facility and developed health problems afterwards particularly skin rashes, respiratory disorders and stomach problems.
- Several reported injuries from beatings, *“I was beat repeatedly on my knees and had strong pain there.”* Those that reported injury or illness were not given medical treatment.
- It is worth noting that a significant number said they had no health problems at all despite being in such deplorable conditions.

Visits by international agencies:

- These types of conditions were also found to be prevalent in key immigration detention centres at Sabha, Abu Salim, Brak Shati, and Gharyan; these facilities were visited by international agencies according to detainees, and thus had the benefit of exposure to international standards and requirements.

Leaving detention:

- Detention periods varied considerably from a few days to two years. On average, most detainees were held for a few months.
 - Returnees say they were able to leave detention by various methods.
 - Many escape,
 - *“We broke the window and a lot of us escaped. I didn’t know where I was because we had arrived there blinded. We escaped in all directions and some of us were caught and brought back to the prison”.*
- [18 year old Gambian male migrant detained in Griana, Tripoli in spring 2014 and interviewed in Sicily/Italy in December 2014.]*

- Some pay to be released using funds they had on them or by calling families/friends to make transfers. Payments ranged from hundreds to thousands of US dollars, often paid in local currency.

– *“the police gave me a phone to call my family. My parents paid USD \$ 3000 to the police. The police blindfolded me and put me in a car. It took two hours. They took thirty of us from prison and left us in Tripoli”.*

[20 year old Ethiopian female asylum-seeker detained in Zawiya prison in autumn 2014. interviewed in Calais, France in January 2015]

- Detainees pooled resources to pay for vulnerable women and minors who could not afford to pay for themselves.

- Locals also look for workers on construction projects or domestic work. If the detainees were selected they would be taken out and expected to work. All said that they were not paid and eventually ran away from the employer. The employers paid the guards to get them released, *“it is very common for rich people to go to this prison offer money to recruit people for cheap labour and get released”* explained one asylum-seeker.
- Some people were just let go at the will of guards. One described how the boss of the detention centre took him to work at his house *“after I finished cleaning he told me I free you...because it’s Ramadan”*.

- In two cases, migrants and refugees were put straight on to a boat for Europe without paying anything. Aside from freeing up spaces in detention centres or responding to criticism from outside, it is unknown who might benefit from arranging such transfers without requiring the usual smuggling fees for crossing the Mediterranean. In one case, a general came to the detention centre with many armed soldiers, speaking in Arabic he said
 - *“they didn’t want us here anymore, they were going to take us to the sea and kill us if we tried to escape they forced us to get on a truck and took us to the sea. There was a boat waiting for us. It was a small boat, there was not enough room for everyone but they forced us to get on the boat and then they pushed the boat towards the sea. They said they wished we would all die in the sea. There was only 20 litres of petrol on the boat. One of us had to start steering the boat. The petrol finished and we were in the middle of the sea, we didn’t have water or food and we drifted for 5 days. 5 people died...we were rescued by the Italian navy”.*

[20 year old male Malian asylum-seeker detained in Sabha in spring 2013. Interviewed in Sicily/Italy in January 2015]]

Leaving Libya:

- Migrants and refugees remained vulnerable to re-detention after release though this did not appear to be occurring as much as in the past, possibly because they quickly attempt the treacherous boat journey across the Mediterranean in order to make their way to Europe.
- The journey across the Mediterranean is another treacherous leg of the journey. People are crammed onto crowded boats, one Somali said,
 - *“hundred people [were] crammed onto an inflatable boat,...there were children...elderly people and women...some children died in their mothers arms....we were all scared...people were screaming like they’ve gone mad...”*

[20 year old refugee male from Somalia detained in spring 2014 in Sabha detention facility. Interviewed in the UK in December 2014]

Arrival in Europe:

- The journey takes a couple of days and all reported being rescued by a passing ship or by Italian and Maltese coastguard. They were taken to arrival centres in Italy and Malta.
- In Italy it was reported that fingerprints are either not taken or that migrants and refugee escape before this happens if they do not want to claim asylum in Italy.
- Migrants and refugee understand their prospects in different places i.e. minors from West Africa who do not qualify for refugee status seem to stay in Italy where they can at least obtain some subsidiary form of protection whereas those from North-East Africa rate their chances for a successful asylum claim in Northern Europe and make their way to Germany, Sweden and the UK as favoured destinations.

- New arrivals are becoming younger raising concerns that the guarantee of protection for those who are under 18 is becoming a pull factor, particularly for those who have no political reason to leave.
- Children and young are at risk of being exploited by organised criminal gangs operating in Europe. Reports say that thousands of migrant and asylum-seeking children are disappearing from emergency shelters and hostels in Italy into a life of forced labour and sexual exploitation in the world of drugs, prostitution and Sicilian agriculture. Also arrests in Italy in relation to the sale of organs in exchange for passage to Europe.
- Reports in the media, point to the infiltration of the Italian mafia in running government facilities for migrants, asylum-seekers and refugees, such as Cara Mineo centre in Sicily.

Fate of migrants, asylum-seekers and refugees:

- Once in Europe, the fate of the migrants, asylum-seekers and refugees depends on where they are. Those who have an unresolved immigration status face an uncertain and difficult future, especially if they are living without support in the 'jungles' of Calais and elsewhere. Those in receipt of some form of protected status were found to be getting on with their lives, acquiring an education, language skills and work in an effort to make a new future for themselves.
- Some ex-detainees continue to bear the physical and psychological scars of their arduous experiences but a sizeable number said that they were not experiencing any lasting effects.

- Psychological problems include flashbacks, nightmares, depression, anger and range from feeling sad when they recall these events to more profound disturbances. One woman who had undergone rape and terrible trauma throughout the journey at the hands of guards and smugglers said,

– *“I have many problems, I’ve been taken to hospital because I couldn’t breathe. I always have nightmares and I see a psychologist who comes every week here in the centre. He gives me drugs to sleep”.*

[23 year old female migrant from Nigeria detained in an unknown facility on the outskirts of Tripoli in autumn 2013. Interviewed in Sicily/Italy in January 2015.]

Recommendations from migrants, asylum-seekers and refugees:

- Training for Libyans on human rights
- International organisations to visit detention facilities
- Awareness-raising in sending countries.
 - As one put it, *“the international organisations and embassies should go to country of origin and explain the situation in Libya and warn people not to go there”*.
 - Another said, *“I have physical marks from the beatings. Skin problems because of the lack of shower. Psychological problems as I saw murders and rapes and couldn’t do anything... I never thought they could treat me like this...Libya is worse than the countries I escaped from, Eritrea and Sudan. There are jails under the ground in Eritrea but we don’t get shot in the street, we don’t have such racism. People leaving their country should have awareness about Libya”*.

- Giving migrants, asylum-seekers and refugees the chance to find a safe place nearer to home. One Somali young woman said that there should be more camps in nearby countries, Ethiopia and Sudan,
 - *“Our intention was not to come to Europe, if we can get in Sudan or Libya....most people have left because of problems and need a place safe and secure and if they get this at a place near home, they will stay there, otherwise they will come and continue even if they die in the process”.*
- Others added that international organisations should enable migrants, asylum-seekers and refugees to travel without risks.

Libyan policy response

- The Department for Combating Illegal Migration (DCIM) was established in May 2012 comes under the Ministry of the Interior and leads the policy response on the part of the Government. Many of the operational detention centres are managed by DCIM whose responsibilities but its ability to develop a policy response is currently constrained by various factors:
 - Not all detention centres are under its remit.
 - The current political and military crisis makes it impossible to implement countrywide laws and policies.
 - The breakdown of law and order has fuelled the multi-million dollar smuggling operations of organised criminal networks.

- Given this context, the current response of the Libyan authorities is therefore to acknowledge that problems exist but feel overwhelmed and able to do little more than “firefighting”.
- The Libyan authorities told a rapid assessment team visiting Libya in November 2014 that *“While seriously regretting the situation....Libyan immigration detention authorities ..have pointed to the lack of tools required to overcome many of the shortcomings of the immigration detention regime”*.

- Faced with this situation, the Government of Libya in 2013, within the framework of the ‘Stabilising at-risk communities and enhancing migration management to enable smooth transitions in Egypt, Libya and Tunisia’ (START) Programme, and with the help of the IOM, established a Policy/Legal Task Force mandated to assess and make suggestions for the revision of Libya’s policies and legislation relating to migration.

Conclusions

- This study paints a damning picture of the immigration detention of young migrants, asylum-seekers and refugees in Libya today.
- Based on in-depth interviews with 51 detainees (the majority of whom were unaccompanied children or young people), the study reveals a consistent pattern of arbitrary detention; of people held for months at a time without any form of due process in squalid, cramped conditions.

- Detention occurs in facilities across the country, many of which are reported to be under the control of the governing authorities or militia forces.
- Serious violations, including allegations of violence and brutality, are said to be commonplace, including in some of Libya's most well-known detention centres.

- As the first study of its kind to assess the particular plight of detained refugee, asylum-seeking and migrant children and youth in Libya's immigration detention centres, it provides timely information about the current situation in the country.
- The right to liberty and freedom from arbitrary detention is among the most fundamental of rights belonging to all human beings, and its consistent denial, especially to vulnerable minors and young people, is a matter of the gravest concern.

- The absence of a humane and orderly framework for handling migration flows in Libya is no doubt a contributing factor to the ever increasing numbers of migrants, asylum-seekers and refugees willing to risk their lives in the Mediterranean to reach the safety of Europe. The widespread detention of non-nationals in appalling conditions in Libya, far from acting as a deterrent to entering Libya, appears to be contributing factor in the desire of people to leave the country at any cost. Libya, once a destination for migrants and refugees, a place of economic opportunity and safety, is now simply a departure point at best or a place to escape from at worst.

- These testimonies indicate clear violations of international human rights law, the current challenge in Libya is knowing who is accountable for such breaches.
- But given the breakdown of law and order, the ongoing political crisis and armed hostilities, and the break-up of the country into areas controlled by two 'Governments' and various militias, the chains of command and control over all the centres where illegal detention is occurring, are uncertain.
- However, many of the cases cited under this report relate to centres which are now under the control of the 'recognised' government and as such a start could be made by restoring the core minimum standards laid out in international law to those places.

- Stream video documentary by Vice News filmed inside Libya immigration detention centres
- <https://news.vice.com/video/trapped-and-forgotten-libyas-migrant-jails-part-2>