

**Submission by the United Nations High Commissioner for Refugees**  
**For the Office of the High Commissioner for Human Rights' Compilation Report**  
**Universal Periodic Review: 3rd Cycle, 36th Session**

**LIBYA**

**I. BACKGROUND INFORMATION**

Libya has not ratified and is not a party to the 1951 Convention relating to the Status of Refugees or its Protocol. It has however ratified the 1969 Convention governing the Specific Aspects of Refugee Problems in Africa (OAU Convention), which adopts the same definition of a refugee as the 1951 Convention and its 1967 Protocol. Libya has yet to implement the OAU Convention through the adoption of asylum-related legislation or procedures. Libyan law considers asylum-seekers and refugees as illegal migrants and arbitrary detention in life-threatening conditions is widespread, with frequent allegations of torture, or other forms of cruel, inhuman or degrading treatment.

Libya acceded to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness in 1989.

From 2011 to the present, the country has experienced varying levels of turmoil and conflict, marked by increasing ethnic and tribal divisions. Since 2014, the situation has been characterized by political fragmentation, armed conflict, limited rule of law in many areas, and a deteriorating respect for human rights. Fighting has caused civilian casualties, displaced hundreds of thousands, destroyed vital infrastructure, and disrupted access to services and livelihoods. Despite a 2015 UN-mediated political agreement Libya remains deeply divided with the promises of the agreement unrealised.

Due to geographic location, extensive land and sea borders, oil wealth, and reliance on foreign labour, Libya has long been a transit and destination country for individuals fleeing conflict and persecution, or seeking a better life. Non-nationals intercepted or rescued at sea, detained in border areas, or arrested in urban settings are held in widely-condemned detention centres, generally without formal charge. Refugees and asylum-seekers are subject to the country's immigration laws, which contain no provisions relating to the status of refugees or asylum-seekers nor concerning respect for the principle of non-refoulement. Release is frequently possible only in the context of return to the country of origin, or evacuation or resettlement to third countries. Migrants, including refugees and asylum-seekers, are at risk of abuse and exploitation by smugglers, traffickers, armed groups, and criminal gangs, including those alleged to be associated with state authorities. Abuses include arbitrary detention and unlawful deprivation of liberty; torture and cruel, inhuman or degrading treatment; rape and other forms of sexual violence; abduction for ransom and other forms of extortion; forced labour; and death. Refugees, asylum-seekers and migrants often face insurmountable obstacles to efforts to obtain birth registration and other forms of civil documentation, including for children both in detention.

According to the 2019 Libya Humanitarian Needs Overview, 823,000 people in Libya are in need of humanitarian assistance. Among these are internally-displaced persons (IDPs), IDP returnees, refugees, asylum-seekers and migrants, each among the most vulnerable and least resilient groups in the face of the ongoing crisis.

UNHCR Libya currently protects 45,653 refugees and asylum-seekers from Syria, Sudan, South Sudan, Eritrea, Somalia, Palestine, Ethiopia, Iraq and Yemen. In absence of an asylum framework, UNHCR protects, assists, and seeks durable solutions for refugees under its mandate. UNHCR also works closely with the Libyan government and humanitarian actors to address the protection and assistance needs of 301,407 IDPs, more than 120,000 displaced by conflict in 2019 alone.

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

### **Positive developments linked to 2nd cycle UPR recommendations**

**Linked to 2nd cycle UPR recommendation no. 137.198 supported by the Government:** “Fully protect human rights of internally displaced persons, including by giving them access to safe areas, as well as health, social and educational services without discrimination, and support, wherever possible, the voluntary and safe return of internally displaced persons to their areas of origin” (Germany);

UNHCR notes efforts made by Libya to support the voluntary and safe return of internally displaced persons to their areas of origin. UNHCR recognises the return to their place of origin of some 447,025 internally displaced persons since 2014.

## III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

### **Challenges linked to outstanding 2nd cycle UPR recommendations**

#### **Issue 1: Effective Protection to People of Concern and Civil Registration**

**Linked to 2nd cycle UPR recommendation no. 137.193 supported by the Government:** “Take all action necessary to ensure the protection of refugees and asylum seekers, including the provision of access to birth registration for all children born in Libya, and the ratification of the Convention relating to the Status of Refugees and its 1967 Protocol.” (New Zealand)

Libya is not party to the 1951 Convention relating to the Status of Refugees or its Protocol. However, it has ratified the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention) and is also party to the African Charter on Human and Peoples' Rights (“Banjul Charter”). While the right to asylum is provided for in Article 10 of Libya’s 2011 interim Constitutional Declaration, there is no asylum legislation or any related procedures. As a result, all non-Libyans regardless of their status fall under national immigration laws, including asylum-seekers and refugees. Libyan law criminalizes all irregular entry, stay, or exit, without distinguishing between asylum-seekers/refugees, migrants, or victims of trafficking. Asylum-seekers and refugees continue to be detained for long periods in inhumane conditions where serious human rights violations regularly occur, with individuals from Sub-Saharan Africa including the Horn of Africa countries at higher risk of harm due to discrimination and racism.

UNHCR recommends that the Government of Libya:

- (a) Ratify the 1951 Convention relating to the Status of Refugees and its Protocol, develop and adopt national refugee legislation based on Libya’s commitments under the 1969 Convention and, pending this, formalize the cooperation with UNHCR in a written agreement facilitating UNHCR’s work in the country for refugees and asylum-seekers without regard to nationality;

- (b) Ensure that UNHCR persons of concern have access to basic rights and services including birth registration and other civil status documentation, health care and education;
- (c) Uphold Article 10 of the 2011 interim Libyan Constitutional Declaration that prohibits the extradition of “political refugees”, as otherwise, asylum-seekers or refugees in Libya without appropriate documentation, including those rescued and disembarked, face detention under Law No. 19 of 2010; and
- (d) Amend Law No. 6 (1987), amended by Law No. 2 (2004), and Law No. 19 (2010) in order to decriminalize irregular migration without regard to distinctions between migrants, refugees, asylum-seekers, victims of trafficking, migrants in vulnerable situations, migrant children, or other migrants in need of international human rights protection.

## **Issue 2: Protection of Internally Displaced Persons**

**Linked to 2nd cycle UPR recommendation no.137.198 supported by the Government:**  
“Fully protect human rights of internally displaced persons, including by giving them access to safe areas, as well as health, social and educational services without discrimination, and support, wherever possible, the voluntary and safe return of internally displaced persons to their areas of origin.” (Germany)

Since 2014, fighting across Libya has caused displacement, civilian casualties and damage to infrastructure. Although many have returned to their homes during this period, others continue to be newly displaced by fighting, bombardment and communal tensions.

### **Recommendation:**

UNHCR recommends that the Government of Libya:

- (a) Ensure that the Minister of State for Displaced Persons’ Affairs functions effectively as an institutional focal point for internal displacement;
- (b) Prioritize the creation of a national road map to establish a common strategy and ensure a coordinated response for appropriate and effective responses to internal displacement;
- (c) With the support of the international community, review national legislation to better align policy and law with international obligations and with the Guiding Principles on Internal Displacement and the Kampala Convention; and
- (d) Support the UN and other humanitarian and development actors, including non-governmental organizations, in the provision of humanitarian, technical and legal assistance concerning displaced populations.

## **Issue 3: End of Arbitrary Detention**

**Linked to 2nd cycle UPR recommendation no. 137.128 supported by the Government:**  
“End arbitrary detentions and guarantee treatment of detainees in line with international standards.” (Switzerland)

Detention conditions continue to be inhumane throughout Libya, both in official and non-official detention centers. Arbitrary detention, deprivation of liberty, torture and other ill-treatment are widespread against refugees, asylum-seekers and migrants. Perpetrators are in many cases members of armed groups or militias affiliated with the government.

Over 7,000 persons of concern to UNHCR and migrants are held arbitrarily in detention centres under the administration of the Department for Combating Illegal Migration (DCIM). Numbers fluctuate and there is no registration system to record the movement of migrants in and out of detention or between detention centers. Armed groups, individuals and security forces bring migrants to detention centres with no legal process. There is no judicial review or other oversight mechanism. Various armed groups and criminal actors access detention

centres and are alleged to frequently force migrants and refugees into forced labour and trafficking.

Following interception or rescue of individuals at sea, the Libyan Coast Guard (LCG) transfers detained individuals to the Directorate to Combat Illegal Migration (DCIM) of the Ministry of Interior, which distributes them to government-authorized detention centres for indefinite periods. Release is generally possible only in the context of repatriation, evacuation or resettlement to third countries.

**Recommendations:**

UNHCR recommends that the Government of Libya:

- (a) Decriminalize irregular migration, release all arbitrarily-detained UNHCR persons of concern and migrants, and end widespread detention and mistreatment of refugees and migrants;
- (b) In cooperation with the international community and humanitarian organizations, introduce alternatives to detention for refugees, asylum-seekers, and migrants; and
- (c) Ensure that all persons intercepted or rescued at sea by the Libyan Coast Guard, or detained in other circumstances, enjoy fundamental elements of due process of law.

**UNHCR**  
**October 2019**