

“WE ARE FOREIGNERS, WE HAVE NO RIGHTS”

THE PLIGHT OF REFUGEES, ASYLUM-SEEKERS
AND MIGRANTS IN LIBYA

**AMNESTY
INTERNATIONAL**



“They [Libyans] don’t treat us like humans. For them we are animals or slaves. We are foreigners, we have no rights. We are locked up and don’t know what will happen to us. If we complain, we expose ourselves to beatings and insults.”

A 23-year-old Nigerian woman detained in Libya since late August 2012

In a prevailing atmosphere of lawlessness, racism and xenophobia, undocumented foreign nationals in Libya are at continuous risk of exploitation, arbitrary and indefinite detention in harsh conditions, as well as beatings, sometimes amounting to torture.

Despite the risks, large numbers of foreign nationals continue to arrive in Libya through its porous borders, fleeing war or persecution or searching for better economic opportunities. People from countries such as Burkina Faso, Cameroon, Chad, Eritrea, Ethiopia, Ghana, Niger, Nigeria, Somalia and Sudan make long, dangerous and expensive journeys, crossing into Kufra in the south-east or Sabha in the south-west. Some embark on further perilous journeys across the Mediterranean to reach Europe. Many perish at sea. Others are intercepted by the Libyan coastguard and placed in indefinite detention.

Foreign nationals are held at a plethora of detention facilities including “holding centres” specially designed for irregular migrants. Others are held directly by militias in makeshift detention centres like military camps or hangars. Militiamen told Amnesty

International that they felt that it was their “national duty” to arrest and detain “irregular migrants”. Between May and September 2012, Amnesty International visited nine detention centres where foreign nationals were held for “migration-related offences” in and around Az-Zawiya, Benghazi, Gharyan, Khoms, Kufra, Sabrattah and the capital, Tripoli. At the time of Amnesty International’s visits, these centres held around 2,700 detainees in total. Detainees included pregnant women and women with young children, as well as unaccompanied children held alongside adult strangers. Detainees shared stories of appalling conditions, beatings, insults and exploitation. Many showed Amnesty International their fresh injuries or scars as a result of beatings meted out as punishment for trying to escape or for other “disruptive” behaviour.

For those held indefinitely for “migration offences” pending deportation, there is no possibility to challenge their forcible removal from the country. The head of the Department of Combating Irregular Migration under the Ministry of Interior told Amnesty International in September 2012

that some 4,000 individuals have been deported so far in 2012 to countries including Chad, Niger, Nigeria and Sudan. In some cases, those deported are required to pay their own travel expenses. Libyan officials blamed delays in deportations – resulting in prolonged detention – on financial constraints and a lack of co-operation from detainees’ embassies.

While Libyan officials acknowledge that they cannot return Eritrean or Somali nationals, all refugees and asylum-seekers remain in legal limbo as Libya has no asylum system and has yet to sign a memorandum of understanding with UNHCR, the UN refugee agency.

The situation for foreign nationals in Libya is made more dangerous by powerful armed militias, which fill the security vacuum left by the collapsed state following the toppling of Mu’ammār al-Gaddafi’s government in 2011. These militias continue to act outside of the law, while the country’s justice system remains virtually paralyzed.

Abuses take place against a backdrop of widespread racism, whereby foreign



Around 134 people from Chad, Eritrea, Somalia, Sudan and other Sub-Saharan African countries detained in a metal hangar in Tripoli, September 2012. The facility is officially overseen by the military police.

nationals are blamed for crime, disease and other purported ills in Libyan society. Widespread rumours of the use of “African mercenaries” by al-Gaddafi’s government further fuelled racism and xenophobia.

Despite these well-documented abuses, the European Union (EU) has resumed dialogue with Libya on migration-related issues. Italy signed an agreement with Libya in April 2012 “to curtail the flow of migrants”. Turning a blind eye to the dire human rights situation in Libya, the EU seeks to prevent at any cost foreign nationals from reaching Europe, including those fleeing war and persecution.

For now, foreign nationals in Libya risking daily violence and exploitation have nowhere to turn to seek justice and redress. Urgent action is needed to end the indefinite detention, violence and other abuses suffered by foreign nationals in Libya.

BACKGROUND

During Mu’ammr al-Gaddafi’s 42-year rule, foreign nationals, particularly those from Sub-Saharan Africa, lived with the uncertainty of shifting policies and the fear of arbitrary arrest, indefinite detention, torture and other abuses. Despite these risks, Libya’s geographical location, relative economic prosperity and high demand for migrant labour meant that it was, and continues to be, both a major country of transit and a destination for refugees, asylum-seekers and migrants.

Prior to the 2011 conflict which led to the toppling of Mu’ammr al-Gaddafi’s government, the authorities claimed that there were more than 3 million “irregular migrants” in Libya; other estimates placed the number closer to 1-1.5 million. During the conflict, an estimated 900,000 Libyans and third country nationals fled the country. When the hostilities ended, many foreign nationals who had fled returned. New arrivals continue to enter the country.

Libya remains heavily reliant on migrant workers. Foreign nationals from Africa, Asia and the Middle East are attracted by employment opportunities in a variety of sectors including health, education, construction, agriculture, hospitality and cleaning services. Individuals entitled to international protection are caught in Libya’s mixed migration flows. Libya remains a major route for asylum-seekers and refugees fleeing countries such as Eritrea, Ethiopia, Somalia and Sudan.

Following the conflict, the situation of foreign nationals, particularly from Sub-Saharan Africa, was made more difficult by the general climate of lawlessness, the proliferation of arms among the population and the failure of the authorities to tackle racism and xenophobia, fuelled by the widespread belief that “African mercenaries” had been used by the toppled government.



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ARRESTED AND INDEFINITELY DETAINED

“Here, you don’t know who is police, who are armed gangs, and there is no one to help you.”

A Nigerian man detained in northern Libya, June 2012

Foreign nationals, especially those from Sub-Saharan Africa, are mostly taken from streets, markets, checkpoints or their homes. Others are intercepted crossing the desert or sea or while trying to board boats to Europe. Some are arrested by regular police, but the vast majority are apprehended by armed militiamen. Such arrests are at times accompanied by violence and the confiscation of mobile phones, money and other valuables.

A 26-year-old Eritrean man told Amnesty International that, while being apprehended at his home in the Abu Salim neighbourhood of Tripoli, armed men in military clothing hit him on the head with a rifle butt. His arbitrary arrest, which took place in late August 2012, was carried out

without a warrant. He said that some 30 Eritrean men were taken that day during house raids targeting foreign nationals.

A group of 19 Nigerians in the Sabrattah detention centre told Amnesty International that they had been detained since 26 August, after the boat they boarded to cross the Mediterranean along with about 55 other passengers sank some four hours into the journey. Forty-three people, including eight women, drowned. All the survivors, initially spotted by Libyan fishermen, were detained. They do not know what fate awaits them.

Foreign nationals are detained in “holding centres” overseen by the Department of Combating Irregular Migration or in facilities under de facto control of armed militias. Conditions vary across detention centres, but in all cases conditions are far from meeting international standards. Detainees’ most frequent grievances include overcrowding, inadequate nutrition, no regular access to health care, lack of recreational activities and outdoor time, beatings, racism, insults and poor hygiene. Detention centre administrators also complained of a lack of resources for

Left: Khoms detention centre, where nationals from Chad, Eritrea, Niger, Nigeria, Somalia, Sudan and other African countries are held indefinitely.

Above: Kufra detention centre.

detainees’ needs and of getting little or no support from central government. Many said they were dependent on private donations and support from humanitarian organizations.

Those detained are held for breaches of migration-related regulations. Libyan legislation allows for indefinite detention pending deportation of foreign nationals who enter, stay in or leave Libya irregularly – for example without an appropriate visa or through unofficial border posts. Most are never brought before judicial authorities or given the opportunity to challenge their detention or to complain about their treatment.



BEATEN, TORTURED AND ILL-TREATED

“They dragged me into the yard, and started beating me with metal wires all over my body, particularly on my back. This lasted for about 45 minutes. I didn’t do anything. It’s just because I am black and they don’t want us in this country anymore.”

A 48-year-old Nigerian man in a detention centre in Libya, August 2012. He still had a visible criss-cross pattern of scars on his back when Amnesty International interviewed him around one month after the attack.

Detained foreign nationals told Amnesty International that they have been subjected to torture and other ill-treatment, including beatings, particularly as punishment for failed escape attempts or for other “infractions” such as complaining about detention conditions or enquiring about their fate. The most severe punishment is reserved for those suspected of committing crimes or of having supported al-Gaddafi’s government. Most frequently, detainees are beaten for prolonged periods of time with various objects such as metal wires, rubber hoses, sticks and water pipes. Some detainees told

Amnesty International that they were given electric shocks and were suspended in contorted positions. Since the fall of al-Gaddafi’s government, Amnesty International has documented cases of a Nigerian man and a Somali man dying as a result of torture at the hands of armed militias.

In September 2012, a group of Somalis attempted to escape from the Khoms detention centre during the chaos that erupted following a dispute between a group of detainees. The recaptured Somalis told Amnesty International they were severely beaten by armed men in civilian dress.

Mohamed Abdallah Mohamed, aged 19, described being kicked and dragged along the ground, punched in the eye and beaten with rifles and sticks. He sustained several injuries including to his left eye and said the medical attention he eventually received was inadequate. Khadar Mohamed Ali, aged 16, and Khadar Warsame, aged 21, were also recaptured and beaten. Khadar Warsame was admitted to the Intensive Care Unit of Khoms Hospital with a head injury.

A Chadian man detained without charge by an armed militia in western Libya since April

Top: An Eritrean detainee shows Amnesty International delegates the injury he sustained to his head when he was hit with a metal bar in September 2012.

Above: A Nigerian detainee shows Amnesty International delegates his scars.

2012, told Amnesty International in September that he was severely beaten during the first two weeks of his detention for allegedly fighting alongside al-Gaddafi forces:

“I was dragged to the ‘interrogation office’ upstairs. A group of men – some in military and others in civilian dress – started taking turns beating me after handcuffing me and forcing me to lie on the ground. They used everything: water-pipes and sticks; gave me electric shocks and used falaqa [beatings on the soles of the feet]. I lost consciousness. They claim that I am a foreigner with no papers.”

Current and former detainees have nowhere to turn to complain about the beatings and other ill-treatment they have suffered.



WOMEN NOT SPARED

While there were fewer reports of severe beatings of women, some female detainees told Amnesty International that they were hit or slapped during arrest. Others reported being subjected to torture or other ill-treatment in detention. Like men, they are punished for “disruptive behaviour”. On 13 September 2012, a group of Nigerian women were beaten by guards at the Tweisha detention centre for allegedly rioting and trying to escape. The centre is officially under the control of the Department of Combating Irregular Migration, but armed militiamen continue to guard the facility. Female detainees told Amnesty International that in the early afternoon, some 11 men in civilian clothing beat them with hoses for several hours and gave some of them electric shocks with taser-like devices. Others described being kicked and stepped on by men wearing military boots. A 28-year-old Nigerian woman, who had been detained for a month, told Amnesty International:

“I was first flogged inside the cell. They used hoses and metal wires. Then I was taken into another room along with the other ladies, and beaten some more by men

Above: Two Nigerian women show Amnesty International delegates the scars and bruises they received during beatings at Tweisha detention centre in September 2012.

in civilian dress. They gave me electric shocks on several parts of the body.”

When Amnesty International visited the centre, some four days after the incident, several of the women had visible bruises and injuries, consistent with their testimonies.

Women are also vulnerable to sexual and gender-based violence. Nigerian women in several detention centres complained about being strip-searched by men upon arrival. One of them described the practice:

“It was humiliating. There were five men present when I had to take all my clothes off, and bend over. One of them stuck his hand in my private parts. We all had to do it, one by one.”

None of the centres holding female detainees had female guards.

EXPLOITED

“I am a modern-day slave, forced to work for free, and subjected to racist insults. If I disobey, I am beaten.”

Malian detainee, June 2012

Foreign nationals are vulnerable to financial extortion and exploitation both inside and outside detention. Their fate is very dependent on luck and the goodwill of the Libyans they come across. A 22-year-old Somali detainee who went to Libya in February 2012 to seek refuge told Amnesty International about his ordeal:

“I have been in this country for about seven months, and have not seen a good day. After our 16-day journey in the desert, I ended up locked up in a house by the smugglers. They refused to continue the journey until we paid an additional 300 dollars each, after having already paid 600 dollars from Sudan to Libya. Eventually, they took us to Tripoli in a truck used to transport goods. We were stuffed in there like vegetables. I was free for a while, and did some odd work even though I have a university degree. I would stand at a roundabout and wait for daily work.



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Sometimes, a good Libyan would hire me and actually pay me at the end of the day. Other times, I would work all day and get nothing but insults. When I complained, the employer would threaten me and say: 'Do you want me to call the police?'... In July, I was arrested at a checkpoint and taken to a detention centre in Misratah [now closed]. The conditions were awful there. They beat everyone including the women with rubber hoses, sticks, mops, whatever they could find lying around... I was transferred here some three weeks ago. I am not beaten, but those who try to escape are... Here I am forced to wash the toilets and have no way to refuse."

A high-level official in Benghazi admitted that detaining migrants "has become a business". Many detainees told Amnesty International that they are forced to carry out various manual chores for the armed militia guarding them, including cleaning, picking up rubbish and even offloading munitions.

In some cases, detainees who have agreed to work in exchange for pay have found themselves being paid much less than promised or not being paid at all. The same

Above left: Children held by armed militia at Bou Rashada detention centre.

Above right: A cell in Ganfouda detention centre. More than 225 people from various countries were detained there in May 2012.

is true for migrant workers at liberty. They are in no position to argue and have no way of complaining or seeking remedy. An Egyptian national detained in Khoms detention centre since early September 2012 told Amnesty International:

"I got into an argument with my employer over pay. He didn't give me the amount we agreed on for the gardening I did for him. That night, three armed men barged into my house, took me to a militia base in Souq al-Jumaa [a Tripoli neighbourhood], tied me, hung me from a metal bar and beat me for hours. They used rubber hoses and water pipes to beat me. Then after eight days at their base, I was transferred to the Khoms detention centre for irregular migrants even though I have residency papers. I have nobody to complain to. My only hope is that a Libyan acquaintance will come to sponsor me and take me out of here."

REFUGEES AND ASYLUM-SEEKERS

"I wanted to flee to another place where I might be able to find security and a better life. Instead, I had a terrible journey, and found a terrible country. I got to Kufra in January 2012 and my troubles started... Two months ago, 600 of us were transferred in a commercial truck to Ganfouda... For Somalis, life is difficult. Is this the destiny of refugees!"

A 20-year-old Somali man detained in Ganfouda detention centre, June 2012

Libyan officials and militiamen make no distinction between migrants, asylum-seekers and refugees. Because of their irregular status, individuals in need of international protection are similarly at risk of arbitrary arrest, indefinite detention and torture or other ill-treatment.

While Libyan officials acknowledge that they cannot forcibly return Somali and Eritrean nationals to their home countries, their fate and future – like for all other asylum-seekers and refugees – remain uncertain as there is no asylum system in the country. Across detention centres, no consistent

approach exists to address their continued detention. In some places, attempts are made to find them work through Libyan sponsors. In other cases, individuals are released following the intervention of their ambassadors or UNHCR. However, they remain vulnerable to re-arrest. The Somali Ambassador in Libya told Amnesty International in September 2012 that out of 600 people whose releases he negotiated in recent months, the vast majority had been re-arrested.

While not a state party to the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, Libya ratified the African Union Convention Governing the Specific Aspects of Refugee Problems in Africa. UNHCR operates on an ad hoc basis in Libya without an official memorandum of understanding and has not officially registered asylum-seekers or carried out refugee status determination since June 2010. It estimates that there were some 13,000 refugees and asylum-seekers in Libya in January 2012. The lack of a functioning asylum system and the failure to assess cases on an individual basis means that essential safeguards against *refoulement* are missing. The safety and fate of refugees and asylum-seekers are left to the whim of the detention centres' administrators and guards.

Cover image: Detainees in Khoms detention centre, where around 370 men, women and children were held at the time of Amnesty International's visit in September 2012.

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ACT NOW TO PROTECT FOREIGN NATIONALS IN LIBYA

Please email Prime Minister Ali Zeidan, calling on the Libyan authorities to:

- Sign a memorandum of understanding with UNHCR, ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and adopt asylum legislation consistent with international law and standards.
- Protect all foreign nationals, regardless of their immigration status, from violence, exploitation, threats, intimidation and abuse.
- Ensure that all detainees are treated humanely, receive necessary medical treatment and are protected from torture and other ill-treatment. Suspected perpetrators of torture and other ill-treatment should be brought to justice in proceedings that meet international fair trial standards.
- Remove all those reasonably suspected of ordering, committing or allowing the use of torture or other ill-treatment from positions where they can repeat such violations, pending judicial investigations.
- Detention solely for immigration control purposes should only be imposed in the most exceptional circumstances, for short periods immediately prior to deportation, and in strict compliance with international human rights and refugee law.

- Reform laws on migration to decriminalize irregular entry, stay and exit.
- Guarantee the rights of refugees, asylum-seekers and migrants to legal counsel and interpretation services, and ensure that they have the right to challenge the lawfulness of their detention, including the right to appeal.
- Take steps to counter racism, xenophobia and discrimination against individuals with dark skin, whether Libyan or foreign nationals, and devise and implement a strategy to celebrate the diverse ethnic make-up of Libya and the positive contribution of migrants, including from Sub-Saharan Africa.

Send your email to info@pm.gov.ly

Amnesty International also makes the following recommendations.

To the European Union:

- Ensure that any co-operation with Libya on the issue of migration and asylum fully respects the rights of asylum-seekers, refugees and migrants. Ensure that adequate monitoring mechanisms are in place to ensure that human rights are observed in practice.

To European countries:

- Commit to enter into further agreements on migration control with Libya only after Libya demonstrates that it respects and protects the human rights of refugees, asylum-seekers and migrants and puts in place a satisfactory system for assessing and recognizing claims for international protection.

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Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

Index: MDE 19/020/2012
English

November 2012

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