

HUMAN RIGHTS ABUSE AGAINST MIGRANTS IN LIBYA

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## HUMAN RIGHTS ABUSE AGAINST MIGRANTS IN LIBYA

### **Introduction**

The tragic loss of lives due to either drowning or succumbing to hunger, thirst or cold are reported daily off the coasts of Greece, Italy, Malta and Spain. In response to these recurrent tragedies, the European Union (EU) has adopted a series of measures seeking to improve the protection of migrants trying to reach its borders and to share responsibility with transit countries involved in the migration through increased cooperation. In 2016 alone, it is estimated that 5,143 immigrants died in the Mediterranean Sea. 4,581 of these deaths can be directly traced to the Central Mediterranean Route of which Libya is part. The Mediterranean region is one of the main immigration zones where the main movement is from Africa across the Mediterranean Sea into Europe. Libya is not new to migration. Being amongst the top ten countries in terms of oil reserves, the country started attracting immigrants in the 1960s as a destination country. This was to be later fueled by Muammar Gaddafi's liberal Pan African policies that opened the door for an influx of immigrants from Sub-Saharan Africa (Toaldo, 2015).

Close to 800,000 immigrants fled to the neighboring countries during the 2011 uprising in Libya. Ever since the overthrow of Gaddafi, Libya has been in a state of civil war characterized by the breakdown of government institutions. The violence and insecurity characteristic of the present day Libya has not deterred immigrants and asylum seekers from arriving in the country. It still maintains its reputation as a wealthy nation north of the Sahara and a transit point to Europe hence continuing to attract an influx of immigrants, especially from Sub-Saharan Africa. These immigrants, however, end up falling prey to smuggling and trafficking networks who channel them to the Mediterranean to embark on their journey to Europe. According to the United Nations High Commissioner for Refugees (UNHCR), about half of the immigrants arriving in Libya do so in the belief that they can secure jobs in the country. However, they end up fleeing onwards to Europe to escape life-threatening insecurity, instability and difficult economic conditions coupled with rampant abuse and exploitation. This paper explores the human rights abuse these immigrants are subjected to in their attempt to cross over to Europe in addition to recommending some mitigation measures (Grange & Flynn, 2015).

## **Human Rights Abuse against Immigrants in Libya**

### **Smuggling and Trafficking**

Several factors have contributed significantly to smuggling and trafficking of immigrants in Libya. Key of which include the collapse of the Gaddafi regime and weak immigration policies. Smuggling human beings into Libya has been a profitable venture for communities living along the country's extensive borders (Fadel, 2014). The human smuggling and trafficking ring in Libya is a huge network comprising of local communities, criminal gangs in Libya and countries of origin, rogue government officials and of course the immigrants themselves. The migrants contribute to this illicit trade three-fold. To begin with, migrants pay for their travels to Libya, through Libya and to Europe directly in monetary terms. Each leg of the journey has a different cost. For instance, passage into Libya typically costs between US\$ 800 and 1,000 while the last leg into Europe usually costs double this (Cogolati, Verlinden, & Schmitt, 2015). Secondly, immigrants are often forced to pay their way through illegal labor either in the border communities or coastal cities. They provide either un-paid or poorly paid forced labor that is essential both to the illegal and legal economy of these communities and cities (Amnesty International, 2017). Thirdly, immigrants contribute to the sprout of both legal and illegal detention centers which are part of the smuggling network.

Migrants are usually kidnapped and tortured by criminal gangs in collaboration with government officials in a bid to extort large sums of monies from the captives or their relatives to secure their release. Men and women are reportedly held in inhuman conditions and repeatedly tortured and abused often while on phone with their relatives for weeks and sometimes months till they can raise the required funds to secure their freedom. Government officials facilitate these kidnappings by either handing over detained immigrants to criminal gangs in police stations and detention centers and by turning a blind eye to vehicles crossing check points with kidnapped immigrants on board (Frouws & Akumu, 2017).

Smuggling of migrants into Libya is a huge business in Libya involving local gangs and middlemen from the countries of origin. The middlemen normally have the same nationality as the immigrants so as to provide cultural and linguistic mediation. In addition, these middlemen are important in securing the trust of immigrants especially in the last leg which is normally characterized by many forms of deception. Smuggling is different from trafficking and

kidnapping. While trafficking involves fraud, deception, coercion and numerous violations of human rights, smuggling involves the facilitation of the movement of immigrants without documentation across Libya for money. Smugglers in Libya often take advantage of people's vulnerability and impose exorbitant prices, restrict their freedom of movement and knowingly use unsafe modes of transport to maximize their profits. In some situations, smuggling usually become trafficking (Gerard & Pickering, 2013).

Typically, smuggling networks are either organized as combined services or loose networks. Combined services smuggling networks are hierarchical transnational networks organized from country of origin to destination offering a full range of complex coordinated logistics services. Only few smuggling networks have the financial muscle to procure transport and pay bribes across borders. These networks are usually more organized, profitable and professional compared to loose networks. Trafficking networks usually operate through this model hence by the end of the journey, the immigrants are more likely to owe huge debts making them more vulnerable to coercion and exploitation. Loose networks, on the other hand, operate under the step-by-step journey model whereby immigrants pay individual smugglers and intermediaries as they go along the journey. Smugglers on one leg of the journey will connect the migrants to the ones that will take them to the next step. Most smuggling networks in Libya operate through this model (Toaldo, 2015).

Smuggling is a multifaceted phenomenon involving a host of stakeholders including transporters, coordinators, intermediaries and specialized service providers. Transporters focus on moving migrants from one destination to another. They are usually responsible for a specific leg of the journey and they usually know the smuggling route intimately. They possess the equipment, knowledge of the terrain and relevant connections with both official and unofficial security providers. Transporters do not have strong relationships within migrant communities. They do not market their smuggling activities, therefore, migrants are brought to them by either intermediaries or other transporters. Some transporters provide on an occasional basis and a limited scale accommodation services to those they are transporting whenever necessary (Gerard & Pickering, 2013).

Coordinators, on the other hand, manage smuggling networks. Specifically, they organize the human resources and logistics necessary to provide transport, accommodation, and food to

those using their services. Some coordinators in Libya head large-scale smuggling networks that employ more people than most private companies. Coordinators view migrants as commodities to be bought and sold. They purchase and resell migrants in groups at a bulk price as the market dynamics dictate. A group of migrants in Libya goes for approximately between US\$ 8,333 and 41,667. Prices vary based on the nationalities of those being smuggled and their perceived financial means (Frouws & Akumu, 2017).

Intermediaries, on the other hand, comprise of migrants from one of the main countries of origin for the Central Mediterranean Route. They are strategically positioned in the main smuggling hubs of the countries on the way to Libya as well as in Libya itself. Intermediaries work along ethnic and linguistic lines. The main responsibility of intermediaries is to link migrants with transporters and organize other aspects of the journey. They usually work with Libyan smugglers who in most cases own the entire network hence offering their protection. Regardless of their station, intermediaries must have resided in their station for years, therefore, cultivating useful local contacts. Recruiters are the most common type of intermediaries in the Libyan smuggling network. They advertise the services of transporters, establish contacts with potential clients, and organize migrants into groups whom they sell to transporters when they attain the desired number. Recruiters are either paid a commission by the other smugglers or take a percentage of the fee the migrant pays for their trip. It is common to find migrants taking on the responsibilities of recruiters in order to pay for their trip (Jacques, Prestianni, & Romdhani, 2012).

Specialist service providers include shelter providers, security providers, cashiers and financiers among others. Shelter providers provide accommodation for migrants waiting to continue on to the next leg or being transferred to embarkation points. The transit shelters along the Libya route are either private houses, farms or abandoned warehouses and factories. These shelters are normally tightly controlled with those staying there having varying degrees of freedom of movement. Accommodation can either be included in the bulk price for the journey or surcharged on a daily or weekly basis. Security providers direct the transporters to the best routes, inform them of possible border patrols, escort vehicles and secure transit houses and detention centers managed by smugglers. Cashiers and third-party insurers have emerged to act as guarantors and only handover smuggling fees once the immigrants have safely arrived at their

destination. Financiers on other hand mediate the financial transactions between the legal and the illegal economies (Amnesty International, 2017).

Smuggling of immigrants in Libya is also taking racial dimensions. This is evident specifically in the last leg of the journey to Europe. It is exemplified in the sitting position of migrants in the boats to Europe where Arabs often seat in the upper decks where they can breathe fresh air while Sub-Saharan Africans occupy the lower deck closer to the engine. Further, the “captain” of the boat, is not a smuggler but one of the migrants normally one of the Arab passengers is usually given some instructions, a compass, and a satellite phone to call the coast guard of either Italy or Malta. The racial hierarchy of the smuggling business reflects the political environment of Libya. Traditionally, black African migrants performed the least paying jobs compared to those who spoke Arabic. Further, immigrants of Arabic descent had the opportunity to migrate legally. During the 2011 uprising, Gaddafi was accused of using black mercenaries to stay in power further increasing the racism towards black Africans and the aggressions and intimidations they are subjected to (Darne & Benattia, 2017).

### **Detention**

Detention of migrants in Libya can be traced to the Gaddafi era. Specifically, Gaddafi began mass detention of migrants in the early 2000s as proof of his cooperation with the European policy of externalizing control of migration flows. During the Gaddafi era, Libya had more than twenty detention camps for irregular migrants. These detention centers did not have a legal framework under which they operated and hence migrants could be detained in such centers indefinitely. The only way for migrants to leave the detention centers was to bribe the guards. This form of migration policy is supported financially by European governments. Italy, for instance, has gone to extent of building some of the detention centers on behalf of the Libyan government. During the 2011 uprising, these detention centers were emptied because the guards either opened the gates to allow migrants out while some managed to escape in the wake of the ensuing confusion. Following the fall of Gaddafi, militias have taken up the management of migration issues including the management of detention centers. Today, Libya has more than one hundred migrant detention centers (Global Detention Project, 2017). The following violations of fundamental rights are associated with these detention centers.

To begin with, these detention centers still operate outside the Libyan legal framework. Almost all detention centers are outside the jurisdiction of state authorities. They are managed by brigades of former rebels in an improvised manner depending on local conditions. In some instances these brigades report to a local council and in other instances they report to armed militias recognized by the Libyan ministries of Interior and Defense. The management of some camps is delegated to private individuals who exploit migrants and run kidnapping and trafficking networks. Further, camp managers and guards supplement their income by demanding payments from migrants for their release or from commissions paid employers seeking to recruit cheap labor from the camps. The ad hoc manner in which these camps are operated also means that the registration of persons leaving and entering the camp is random and rudimentary. This makes it particularly difficult to determine the identity and the numbers of migrants in detention, those who die in custody and those who need international protection among others (Amnesty International, 2017).

Secondly, immigrants in detention live in inhuman and degrading conditions. Migrants in the detention centers report of the brutality of guards, insufficient quantity and poor quality of food and water and lack of access to health care. Detainees spend most of their time confined either in overcrowded cells or in overheated sheds. Movement in the detention centers is generally restricted to during meal times. Permission for detainees to access open-spaces and to engage in sports activities is random and mainly depends on the mood of the guards. Further, the camps are not dependent on public authorities and hence do not receive state funding. While detention managers claim they run the centers through their personal and communal contributions, evidence suggests to the contrary. Food is supplied by the World Food Programme, health kits by UNHCR and mattresses, mats and cloths by the International Red Cross, the Libyan Red Crescent and local councils (Global Detention Project, 2017).

Forced labor is also common in the detention centers. Detention centers present captive reserves for low-cost labor subject to the whims of the guards and the obscure agreements between them and external employers. Typically, detained migrants are contracted to employers at a pre-determined fee and duration. Work may require migrants to leave the detention camps for lengthy periods however they must return to the camp on completing the work. While detention center managers claim that migrants are paid for their work, available evidence



suggests otherwise. Detainees are either not paid at all or paid at reduced rates to agreed ones. Forced labor has introduced slavery in the detention center in Libya where detained migrants are selected based on their physical conditions and lack any form of redress against violation of their rights (Amnesty International, 2017).

Finally, detention in these centers is for an indefinite period. Camp managers and local brigades reserve the discretion to give detained migrants permission to leave the camps. Evidence suggests that detainees can only leave the camps under four scenarios. Detainees can be released when the camps become overcrowded and the guards lack the means to house and feed them. Migrants can be released from detention in case of collective return. In such a scenario, concerned embassies are invited to provide passes to their nationals while the International Organization for Migration (IOM) organizes repatriation in chartered air crafts. In addition, detained migrants are allowed to leave the centers in case they are hired by Libyan employers as described in the previous paragraph. Fourth, detainees can leave camps through corruption. Migrants can facilitate their release by paying large sums of money to camp managers, guards, and well-placed Libyan intermediaries. In the absence of the above four scenarios, migrant detainees may remain locked for years without redress. This is because migrants have no access to lawyers, Libyan justice mechanisms or organizations to champion for their rights (Cogolati, Verlinden, & Schmitt, 2015).

### **Conclusion and Recommendations**

To begin with, legal corridors to Europe should be established. These will provide safe means of movement for economic migrants and asylum seekers who would otherwise be forced to cross through Libya. EU delegations in third countries can become centers where migrants can apply for asylum or legal migration into Europe. To guarantee the safety of especially asylum seekers, migrants should be allowed to apply from a country other than theirs. Successful applicants should be resettled and spread among the 28 EU countries to reduce the pressure the Mediterranean countries, such as Italy and Malta where most migrants arrive and the central and northern countries, such as Germany and Sweden, where most migrants end up being resettled. This calls for a quota system whereby all the countries of the EU share the burden of immigration (Toaldo, 2015).

Secondly, immigration policies should take a multilateral approach. Currently, migration policy is piecemeal with individual countries left to fend for themselves. Libya and the EU will have to cooperate with a host of other countries and international organizations in order to effectively deal with human rights abuse against migrants in Libya. North-south diplomatic processes such as the Rabat and Khartoum processes that bring together the EU, the African Union (AU) and the countries of origin should be strengthened through the sharing of information, resources, best practices, and training. In addition, such initiatives should establish receptive centers in addition to boosting investigative capacity to combat criminal and illegal elements across the immigration routes in Africa. Most importantly, these initiatives should not become another approach by European powers to outsource a shared problem to their southern neighbors as has been the case in the past (Grange & Flynn, 2015).

It is also necessary to boost investigative capacities against criminal networks. Criminal networks managing human trafficking and smuggling in Libya often extend beyond its borders. In Libya and the Mediterranean, joint investigative teams can be established in collaboration with local strategic security plans. All teams investigating the same issues should be brought together in addition to being adequately resourced. Investigative capacity building measures enshrined in the Khartoum process should be taken seriously and implemented as a starting point. International security organizations can play a critical role in boosting investigative capacity. Specifically, they can help coordinate fact-finding missions, facilitating the transfer of sensitive information about criminal networks in operation and help bring a multilateral dimension to human trafficking in Eurasia and not just the Mediterranean routes (Darne & Benattia, 2017).

Finally, it is important that the international community, especially the EU, deals with migration not as a border security issue but as a foreign policy issue. This will enable the EU to allocate adequate resources to migration hence enabling the implementation of the above mentioned interventions. The best way to address the human catastrophe as a result of the migration through Libya is to stabilize the country. While the above mentioned recommendations serve to reduce the number of casualties and limit the illegal economy that is thriving in Libya as a result of migration, human flows through the country will not come to a halt. Should those who migrate to and through Libya find a war-torn and violence-prone country,

then they will definitely proceed to Europe via the Mediterranean. Tackling the illegal economy of human smuggling is a great start in stabilizing the country by reducing the power and control of organized crime and militias. Without the restoration of the rule of law in Libya, all the above mentioned recommendations will amount to fighting a losing war (Frouws & Akumu, 2017).

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