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Migration Policy Center

AYBÜ Göç Politikaları Uygulama ve Araştırma Merkezi
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Abstract

The article discusses the human rights violations including arbitrary detention, malnutrition, the lack of hygiene, torture, and sexual abuse in Libya detention centres, which host nearly 9,000 people, run by varying militias. EU measures in Libya have included sea operations and bilateral agreements, mainly aimed at achieving the objective of indirectly returning migrants to Libyan shores. Due to the political instability in the war-ravaged country, it is difficult, if not impossible, to find a reliable “partner” who respects international laws which all EU member states are party to. Thus, we emphasize the importance of the European countries avoiding the encouragement and legitimization of local militias through these agreements as this contributes to the vicious cycle of abuse in the country.

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1. LIBYA: A TRANSIT HUB

The influx of immigrants has exerted significant effect not only public opinion but also policy-makers at national and European Union (EU) level, making the issue as one of the top issues, if not the top of national and the EU agendas. Over one million migrants managed to reach the European shores via the Mediterranean and the Aegean Sea in 2015.³ Despite the significant decline in illegal migration following the recent EU bilateral agreements and shared operations at the sea, the European Union has yet to find a structural solution to this persistent crisis.

Why is it that Libya has for years been an attractive launching point for the migrant flows streaming into Europe? This can be attributed to several factors including Libya's close proximity to Italy, employment opportunities in terms of oil reserves during Muammar Gaddafi rule and his Pan-African vision and discourse. Although Libya was once the goal for some migrants, this is no longer the case post-Gaddafi due to the political instability. All eyes are set on Europe. The chaos in the country unfortunately proved beneficial to migrants and human smugglers who took advantage of the lack of border security.

Dimitris Avramopoulos, Commissioner for Migration, Interior Affairs and Citizenship of the European Union, said earlier this year that despite the passage of thousands of migrants, 300,000 more immigrants were still on the Libyan coast, waiting to reach Europe.⁴ Another source noted that over 400,000 migrants are currently stranded in Libya, while unofficial estimates reach a million.⁵ On the other hand, there are 43,113 refugees and asylum seekers who are registered with the UNHCR.⁶ The journey from the Libyan coasts to the shores of Italy's Lampedusa and Sicilian islands is a perilous one. Since 2014, over 10,000 asylum seekers have been lost at sea.

³ UNHCR. *Operational Portal Mediterranean Situation*. Last updated: 07.11.2017. <https://goo.gl/dmQcn5>

⁴ European Commission. *Migration: Record month for relocations from Italy and Greece*. (26.01.2017). <https://goo.gl/AZ3eSd>

⁵ InfoMigrants. *Libya detention centers in terrible condition: IOM*. (04.08.2017). <https://goo.gl/H1j7ck>

⁶ UNHCR Flash Update (27.09.2017). <https://goo.gl/FFfHvd>

With the existence of the human smugglers and militias in conflict-driven Libya, migrants have one of two choices: bribe the forces, or be sent to a detention center. In many accounts, immigrants stated that trapped in such a situation would rather die at sea than continue to be abused in these centers. The situation in Libya manifests itself at the intersection of human trafficking, racism, and a state of impunity. This article attempts to shed a light upon inhuman conditions and human right violations in the Libya detention centres.

In doing so, firstly the bilateral agreements as a new EU strategies to outsource the migration management will be examined. Then the terrific conditions in the Libyan detention centers in terms of arbitrary detention, malnutrition, torture, and sexual violations will be discussed. Finally, we will propose a list of policy recommendations aiming cap off the state of impunity from human right abuses.

2. BILATERAL AGREEMENTS: EUROPEAN VALUES ON TRIAL

The Readmission Agreement signed by the European Union with Turkey certainly marks a benchmark in European migration strategies.⁷ The number of transit migration through Turkey fell to 22,838, from 865,425 during the eight-month period before the agreement entered into force.⁸ This sharp decline in the arrivals from the Aegean Sea shifted attention towards stemming the flow from the central Mediterranean route, in particular from Libya. It was not that migrants had changed routes from the Aegean to the Mediterranean. In fact, a completely different group of migrants, mostly from Sub-Saharan Africa, make use of the Mediterranean route, while the Aegean route is used primarily by migrants from Syria and other Middle Eastern countries.⁹

On 25 January 2017, the High Representative/Vice-President Federica Mogherini introduced EU's new method of operating in Africa to reduce irregular migration across the Mediterranean. At a press conference she declared: "The real solution comes with the economic development of

⁷ Mehmet Enes Beşer. *Chronology of a Deal: EU-Turkey Readmission Plan*. Bosphorus Migration Studies. (26.01.2017). <https://goo.gl/aUGJ9a>

⁸ European Commission. *Joint action plan on the implementation of the EU-Turkey Statement*. (Dec 2016). <https://goo.gl/rFdUUT>

⁹ IOM. *Mediterranean Update*. 29.09.2017.

https://reliefweb.int/sites/reliefweb.int/files/resources/170929_Mediterranean_Update.pdf

Africa. We are implementing with five key countries [Senegal, Ethiopia, Niger, Nigeria, Mali], with the [European] External Investment Plan, with the Trust Funds and the Valetta Summit that we had last year with the African partners.”¹⁰ A new precautionary model involves working with key countries like Senegal, Ethiopia, Niger, Nigeria, and Mali. The External Investment Plan with the Trust Fund, EU aims to hamper massive migration flows “on-site”.

European measures to date have been aimed at managing the flow of migrants from transit countries, rather than countries of origin or closer to home in Europe. Italy has signed a series of agreements with the UN-backed Government of National Accord (GNA) in Tripoli aimed at preventing the passage of migrants to Italy. Measures implemented include training the Libyan coast guard and dispatching patrol boats.¹¹

The consequences of the unsettled claim for legitimacy are observed also in the Memorandum of Understanding¹² between Italy and the Government of National Accord /GNA. The main objective was to train Libyan forces and officials to take an active role in combating illegal immigration at sea. The Libyan Court ruled that this agreement was ultra vires as the GNA did not have the constitutional authority to sign the agreement, only to overturn this ruling earlier this month. But deals have nevertheless been made with the Libyan coast guard, a title which is often misleading. A look at the Libyan political scene is enough to indicate that in the midst of the power struggle of three governments and dozens of militias, the self-proclaimed ‘coast guards’ are simply a group of militias.¹³

The agreements highlight the myopic attitude of Italian policy-makers. This short-term decrease in influx to Italy led to the natural consequence of the deterioration of the already dire situation of migrants in Libya. This is reflected in the detention centers where migrants are left to the

¹⁰ European External Action Service. *Remarks by Federica Mogherini at the press conference...* (25.01.2017). <https://goo.gl/VkpnME>

¹¹ Crispian Balmers, *Italy begins naval mission to help Libya curb migration flows*, Reuters, (02.08.2017). <https://goo.gl/VdfqHh>

¹² Odysseus Network. *The Italy-Libya Memorandum of Understanding: English version.* (Oct 2017). <https://goo.gl/JZ6D7C>

¹³ See. Mehmet Enes Beşer. *Well-Groomed Pirates: Libyan Coastguard's Criminal Record.* Bosphorus Migration Studies. (28.09.2017). <https://goo.gl/rN5SCY>

whims of the militias.¹⁴ Not to mention the recent phenomenon of open slave markets.¹⁵ Measures adopted to ensure the confinement of migrants in Libya mark a departure from European values.¹⁶

“Many of the refugees and migrants living in the country are desperate to escape because they are subject to all forms of abuse and exploitation.” a senior policy adviser, Jeff Crisp argued: “Unfortunately, the EU has become obsessed with preventing the departure of these vulnerable people and is supporting the efforts of the Libyan coast guard to intercept and detain those who attempt to leave by boat.”¹⁷ Considering that Libya doesn’t have a rule of law nor an institutional capacity to process international protection claims, outsourcing migration as a way to curb the migration flows is “highly problematic.”¹⁸

3. DETENTION CENTERS

The migrant journey to Europe is fraught with danger. One of the most petrifying stages is passing through Libya. Once in the hands of the human smugglers and militias in Libya, lacking a rule of law, migrants have one of two choices: bribe the forces, or be sent to a detention center. Many immigrants trapped in such a situation said they would rather die at sea than continue to be abused in these centers. The situation in Libya manifests itself at the intersection of human trafficking, racism, and a state of impunity.

The term detention refers to “the deprivation of liberty or confinement in a closed place which an asylum-seeker is not permitted to leave at will, including, though not limited to, prisons or purpose-built detention, closed reception or holding centres or facilities.” While the place of detention would be run either by public authorities or private contractors; the confinement may

¹⁴ Global Detention Project. *Immigration Detention in Libya*. (Feb 2015). <https://goo.gl/5PMZti>

¹⁵ Guardian. *Migrants from West Africa being ‘sold in Libyan slave markets’*. (10.04.2017). <https://goo.gl/2WP4Jh>

¹⁶ Mehmet Enes Beşer. *European Values on Trial: BMS’ Stance on the EU-Libya Deal*. (07.02.2017). <https://goo.gl/cPQx66>

¹⁷ Bosphorus Migration Studies. *Jeff Crisp: Don’t Expect to See Any Immediate Solution in Libya*. (11.10.2017). <https://goo.gl/otavDy>

¹⁸ Bosphorus Migration Studies. *Stringent Italian Efforts on the Mediterranean: Interview with Anja Palm*. (03.11.2017). <https://goo.gl/Xc1wm9>

be authorised by an administrative or judicial procedure, or the person may have been confined with or without a legitimate authority. Whatever the name of the place of detention, the decisive point is whether people are being deprived of their liberty and whether this deprivation meets the standards of international law.¹⁹

Currently, there are a total of 31 to 34 detention centers in Libya²⁰, 24 of which are run by the Department of Combating Illegal Migration (DCIM). The DCIM is under the control of the Minister of Interior, appointed by the UN-backed Government of National Accord (GNA).²¹ Apart from them, there are many more centers run by local militias. Even in Tripoli, there are 13 illegal centers run by the paramilitary groups.²²

Conditions in the detention centers are “severely overcrowded, without adequate access to toilets or washing facilities, food, or clean water,” For the UN officials, “some hospitals have refused to treat migrants, citing a lack of payment and fear of infectious diseases.”²³

In 2016, the UN Support Mission in Libya (UNSMIL) recorded the total number of detainees as between 4,000 to 7,000, with numbers varying significantly from one center to the next. As of September 2017, the number has increased to 9,000.²⁴ Problems such as the political doubleheader in the country, inter-tribal rivalry at the local level and well-organized groups of armed militants taking advantage of the political vacuum have been the main factors that have

¹⁹ UNHCR. *Detention Guidelines*. (2002). <https://goo.gl/WfvcJy>

²⁰ The list of detention centers in Libya: Al Qatrun, Qaser Bin Gashir, Al Khaled Furjan, Tarik al Shook, Al Serraj, Tajura, Al Zintan, Zuwarah, Anjila, Al Marj, Tobruk, Al Qubah, Shahhat, Al Bayda 1, Al Bayda 2, Qaminis, Al Abyar, Benghazi Al Qufiyah, Benghazi Al Wafiyah.

The centers where UNHCR and its partners have activities: Sabha Tariq al Matir, Salah Aldin, Abu Salim, Triq al Seka, Hamza (Tariq Al Matar), Al-Fallah, Misratah, Zlitan, Ghayran Al Hamra, Al Khums, Zawiyah Al Nasr, Surman 1, Surman 2, Tocra, Kufra.

See. XChange. *Libyan Detention Centers: A Legal Analysis*. <https://goo.gl/kzcTWp>

²¹ Amnesty International. *Libya 2016/2017*. <https://goo.gl/FMnGNf>

²² Based on the narratives of an Interior Ministry’s official: “*They are holding a pile of cash, because they blackmail migrants and ask their families for ransom money (...) We have no money to even buy food, so we must close the centres, because we cannot cope.*” See. UNICEF Blog. *Trapped: Inside Libya’s detention centres*. (22.02.2017). <https://goo.gl/FUyWAH>

²³ OHCHR. “*Detained and Dehumanized*”: *Report on Human Rights Abuses Against Migrants in Libya*. (13.12.2016). <https://goo.gl/zUnXXc>

²⁴ “*UNHCR estimates that 6,000 refugees and migrants from some 33 countries are detained at any given time in Libya, other 3,000 individuals in unofficial detention centres.*” see. UNHCR Flash Update (27.09.2017). <https://goo.gl/FFfHvd>

made it difficult to control and conduct these detention centers in the past years.²⁵ The detention centers are almost all unfit. The Garabuli detention center, for example, has the capacity to hold approximately 200 people. However, it currently hosts nearly 500 migrants.

The conditions of the detention centers are generally inhumane. That applies both to those controlled by the DCIM and those under the control of militias. Living conditions have become especially unbearable for African migrants, as testimonies collected by Amnesty International show.²⁶ Widespread racism accompanies endemic violations and abuses against sub-Saharan Africans who are routinely exploited for labor, kidnapped and held for ransom, or bought and sold.

On 21st May, The UN High Commissioner for Refugees, Filippo Grandi had a trip to Tripoli, and visited detention centers. Seeing the harsh conditions, he stated that he is shocked by the conditions and called on Libyan authorities to release these refugees and asylum seekers: “I was shocked at the harsh conditions in which refugees and migrants are held, generally due to lack of resources. Children, women, and men who have suffered so much already should not have to endure such hardship,” said the High Commissioner.²⁷ Another UN officer, Zeid Ra’ad Al Hussein, the UN High Commissioner for Human Rights described the circumstances simply as “horrific”: This is, quite simply, a human rights crisis affecting tens of thousands of people,”

The UN agencies have repeatedly highlighted appalling conditions in the centers. “Detention conditions are inadequate, often characterized by chronic overcrowding, poor sanitation, and health care, and insufficient food,” UNHCR said in a February 2016 report. “Violence is endemic.”²⁸

²⁵ Newsweek. *ISIS Takes Control of Libya’s Sabratha and Beheads 12 Before Retreating*. 24.02.2016. <https://goo.gl/YGxBPh>

²⁶ Amnesty International. *Europe: A Perfect Storm: The Failure of European Policies in the Central Mediterranean*. (06.07.2017). <https://goo.gl/fx9Pb8>

²⁷ Bosphorus Migration Studies. *High Commissioner Grandi: “I was shocked”*. 12.06.2017. <https://goo.gl/A4xZk7>

²⁸ OHCHR. *Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya: detailed findings*. (15.02.2016). <https://goo.gl/Hyo7Xz>

3.1. Arbitrary Detention

In the legal system of Libya, the illegal migrants are defined as foreigners residing in Libya who did not legalize their stay in the country. The law enshrined in 2010, Combating Irregular Migration, includes extremely severe sanctions including forced labor in jail and a fine of 1000 Libyan dinars.²⁹

Nonetheless, arbitrary detention, without the legitimate procedures, is prohibited by international human rights law. Article 9(1) of the International Covenant on Civil and Political Rights, to which Libya is a state party, states that “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”³⁰ Detention is to only be implemented as an exceptional measure with a legitimate basis. Without such a purpose, detention will be considered arbitrary, even if entry was illegal.

The formulation of the “illegal migrant” in Libya’s national law is not adequate for justification of the detention practices. Instead, this justification would need to be based on an individual assessment of the migrant or asylum seeker.³¹ Nonetheless, the UN report unveils that people are brought to the detention centres without any formal registration, legal process, and access to lawyers.³²

Under international human rights law, the detention of migrants solely for reasons related to their immigration status should never be mandatory or automatic. Migrants have a right to security

²⁹ Global Detention Project. *Libya Immigration Detention Profile*. Updated in Feb 2015. <https://goo.gl/Nftjck>

³⁰ OHCHR. *International Covenant on Civil and Political Rights: Art. 9(1)*. Entry into force: 23.03.1976. <https://goo.gl/rxphsQ>

³¹ “The justification of being an ‘illegal migrant’ is unaccepted in international law (...) Many migrants are brought through interception at sea, or arbitrarily arrested in public spaces without questioning. The only justification that can be found for arresting is because they are ‘illegal’ “. XChange. *Libyan Detention Centers: A Legal Analysis*. <https://goo.gl/kzcTWp>

³² OHCHR. “*Detained and Dehumanized*”: *Report on Human Rights Abuses Against Migrants in Libya*. (13.12.2016). <https://goo.gl/zUnXXc>

and liberty of person. As the United Nations Committee on Migrant Workers, General Comment No. 2, para. 24, states: “crossing the border of a country in an unauthorized manner or without proper documentation or overstaying a permit of stay does not constitute a crime.”³³ However, migrants continue to be treated as “criminals” by armed forces in Libya.

The very existence of such centers is a violation of international human rights law, which prohibits the arbitrary detention of individuals. The range of due process guarantees includes the right to be informed of the arrest, limited detention without charge, access to legal representation and the right of a person to defend and challenge the case against him. All of the former detainees interviewed by Human Rights Watch said no one took them before a judge or allowed them to challenge their detention.³⁴ Taking these accounts into consideration, the detention of migrants in Libya would be classified as arbitrary.

3.2. Malnutrition and Hygiene

According to the UN report, approximately fifty percent of the detainees were found to be suffering from malnutrition in some centers, with ten percent of male adult detainees suffering acute malnutrition. Information received by the UN agencies, the average number of calories provided to migrants on daily basis recently in detention centers in Tripoli is 35 percent of the quantity actually required for an adult male. Interlocutors in the report described the water they can access as “salty, dirty, and undrinkable.”³⁵ This has to lead to the deterioration of health and for some lead to death as observed on 29 November 2016, where the bodies of 28 migrants who appeared to have died from malnutrition were buried in the city of Bani Walid. “The detention centers do not meet the basic conditions” said Othman Belbeisi, head of the International Organization for Migration / IOM Libya office. “I would say that many times, in some of the centers, even food is not available for all migrants.”³⁶

³³ The UN. *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: General comment no.2*. (28.08.2013). <https://goo.gl/g6AGyw>

³⁴ Human Rights Watch. *EU/NATO: Europe’s Plan Endangers Foreigners in Libya*. (06.07.2016). <https://goo.gl/viDNPU>

³⁵ OHCHR. p.15

³⁶ The Washington Post. *A European deal with Libya could leave migrants facing beatings, rape and slavery*. (25.04.2017). <https://goo.gl/tnd3pE>

On August, a group of EU diplomats prepared a report, later drafted by the EU officials. Following their visit Tarek al-Sika center located in Tripoli, they shared their observations as such: “ (immigrants are) held captive at the center for several months, some for more than a year.” The report underlined the terrifying conditions: “the conditions are in line with expectations - poor sanitary conditions, insufficient space and hygiene,”.³⁷

The Final Report of the Panel of Experts on Libya established pursuant to UN Security Council resolution 1973 (2011) states that the abuses in detention centers are well documented and include deprivation of food and water, lack of access to sanitation, beatings, forced labor, rapes, and other forms of sexual violence.³⁸ Reports have shown that because of overcrowding there is an insufficient amount of toilets for the number of migrants detained. In some facilities, two or three toilets are shared amongst 400-500 migrants.³⁹

Last month, Doctors Without Borders called for immediate actions against inhumane conditions that severely threaten people’s health. The NGO put stress on the common diseases in the detention centers: respiratory tract infections, acute watery diarrhea, scabies, lice, and urinary tract infections.⁴⁰

These practices are not up to par with international detention norms. The detention conditions fall far below the requirements of dignified treatment under international law.

3.3. Torture

Libya is a state signatory to the Convention Against Torture and other degrading treatment (CAT). Yet, Libya has failed to uphold their obligations under CAT. In their February 2016

³⁷ Politico. *Refugees Held in Libya face inhumane conditions: EU diplomats.* (05.08.2017). <https://goo.gl/vLUTVN>

³⁸ Reliefweb. *Final Report of the Panel of Experts on Libya established pursuant to resolution 1973.* (01.06.2017). <https://goo.gl/cbZhuZ>

³⁹ MHub. *Detained Youth: The Fate of Young Migrants, Asylum Seekers and Refugees in Libya Today.* (July 2015). <https://goo.gl/4T5CvL> a

⁴⁰ Doctors Without Borders. *Libya Must End Arbitrary Detention of Refugees, Asylum-Seekers, and Migrants.* (01.09.2017). <https://goo.gl/Ebjs98>

report, UNHCR stated that in Libyan detention centers “violence is endemic”, and detention centers are ruled with an iron fist. A June 2016 Amnesty International report documented torture and other ill-treatment at immigration detention centers.⁴¹ Former detainees interviewed said guards would “beat them on a daily basis using wooden sticks, hoses, electric cables, and rifles as well as subjecting them to electric shocks.” Rape and sexual abuse are prolific; children are also detained, and vulnerable to a plethora of abuse. Many of the migrants interviewed in Italy bore signs of serious injuries. They explained that the injuries had been caused by guards in DCIM detention centers, employers, and those in charge of “connection houses,” beating them with items such as sticks, rocks, and metal bars.⁴²

Migrants reported inhumane degrading treatment through severe physical abuses including beating, whipping, and electric shock. Threats of violence are also commonly found. In one center visited by Human Rights Watch, 5 detainees said that “guards suspended them upside down from a tree and then whipped them”.⁴³ Another frequently reported practice is forcing detainees to call relatives to obtain ransom, in order to secure their release. During the call, the migrants may be tortured to compel their families to transfer the money.⁴⁴ “Some migrants die of thirst, hunger or easily-cured illnesses, some are tortured or beaten to death while working as slave labour, others are just casually murdered,” UN human rights chief Zeid Ra'ad Al Hussein said.⁴⁵

3.4. Rape and Sexual Abuse

Survivors and eyewitnesses have described to UNSMIL staff how migrant women and girls have been raped and otherwise sexually abused during their transit through Libya. Survivors have been threatened with guns and knives and beaten when they resisted. They described their rapists as extremely violent. The “snapshot” survey of 122 women and child migrants also found a

⁴¹ Amnesty International. *EU risks fuelling horrific abuse of refugees and migrants in Libya*. (14.06.2016). <https://goo.gl/SLFEGT>

⁴² OHCHR. “*Detained and Dehumanized*”: *Report on Human Rights Abuses Against Migrants in Libya*. (13.12.2016). <https://goo.gl/zUnXXc>

⁴³ HRW. *Libya: End ‘Horrible’ Abuse of Detained Migrants*. (14.12.2016). <https://goo.gl/EMLrVn>

⁴⁴ Global Detention Project. *Libya Immigration Detention Profile*. Updated in Feb 2015. <https://goo.gl/Nftjck>

⁴⁵ SBS. *EU ‘turning blind eye’ to migrant abuses in Libya: UN*. (08.09.2017). <https://goo.gl/Rzhwda>

growing number of teenage girls forced by smugglers to have Depo-Provera contraceptive jabs, so they could be raped without becoming pregnant.

Rape is used as a method of ‘punishment’ for disobedience. Some reported being raped in private while a few have been subjected to rape and sexual abuse in front of the other detainees. Rape and sexual abuse in Libyan detention centers are not limited to women. A migrant who spoke to Oxfam recounted almost dying from the beatings he received while trying to resist rape in an underground prison, adding that traffickers “regularly rape men”.⁴⁶ There have also been reports of prisoners, including migrants, being forced to rape each other. Filming is also used as blackmail.⁴⁷ It is quite possible that sexual abuse of migrant men in Libya is being underreported, due to the strong cultural taboos.

In its report, Oxfam warns against the refoulement of migrants to Libya, due to the rising rate of sexual abuse. A psychologist working at the Mineo asylum reception center in Sicily said she and her colleagues have noticed an “exponential increase” in reports of sexual violence over the last year, “It’s impossible nowadays to get through Libya without being jailed or abused.”⁴⁸

4. CONCLUSIONS

The migration crisis has been at the top of European agenda for many years. In order to ensure internal security, European institutions have taken measures including outsourcing migration control and preventive measures.

First and foremost, migration is not a crisis but a natural phenomenon that has occurred in every era of human history, and should be viewed as a force of positive change rather than a threat to nationalist objectives. Every person has the right to seek and to enjoy in other countries asylum from persecution.⁴⁹ Seeking asylum should not be considered an unlawful act. As the benchmark of the international refugee law, the 1951 Convention underlines that asylum-seekers shall not be

⁴⁶ OXFAM. *Media Briefing: You Aren’t Human Anymore*. (09.08.2017). <https://goo.gl/dc5Jth>

⁴⁷ Guardian. *Revealed: male rape used systematically in Libya as instrument of war*. (03.11.2017). <https://goo.gl/e43Y8C>

⁴⁸ HRW. *EU/NATO: Europe’s Plan Endangers Foreigners in Libya*. (06.07.2016). <https://goo.gl/viDNPU>

⁴⁹ UDHR. *Article 14, Universal Declaration of Human Rights*. (1948). <https://goo.gl/oKRvJn>

penalised for their illegal entry or stay, provided they present themselves to the authorities without delay and show good cause for their illegal entry or presence.⁵⁰

Regardless of whatever future measures the EU might adopt, thousands of people will continue to risk their lives so as to reach the Italian, Spanish, or Greek shores to pursue a better life. Neither Europe nor the rest of the world can turn a blind eye to the humanitarian crisis that is being institutionalized and normalized in Libya. At this very moment the country and its reception centres have become a hub for ever-increasing human rights violations in an environment where security is lost, terrorism and anarchy prevail, and even the slave trade is revived.

As long as the refugee crisis is politicized and the immigrant dehumanized, we will continue to see band-aid policies enforced. Temporary measures to mitigate the flow only make the situation more dire. A shift to desecuritization and humanitarianization of the refugee crisis through the cooperation of non-state humanitarian actors and governments is desperately needed.

5. POLICY RECOMMENDATIONS

Migrants are Human-beings, not Numbers

- The stigmatized perception of immigrants, as figures and a threat to the norm, must be replaced with a model of the immigrant as a human, with dignity, hopes, and aspirations, as well as a paradigm for change and national development.
- Asylum seekers should be treated with respect in accordance with international law throughout the entire asylum process. They should also be informed about their rights and duties.

More Effective Monitoring

- The European Union and the United Nations should play a more effective role to ensure adequate security in detention centers and to carry out the registration of migrants. Thus,

⁵⁰ “*The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.*” see. Article 31, 1951 Geneva Convention. <https://goo.gl/Ggq2rm>

they should seek ways to create an environment in which they can offer the respect of basic human basic rights and protection against torture, ill-treatment, rape, malnutrition and arbitrary detention.

- In doing so, the IOM and UNHCR should be given access to all centers⁵¹, and in the process, civil society in Libya should be strengthened as much as possible. It would be one of the most effective measures in this conflict-ridden country.

Detention should not prevent asylum appeals

- The right of the detainees to make application for asylum should not be prevented. Detention centers should not be considered as jails with the aim of discouraging people from seeking asylum in Europe.

To Empower the Civil Society

- The UNHCR and international organizations should cooperate with the civil society in Libya to develop a bottom-up approach. By working with young actors, a sustainable solution is more likely to be reached.
- This would prove especially useful in educating individuals in regards to alternative safer and legal means of migration. In addition to working towards combatting racism in the country, which would play a role in mitigating the hardships experienced by migrants which often stem from racist attitudes towards nationals of other African countries.

To Enhance Legal Ways of Migration

- In order for the returns to the detention and reception centres to be compliant with international refugee and human rights law, migrants need to have their rights respected and the asylum seekers must have access to a fully-fledged asylum procedure which must include: resettlement to Europe or elsewhere, protection from non-refoulement and the granting of temporary protection in suitable facilities in Libya.
- At the moment any return to Libya at the hands of the Libyan Coast Guard alone or in cooperation with the Italian authorities is in violation of various international norms.

⁵¹ UNHCR and its partners have conducted 730 visits to 30 official detention centres so that since 2016, 1,207 refugees and asylum-seekers were released from detention following UNHCR's intervention, of whom 629 were released in 2017 alone. See. *UNHCR steps up efforts towards alternatives to detention in Libya and solutions for vulnerable refugees*. (12.09.2017). <https://goo.gl/f7fUDe> - *UNHCR Flash Update* (28.09.2017). <https://goo.gl/Mf1drf>

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