

Libya Detention Profile

(Libyan Arab Jamahiriya)

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An important transit country for migrants en route to Europe as well as a destination for many African migrants, Libya has an estimated undocumented population of more than one million (UNHCR 2009). Under pressure from the European Union, Libya has tightened its immigration laws and border controls, and expanded its immigration detention infrastructure. Human rights groups and international organizations have staunchly criticised the country for its deplorable detention conditions, widespread corruption, and flourishing migrant smuggling rings. Scores of undocumented migrants die yearly during perilous journeys to and from the country, in the Sahara desert and in the Mediterranean. European countries have also attracted criticism for negotiating with Libya—which is not a party to the [Refugee Convention](#)—a deal to provide tens of millions of euros to house and process asylum seekers expelled from or intercepted en route to Europe (HRW 2009, p. 32).

Detention Policy

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Principle norms and policies. Immigration policies are jointly managed by the Ministry of Foreign Affairs, the Ministry of Interior (MOI), the Ministry of Justice, and the Ministry of Defence, with the MOI serving as the overall coordinator. The police carry out immigration controls, with support from the army, the air force, and the navy. Since 2007, the navy has provided backup assistance to the Coastguard Department, which is responsible for Maritime border management and surveillance. The MOI's departments of Anti-Infiltration and Illegal Immigration “investigate” and “process” undocumented migrants (Frontex 2007, p.8-9).

The 1987 law *Regulating Entry Residence and Exit of Foreign Nations to/from Libya* provides visa and travel document requirements for all non-citizens entering Libya. As of 2004, all nationals from Arab states—as well as from the Sudan, Ethiopia, and Eritrea—were allowed to enter Libya without a visa, excluding Iraqis and Palestinians. All other non-citizens had to obtain a valid visa through the General Directorate of Passports and Nationality, as specified in Law No. 4/1985 (European Commission 2004, p. 11).

Articles 17 and 18 of the 1987 law establish grounds for the deportation and detention of non-citizens who have entered the country without a valid visa; overstayed their residence permit; had their visa revoked; and/or been sentenced by a court (*Regulating Entry Residence and Exit of Foreign Nations to/from Libya*, Art. 17). Article 18 states that “a foreigner who is to be deported can be asked to report to authorities or be imprisoned, till his departure.” Non-citizens who attempt to re-enter the country after they have been deported must obtain authorization from the General Director of Immigration. Immigration-related infractions that carry penalties, such as fines and/or imprisonment, include: providing false information; entering the country or residing in it illegally; violating the conditions/regulations of a visa and/or overstaying residence visa; remaining in the country after having been ordered to leave; or employing a foreigner without a valid residence permit. According to Article 21, “specified employees within the immigration authority are authorized to execute this law.”

The European Commission, during a 2004 mission to Libya, was unable to acquire information from Libyan authorities on procedures and criteria for the detention of non-citizens. A number of interviews conducted with irregular immigrants,

however, revealed that detainees were arrested at random and issued with deportation orders based on decisions made for groups of nationalities, rather than individual cases (European Commission 2004). According to the U.S. Committee for Refugees and Immigrants' 2008 *World Refugee Survey*, the government of Libya does not formally charge irregular immigrants upon arrest, and non-citizens can remain in detention indefinitely, with no access to a lawyer and no opportunity to challenge their detention in a court, with the exception of those intercepted attempting to cross the Mediterranean (USCRI 2008).

In 2004, the government passed Law No. 2/2004, amending the 1987 immigration regulations and introducing harsher penalties, heavy fines, and up to 20 years imprisonment for crossing a border without travel documents, a crime aggravated if committed by an organised criminal network (Coluccello & Massey 2007, p.82). A new administrative department was established to manage immigration and naturalisation issues, and a media campaign was launched warning people smugglers of the penalties associated with facilitating unauthorized immigration (European Commission 2004, p.12). Stricter boat licensing and monitoring of maritime activity in Tunisian waters were also implemented under this law, using surveillance equipment provided by Italian authorities (Coluccello & Massey 2007, p.82). Criteria for acquiring work permits for non-citizens also reportedly became more rigorous under this law (USCRI 2008).

In February 2007, a one-month amnesty was granted to the estimated 1.5 million irregular migrants working in the country, allowing them to return to their home countries in order to apply for a legitimate work permit, prior to the enforcement of stricter Ministry of Labour and Trading procedures (Frontex 2007, p.9).

Libya is not a signatory state to the 1951 Refugee Convention, or its 1967 protocol. According to Frontex, Libya has refused to sign the convention because of its "unrealistic one size fits all" approach. Libyan authorities told Frontex in 2007 that it was in the process of drafting a refugee law (Frontex 2007, p. 10). According to the USCRI, Libya is party to the 1969 [Convention governing the Specific Aspects of Refugee Problems in Africa](#), and has endorsed the 1965 Protocol for the Treatment of Palestinians in Arab States, with reservations regarding the guarantee of the right to work. The country's constitutional law prohibits the extradition of "political refugees" (USCRI 2008).

Libya and Italy. As part of the 2008 [Italy and Libya "Friendship Pact"](#)—the Treaty of Friendship, Partnership and Cooperation between the Italian Republic and Great Socialist People's Libyan Arab Jamahiriya—Italy agreed to provide Libya \$5 billion in infrastructure projects over 25 years to compensate for abuses committed during its rule over the country. It calls for "intensifying cooperation in fighting terrorism, organized crime, drug trafficking and illegal immigration," and includes an agreement to strengthen Libyan border controls, 50 percent of which is to be funded by Italy, and 50 percent by the EU (HRW 2006a, p.117).

Apart from this pact, there is no formal agreement between the two countries for the return of migrants entering Italy illegally from Libya (HRW 2006a, p. 117; Government of Italy 2007). Instead, Italy has supported Libya's immigration control efforts through verbal agreements and the provision of "a program of technical assistance to the Libyan Authorities," including in "a) Professional training; b) Assistance for the repatriation of illegal migrants to Third countries; c) Supply of goods and services; d) Setting up of reception centres for illegal migrants; e) Operational and investigative cooperation" (Government of Italy 2007, p. 16).

Human rights organisations and media reports have alleged that Italy provides significant funding to Libya for the construction of immigration detention facilities (Brothers 2007), and that "once the Italian government has expelled foreigners back to Libya, it also pays for charter flights for Libya to send the people home," including some fifty charter flights that transported 5,668 people between August 2003 and December 2004 (HRW 2006a, p. 112).

In May 2009, Libya and Italy launched joint naval patrols in Libyan territorial waters for an initial period of three years. Observers have argued that this controversial practice of "push-backs" (*respingimento*)—forcibly redirecting boats at sea en route to Italy back to Libya—aggravates a growing humanitarian crisis in the Mediterranean (UN News Service 2009c). For its part, Italy has defended the push-backs, claiming that when the identities of migrants are clear and transportation is readily available, there is no need to impose administrative detention, and the police can immediately escort a migrant to the border without judicial validation (Government of Italy 2007, n. xvi). Some observers point to these joint naval patrols as having led to decreasing numbers of migrants and asylum seekers attempting to reach Sicily and Sardinia during the first six months of 2009 (HRW 2009, p. 24).

The EU and Frontex. Since 2004, the Council of the European Union has engaged Libya on the subject of immigration, providing assistance through training and monitoring equipment designed to strengthen its maritime borders and encourage coordinated sea control operations (HRW 2009, p. 31). The EU is currently negotiating a package worth tens of millions of

euros with Libya (HRW 2009, p. 32; EU Business 2009a). According to HRW, the EU has proposed funding for the construction of accommodation centres for asylum seekers (€20 million) and for migration management projects on Libya's southern border (€60 million). As of late 2009, an agreement had yet to be reached because Muammar Al-Gaddafi reportedly refuses to sign a commitment involving less than €300 million (HRW 2009, p.32-34; EU Business 2009).

The proposed deal has fuelled criticism that the EU is trying to “outsource” Europe's treatment of asylum seekers by paying external countries to assess, process, and house asylum seekers. Consensus on the issue has not yet been reached within the EU, and the debate includes the consideration of UNHCR involvement in the processing of asylum seekers in Northern African countries (HRW 2009, p. 34-36). In addition, UNCHR has warned against enlisting Libya to host people seeking asylum in Europe, citing the countries “appalling” detention conditions and the likelihood that people in need of protection will be sent back to their countries of origin (EU Business News 2009b).

In October 2005, a year after the EU conducted its first technical mission to Libya, Frontex—the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union—became operational. Its aim is to coordinate joint EU member state operations to intercept irregular boat migrants crossing the Mediterranean from Africa to Europe (Frontex 2007, p.6). While the program has been lauded by HRW for significantly reducing boat arrivals reaching the Spanish Canary Islands (HRW 2009, p.40), observers claim that there has been an increase in boats arriving to Italy. Since 2008, Frontex has focused more specifically on the Libya-Italy route through “Operation Nautilus” (HRW 2009, p. 37).

In October 2009, the leaders at the EU Summit in Brussels agreed to study the possibility of having Frontex finance chartered flights to return irregular migrants back to their home countries. According to news reports, “The idea of charter flights came originally from the French, with support from Italy, one of Europe's frontline countries where illegal immigrants land after perilous journeys from Africa and the Middle East” (AFP 2009). The proposed measures also included “Working with Libya to manage migration, including by sea” (Europolitics 2009).

UNHCR, IOM, and NGOs. While there is no official Memorandum of Understanding between UNHCR and Libya, the country permits UNHCR to conduct Refugee Status Determinations (RSDs) within its territory and to issue asylum seekers with letters of attestation, which are not always recognised by Libyan authorities (HRW 2006b; USCRI 2008). Through an office located in Tripoli, UNHCR “provides living allowances, housing, medical assistance, education and legal support as well as counselling, vocational training, apprenticeships and micro-credits to the most needy among some 10,000 urban refugees and asylum-seekers” (UNHCR, “Libyan Arab Jamahiriya”).

In early 2007, the Tripoli based NGO—Libya's International Organisation for Peace Care and Relief (IOPCR)—agreed to work in partnership with UNHCR to provide protection for refugees in Northern Africa, particularly to ensure that refugees are not caught in Libyan border controls and returned to countries where their lives and freedom are at risk. This includes the training and provision of clear instructions for border guards and immigration officials (UNHCR 2007).

In July 2008, an agreement was signed by UNHCR, IOPCR, the International Centre for Migration Policy Development, and the Italian Council for Refugees to protect the rights of asylum seekers and refugees in Libya, particularly those held in detention (UNHCR website; USCRI 2008). Since then, more than 630 refugees and asylum-seekers have been released. The IOPCR has also helped UNHCR obtain permission to open offices in Libya, and in October 2009 UNHCR was granted access to an additional seven detention centres, raising their total access to 15 centres across the country (UNHCR 2009), where many organisations have been denied access (USCRI 2008).

The IOM Transit and Irregular Migration Management in Libya (TRIM) project provides assistance for Sub-Saharan African and Southern Asians to return to their home countries voluntarily. Two additional IOM projects—Across Sahara II and Enhancing Trafficking in Humans Judicial Capacities—work to regulate migration through border control capacity building exercises with border police and train judges and prosecutors about the conventions and protocols related to human trafficking (IOM 2009a).

Detention Infrastructure

Reports by non-governmental groups from 2007 and 2009 identify 27 distinct immigration detention facilities in Libya. These reports, produced by Human Rights Watch (2009) and Fortress Europe (2007 and 2009), are based on information obtained from interviews with former detainees. While there is significant overlap in the data provided in these reports, there are also some discrepancies in the overall number of sites. The total

number of sites identified in the two 2009 reports is 20 (HRW 2009; Fortress Europe 2009). In addition, UNHCR reports that they have been given access to 15 centres, though it does not give specific information about which sites or whether there are additional facilities to which it has not been given access (UNHCR 2009). In contrast, a senior Libyan passport official told reporters in November 2009 that Libya had at that time 12 detention centres holding no more than 2,000 people (AFP 2009).

The 2009 HRW report identifies a total of 16 dedicated immigration detention facilities, including at Misratah, Zlitan, Az-Zawiyah, Garabulli, Surman, Towisha, Zuwarah, Kufra, Ganfuda (Benghazi), Al-Qatrun, Ajdabiya, Sirte, Sabratah, Bani Walid, Jawazat, and Bin Gashir (HRW 2009, p. 75). The 2009 Fortress Europe report, which focuses on detention sites in the south of the country, identifies at least four additional detention “camps” in the southwest of the country: three located in Shati, Ghat, and Birak, which act as holding centres for migrants arrested at the border with Algeria and Niger; and another in Sabha, which is a larger facility to which people detained in Shati, Ghat, and Birak are eventually sent (Fortress Europe 2009).

In an earlier report in 2007, Fortress Europe identified an additional seven immigration detention facilities—in Gharyan, Ghudamis, aj-Jmayl, Khums, Marj, and Janzur and Fellah in Tripoli—that are not mentioned in either of the 2009 reports (Fortress Europe 2007).

As of November 2009, the Global Detention Project has been unable to find additional sources of information confirming the existence of most of the facilities identified in these NGO reports. In its 2004 report, the European Commission identified facilities in Tripoli (Fatah), Misratah, and Surman (European Commission 2004). Frontex mentions the centre at Kufra in its 2007 report (Frontex 2007).

During its 2004 mission to Libya, the European Commission reported that the country had both short-term and long-term immigration detention facilities (European Commission 2004). However, the Global Detention Project has not been able to verify which facilities in Libya are short- or long-term, or whether there is a specified length of detention in law. However, Fortress Europe’s description of the Shati, Qatrun, Ghat, and Birak facilities, which are used to hold migrants caught at the southwest border prior to their transfer to the detention facility in Sabha, appears to confirm that some facilities are used for shorter periods of confinement (Fortress Europe 2009).

There have been numerous reports of migrants being held for years at a time (HRW 2009; Asinitas Onlus; Fortress Europe 2007).

Detention conditions. In 2005, the former director of the Italian secret service, Prefect Mario Mori, told the Italian Parliament that “undocumented migrants in Libya are caught like dogs” and placed in overcrowded facilities that are so degraded in condition that “policemen must wear a dust mask on the mouth because of the nauseating odours” (Fortress Europe 2009). Many observers agree that detention conditions in Libya are abhorrent, including Human Rights Watch, which provides a detailed overview of detention conditions in its 2009 report *Pushed Back, Pushed Around: Italy’s Forced Return of Boat Migrants and Asylum Seekers, Libya’s Mistreatment of Migrants and Asylum Seekers*.

Access to the facilities has been frequently denied to organizations, however both NGOs and international organisations have gained increased access to some of the centres, including the Organization for Human Rights, a Libyan NGO funded by the Foundation of Saif al Islam Qaddafi (Fortress Europe 2009); IOPCR; and the UNHCR (UNHCR 2009).

Among the facilities that have been frequently criticized are the ones in Kufra and Sabha.

Kufra. The official immigration detention centre in Kufra—which is an isolated city in the Sahara desert in south-eastern Libya that serves as key transit route for irregular migration—has been described by Frontex as “rudimentary and lacking in basic amenities” (Frontex 2007, p.7). As of May 2007, the facility was holding 130 people from sub-Saharan Africa (Frontex 2007, p.7). According to a 2009 HRW report, the centre has a central courtyard and six large detention rooms, which can each hold more than 100 people, with frequent overcrowding (HRW 2009, p.76).

Multiple observers have reported that conditions at this centre are among the worst in the country. It reportedly is comprised of old facilities, is grossly overcrowded, has poor lighting and ventilation, provides no access to health care, has inadequate bedding and bathrooms, and offers limited outdoor access and insufficient food (Fortress Europe 2009; HRW 2009, p. 76-78; Asinitas Onlus 2008). Beatings are apparently a frequent occurrence (Fortress Europe 2007; HRW 2009; Asinitas Onlus 2008), and there have been reports of religious intolerance (Fortress Europe 2007) and the use of torture, including electric shocks and upside down suspension (HRW 2009, p.77). Many of those held in this facility are

migrants from Eritrea and Ethiopia who enter Libya from Sudan (Fortress Europe 2009).

Libyan authorities carry out a “circular network of checkpoints” for monitoring illegal immigration around Kufra in an effort to intercept and detain undocumented migrants. An outer ring, controlled by the army, is located 300 kilometres from Kufra, near the eastern and southern borders; a middle ring encircles Kufra from 100km distance, and is jointly controlled by the army and the police; and the inner ring, controlled by the local police, is just on the outskirts of Kufra (Frontex 2007, p. 7).

Sabha. In 2008, the government opened a new immigration detention centre in Sabha, at the edge of the Sahara, which is a key entry point for undocumented migrants entering Libya (Fortress Europe 2009). According to Fortress Europe, the compound is made up of three buildings, where a total of 1,000 people can be detained. Between 60 and 70 people are held in each of the facilities eight-by-eight meter rooms. Detainees reportedly sleep on the ground. Light, ventilation, and time spent outside the rooms are reportedly grossly insufficient (Fortress Europe 2009). Many migrants detained in this facility are caught in the desert and detained in immigration detention facilities close to the border before being transported in truck-loads of 100 or 200 people to the Sabha facility (Fortress Europe 2009).

According to Fortress Europe, 9,000 migrants were deported from the Sabha immigration detention facility in the first 11 months of 2008, mainly to Nigeria, Mali, Niger, Ghana, Senegal, and Burkina Faso. The embassies of the countries generally cooperate with the Libyan officials in the repatriation of their nationals, though detainees are denied the opportunity to see a judge or lawyer, and their detention is not validated by a court. Appeals and asylum are generally not granted, and detainees are often denied contact with anyone outside the facility (Fortress Europe 2009).

Corruption and ill treatment. HRW reports that corruption is endemic in Libya’s detention facilities and that smugglers run their own facilities. Former detainees have said that they were forced to pay bribes of around USD \$500 to officials to be released. One ex-detainee told HRW, “The police said they would deport us, but then they took us to pay money to smugglers to take us to Tripoli. Those without money stayed in Kufra. ... Everything depends on money” (HRW 2009).

A 2008 documentary by a former detainee recounts that migrants are sometimes arrested by the police, detained, and then sold by the police to people smugglers, only to be caught, detained, and re-sold again and again. At each point in the chain, migrants are forced to pay people smugglers, and ex-detainees claim that this can occur up to three or four times before they eventually make it abroad, or are deported to their country of origin. Those who cannot pay the people smugglers can be held in detention for years (Asinitas Onlus 2008).

Observers have criticised Libyan officials for mistreating deported immigrants, and there are multiple accounts of migrants being dropped off in the desert and left to die (HRW 2009). One observer reported that in 2004, more than 18,000 migrants were loaded into trucks and left in the desert to die. As a result of escalating deaths in the desert, repatriations are supposed to be undertaken by the Libyan air companies Ifriqiya and Buraq Air (Fortress Europe 2009). While the Libyan government claims to pay for deportations (Fortress Europe 2009), it is widely reported that Italy pays for charter flights to send migrants it has expelled to Libya back to their original countries (HRW 2006a, p. 112; Fortress Europe 2009).

Many migrants repatriated to Nigeria from the Sabha facility claim that they were forced into hard labour to transform old facilities into the Sabha immigration detention facility (Fortress Europe 2009).

Facts & Figures

The Global Detention Project has found references to at least 27 immigration detention facilities in Libya, based on citations from 2007 and 2009 non-governmental reports that utilise data based on information obtained from interviews with ex-detainees (HRW 2009; Fortress Europe 2007; Fortress Europe 2009). There is a significant overlap of the data provided in the 2007 reports with that provided in the 2009 reports, though there are some discrepancies. The 2009 reports confirm the existence of 20 immigration detention facilities (HRW 2009; Fortress Europe 2009). In addition, UNHCR reported in 2009 that it had been granted access to 15 centres, although it does not specify which ones (UNHCR 2009). In contrast, a senior Libyan passport official told reporters in November 2009 that Libya had at that time 12 detention centres holding no more than 2,000 people (AFP 2009).

It is unclear whether there is a limit on the amount of time a person can be held in administrative detention, though former detainees report that people are sometimes detained for years (Asinitas Onlus 2008).

There are also considerable discrepancies in the reported numbers of people detained in Libya. In November 2009, an unnamed “Western expert” told AFP that “two years ago Libya was holding more than 6,000 illegal immigrants” (AFP 2009). In dramatic contrast to this, FRONTEX, in a 2007 report, stated that “some 60,000 illegal immigrants were currently detained” in the country (FRONTEX 2007, p. 10). Such a figure, if true, would represent by a wide margin the largest migrant detainee population of any country at a given moment. The **United States**, which appears to have the largest detention infrastructure in the world, could detain as of 2009 just over 30,000 migrants at one time.

Also according to FRONTEX, during 2006, 53,842 persons were deported to their countries of origin; 32,164 people were detained at the border; 82 boats were intercepted during the smuggling of illegal immigrants; 142 vehicles were confiscated; and 357 alleged migrant smugglers were detained (of which 284 were Libyan citizens) (FRONTEX 2007, p. 10).

According to the IOM, in May 2009 there were up to 1.5 million irregular migrants in Libya in 2009 (IOM 2009b). At the end of 2008, UNHCR reported that there were 4,834 asylum seekers in Libya (UNHCR 2009).

According to Frontex, undocumented immigrants reach Libya either by air, with fraudulent visas, or through land borders with neighbouring African countries. Agadez, in Niger, is an important hub for migrants in transit from West Africa. Migrants contact agents in Agadez to be smuggled to Ghat or Tripoli, via Libya’s desert borders with Algeria, Niger, Chad and Sudan. Mali also serves as a key transit country for migrants en route to Libya and Morocco, with agents in Kufra smuggling migrants into Tripoli and Benghazi (Frontex 2007, p.12).

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**PROGRAMME FOR THE STUDY
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