



GLOBALDETENTIONPROJECT



COUNTRY REPORT

IMMIGRATION DETENTION IN LIBYA:

"A HUMAN RIGHTS CRISIS"

August 2018

THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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Front cover image: A member of an "Anti-Illegal Immigration" force stands guard during a UN visit to the Abu Saleem detention centre in Tripoli, Libya. © Reuters/ Ismail Zetouni

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CONTENTS

| | |
|---|----|
| Glossary | 4 |
| Key Concerns | 5 |
| 1. Introduction | 6 |
| 2. Laws, Policies, Practices | 12 |
| 2.1 Key norms | 12 |
| 2.2 Grounds for detention | 13 |
| 2.3 Asylum seekers | 14 |
| 2.4 Children | 17 |
| 2.5 Other vulnerable groups | 18 |
| 2.6 Length of detention | 19 |
| 2.7 Procedural guarantees | 19 |
| 2.8 Detaining authorities and institutions | 21 |
| 2.9 Non-custodial measures | 24 |
| 2.10 Domestic monitoring | 25 |
| 2.11 International monitoring | 26 |
| 2.12 Criminalisation | 30 |
| 2.13 Externalisation, readmission, and third-country agreements | 31 |
| 2.14 Trends and statistics | 37 |
| 3. Detention Infrastructure | 39 |
| 3.1 Summary | 39 |
| 3.2 Detention facilities | 42 |
| 3.2.a Facilities in and around Tripoli | 43 |
| 3.2.b Facilities in western Libya (and the western Mediterranean coast) | 44 |
| 3.2.c Facilities in eastern Libya (and the eastern Mediterranean coast) | 47 |
| 3.2.d Facilities in southern Libya (and the Sahara Desert regions) | 48 |
| 3.3 Conditions in detention | 50 |



GLOSSARY

| | |
|---------------|--|
| CBO | Community based organisation |
| CMW | UN Committee on Migrant Workers |
| CSO | Civil society organisation |
| DCIM | Department for Combatting Illegal Immigration |
| DRC | Danish Refugee Council |
| EC | European Commission |
| GNA | Government of National Accord |
| HRW | Human Rights Watch |
| ICC | International Criminal Court |
| ICMPD | The International Centre for Migration Policy Development |
| ICRC | International Committee of the Red Cross |
| IMO | International Maritime Organisation |
| IOCEA | International Organisation for Cooperation and Emergency Aid |
| IOM | International Organisation for Migration |
| IOPCR | The International Organisation for Peace, Care and Relief |
| INGO | International Non-Governmental Organisation |
| MOI | Ministry of Interior |
| MSF | Médecins Sans Frontières |
| NLA | National Libyan Army |
| OHCHR | UN Office of the High Commissioner for Human Rights |
| RSD | Refugee Status Determination |
| UNHCR | UN High Commissioner for Refugees |
| UNSMIL | UN Support Mission in Libya |



KEY CONCERNS

- Refugees, asylum seekers, and migrants are regularly exposed to indefinite detention in centres run by the Interior Ministry's Department for Combating Illegal Immigration or local militias;
- Detention conditions across the country are a matter of “grave concern,” according to the UN, as detainees are forced to live in severely overcrowded facilities with little food, water, or medical care, and suffer physical abuse, forced labour, slavery, and torture;
- The automatic placement of asylum seekers and migrants intercepted at sea in detention centres places them at risk of human rights abuses, which could be attenuated by expanding the use of shelters and other non-custodial measures that have been proposed by international experts;
- There do not appear to be any legal provisions regulating administrative forms of immigration detention and there is an urgent need for the country to develop a sound legal framework for its migration polices that is in line with international human rights standards;
- There is severely inadequate data collection by national authorities concerning the locations and numbers of people apprehended by both official agencies and non-state actors;
- Women and children are not recognised as requiring special attention and thus they remain particularly vulnerable to abuse and ill-treatment, including rape and human trafficking;
- Italy and the European Union continue to broker deals with various Libyan forces to control migration despite their involvement in severe human rights abuses and other criminal activities.



1. INTRODUCTION

The UN High Commissioner for Human Rights has characterised the plight of refugees and migrants in Libya as a “human rights crisis.”¹ Since the beginning of the 2011 civil war in Libya, the country has experienced on-going armed conflict between rival militias and government forces. The resulting lawlessness has enabled armed groups, criminal gangs, smugglers, and traffickers to control much of the flow of migrants,² sometimes with the direct backing of [Italy](#) and other European countries.³ Those detained—who according to various reports can number between 10,000-20,000 at any given time⁴—often face severe abuses, including rape and torture, extortion, forced labour, slavery, dire living conditions, and extra-judicial execution.⁵

¹ United Nations Office of the High Commissioner for Human Rights (OHCHR), “UN Report Urges End to Inhuman Detention of Migrants in Libya,”

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21023&LangID=E>

² United Nations Support Mission in Libya (UNSMIL), “Remarks of SRSG Ghassan Salame to the United Nations Security Council on the situation in Libya,” 16 July 2018, <https://unsmil.unmissions.org/sites/default/files/srsg-ghassan-salame-briefing-unsml-20180716.pdf>; United Nations Security Council (UNSC), “Report of the Secretary-General on the United Nations Support Mission in Libya,” 5 September 2014, <http://undocs.org/S/2014/653>; United Nations High Commissioner for Refugees (UNHCR). “UNHCR Position on Returns to Libya,” 12 November 2014, <http://www.refworld.org/docid/54646a494.html>; United Nations High Commissioner for Refugees (UNHCR), “Libya Factsheet,” February 2015, www.reliefweb.int/report/libya/unhcr-factsheet-libya-february-2015; Human Rights Watch (HRW), “Libya: Whipped, Beaten, and Hung from Trees,” 22 June 2014, <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>; Amnesty International, “Amnesty International Report 2013: The State of the World’s Human Rights,” 23 May 2013, <https://www.amnesty.org/en/documents/pol10/001/2013/en/>

³ Associated Press, “Italian Effort to Stop Migrants Fuels Bloody Battle in Libya,” 5 October 2017, <https://www.voanews.com/a/libya-militias-migrants-sabratha/4057716.html>

⁴ InfoMigrants, “Up to 10,000 Migrants in 20 Centers Under the Sun, IOM Libya,” 3 July 2018, <http://www.infomigrants.net/en/post/10363/up-to-10-000-migrants-in-20-centers-under-the-sun-iom-libya>; Amnesty International, “Libya’s Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

⁵ Journalist Peter Tinti, in an investigative report for *Foreign Policy* magazine published in October 2017, put it this way: “Eighteen months after the EU unveiled its controversial plan to curb illegal migration through Libya—now the primary point of departure for sub-Saharan Africans crossing the Mediterranean Sea to Europe—migrants have become a commodity to be captured, sold, traded, and leveraged. Regardless of their immigration status, they are hunted down by militias loyal to Libya’s U.N.-backed government, caged in overcrowded prisons, and sold on open markets that human rights advocates have likened to slave auctions. They have been tortured, raped, and killed—abuses that are sometimes broadcast online by the abusers themselves as they attempt to extract ransoms from migrants’ families.” See: P. Tinti, “Nearly There, but Never Further Away,” *Foreign Policy*, 5 October 2017, <http://europeslamsitsgates.foreignpolicy.com/part-3-nearly-there-but-never-further-away-libya-africa-europe-EU-militias-migration>

Among the migrants who are particularly at risk of abuse in Libya are those from sub-Saharan countries, who are subjected to widespread racism, which has been exasperated by the crisis.⁶ The International Organisation for Migration (IOM) has reported on the emergence of burgeoning “slave markets” along migrant routes into Libya where sub-Saharan migrants are “being sold and bought by Libyans, with the support of Ghanaians and Nigerians who work for them.”⁷

“Migrants have become a commodity to be captured, sold, traded, and leveraged. Regardless of their immigration status, they are hunted down by militias loyal to Libya’s U.N.-backed government, caged in overcrowded prisons, and sold on open markets that human rights advocates have likened to slave auctions.” - P. Tinti (Foreign Policy, 2017)

In May 2017, in a sign of how much the situation in Libya had deteriorated, the International Criminal Court (ICC) informed the UN Security Council that it was exploring the feasibility of an investigation into “migrant-related crimes” in the country. The ICC also reported on its efforts to “liaise with Libyan national institutions, interested European organisations ... as well as national judiciaries, to streamline the activities of European and other actors in the investigation and prosecution of crimes against migrants.”⁸ Because many detention centres are under the control of militias, the ICC has called for “all detainees to be transferred to State authority, including ... migrants detained for financial and political motivations.”⁹

⁶ Al Jazeera, “Libya: The Migrant Trap,” 8 May 2014, <http://www.aljazeera.com/programmes/peopleandpower/2014/05/libya-migrant-trap-20145483310400633.html>; R. Seymour, “Libya’s Spectacular Revolution has been Disgraced by Racism,” *The Guardian*, 30 August 2011, <http://www.theguardian.com/commentisfree/2011/aug/30/libya-spectacular-revolution-disgraced-racism>

⁷ International Organisation for Migration (IOM), “IOM Learns of ‘Slave Market’ Conditions Endangering Migrants in North Africa,” 4 November 2017, <https://www.iom.int/news/iom-learns-slave-market-conditions-endangering-migrants-north-africa>

⁸ The Office of the Prosecutor, “Fifteenth Report of the Prosecutor of the International Criminal Court to the United Nations Security Council Pursuant to UNSCR 1979 (2011),” *International Criminal Court*, 9 May 2018; United Nations Security Council (UNSC), “Report of the Security-General on the United Nations Support Mission in Libya,” 22 August 2017, <https://unsmil.unmissions.org/sites/default/files/n1725784.pdf>

⁹ International Criminal Court (ICC), “Eleventh Report of the Prosecutor of the International Criminal Court to the United Nations Security Council Pursuant to UNSCR 1970 (2011),” 26 May 2016, https://www.icc-cpi.int/Pages/item.aspx?name=otp_report_lib_26052016

With one of the world's largest oil reserves, Libya has been an important destination for migrant labourers, attracting workers from neighbouring Arab countries since the 1960s. By 2009, there were some two million Egyptians in the country, most of whom worked irregularly. In the late 1990s, Muammar Gaddafi's shift to Pan-Africanism drew a growing influx of migrants from sub-Saharan African countries. A policy *volte-face* in 2007 led to the imposition of visa regulations for both Arabs and Africans—the distinction between the two not always being clear—and with it, thousands of immigrants suddenly became “irregulars.”¹⁰ During the 2011 uprising and ensuing civil war in Libya, close to 800,000 migrants fled, mainly to Tunisia and Egypt.¹¹

Libya has more recently become a transit country for migrants from across Africa and from as far away as Syria. By late 2017, international organisations estimated that there were more than 400,000 migrants in Libya, among whom some 45,000 were registered as refugees or asylum seekers, according to UNHCR. The majority of migrants—approximately 60 percent—are from sub-Saharan countries.¹² However, the numbers of people embarking from Libya have begun to drop, as reflected in sharp declines of arrivals to Italy. As of mid-2018, some 20,000 people had arrived by sea; while there were nearly 120,000 arrivals in 2017 and more than 180,000 in 2016.¹³ By mid-2018, IOM estimated at least 679,000 migrants in-country.¹⁴

The [European Union](#) (EU) began partnering with Libya in migration control efforts long before the onset of the current “refugee crisis.” Italian and EU arrangements with Gaddafi, including multi-million-Euro “migration management” projects, led to mass expulsions and a sharp increase in detention.¹⁵ Observers argue that these

¹⁰ P. Fargues (ed.), “EU Neighbourhood Migration Report 2013,” *European University Institute, Migration Policy Centre*, 2013, <http://www.migrationpolicycentre.eu/migration-report/>; A. Di Bartolomeo, T. Jaulin, and D. Perrin, “CARIM – Migration Profile Libya,” *Consortium for Applied Research on International Migration (CARIM)*, June 2011, <http://cadmus.eui.eu/handle/1814/22438>

¹¹ International Organisation for Migration (IOM), “Report of the Director General on the Work of the Organization for the Year 2011,” June 2012, http://governingbodies.iom.int/system/files/jahia/webdav/shared/shared/mainsite/about_iom/en/council/101/MC_2346.pdf

¹² Amnesty International, “Libya’s Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

¹³ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Flash Update: Libya, 20-27 July 2018,” 27 July 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Libya%20Flash%20Update%2027%20July%202018.pdf>; United Nations High Commissioner for Refugees (UNHCR), “Operational Portal: Mediterranean Situation,” <http://data2.unhcr.org/en/situations/mediterranean/location/5205>

¹⁴ International Organisation for Migration (IOM), “Libya,” Displacement Tracking Mechanism (DTM), June 2018, <http://www.globaldtm.info/libya/>

¹⁵ European Commission (EC), “Annex of the Commission Implementing Decision on the Annual Action Programme for 2013 (Part 2) in Favour of Libya [C(2013) 9196 final]. Action Fiche for Support to Rights-Based Migration Management and Asylum System in Libya,” December 2013, <https://bit.ly/2KA4XzW>; Danish Refugee Council and Danish Demining Group (DRC/DDG), “2014: Strategic Programme Document – DRC/DDG in Libya and Tunisia,” <https://drc.ngo/media/1194589/libya-tunisia-strategic-programme-document-2014.pdf>

“externalisation” efforts helped spur the creation of “one of the most damaging detention systems in the world.”¹⁶

Despite the widespread mistreatment of migrants in Libya and the on-going violence and social unrest since the overthrow of Gaddafi, Europe has continued to negotiate plans with various entities in Libya to check the flow of transiting foreigners.¹⁷ These include an EU commitment to provide hundreds of millions of Euros to bolster the country’s detention infrastructure, to equip maritime forces to intercept smuggling boats, and to provide training on human rights standards to staff of Libya’s Department for Combatting Illegal Immigration (DCIM), which is ostensibly in charge of overseeing the country’s detention system.¹⁸

Deals have also been brokered with tribal authorities and militias linked to smuggling or human trafficking, who are closely interconnected with Libya’s detention system. As one source interviewed for this report said: “You said that some of the [facilities] have links to militias. I would push back and say, ‘Which facility does not have a link to a militia?’ ... It’s impossible today to say that all of these security forces on interim contracts being paid by DCIM who are guarding these facilities are members of a proper security force.”¹⁹

In early 2017, the Italian government signed a Memorandum of Understanding with Libya's Government of National Accord (GNA) allowing the Libyan coastguard to intercept boats bound for Italy and return all those on-board to disembarkation zones in Libya, where they would subsequently be placed in detention. At the same time, Italy was paying rival militias to stop migrant boats in parts of the country not fully under government control, which have reportedly helped fuel armed conflict in these areas.²⁰

The UN human rights commissioner has levelled severe criticism at these deals, arguing that the “increasing interventions of the EU and its member states have done

¹⁶ H. Van Aelst, “The Humanitarian Consequences of European Union Immigration Policy’s Externalisation in Libya: The Case of Detention and its Impact on Migrants’ Health,” *BSIS Journal of International Studies*, Vol. 8, 2011 University of Kent, Brussels School of International Studies, 2011, <https://www.kent.ac.uk/brussels/>

¹⁷ Human Rights Watch (HRW), “Libya: Whipped, Beaten, and Hung from Trees,” 22 June 2014, <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>; Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” 23 May 2013, <https://www.amnesty.org/en/documents/pol10/001/2013/en/>; Council of the European Union (CEC), “Council Conclusions on Libya. Foreign Affairs Council meeting 20 October 2014,” October 2014, <http://www.consilium.europa.eu/media/25118/145200.pdf>; C. Malmström, “Answer Given by Ms Malmström on Behalf of the Commission,” *European Parliament*, 12 June 2014, <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2014-002692&language=EN>

¹⁸ European Union, “Factsheet: EU-Libya Relations,” 22 January 2018, https://eeas.europa.eu/headquarters/headquarters-homepage_en/19163/EU-Libya%20relations,%20factsheet; P. Tinti, “Nearly There, but Never Further Away,” *Foreign Policy*, 5 October 2017, <https://bit.ly/2fUztGs>

¹⁹ Anonymous source (representative from international human rights group), Skype call with Tom Rollins (Global Detention Project), May 2018.

²⁰ Associated Press, “Italian Effort to Stop Migrants Fuels Bloody Battle in Libya,” 5 October 2017, <https://www.voanews.com/a/libya-militias-migrants-sabratha/4057716.html>

nothing so far to reduce the level of abuses suffered by migrants.”²¹ Despite the growing international outrage, an EU summit in mid-2018 “handed sea rescue mission responsibility” to the Libyan coastguard just as a new anti-immigrant Italian government began adopting a more heavy-handed approach that included blocking private vessels from docking asylum seekers in Italian ports.²² Italy’s Interior Minister argued that all migrants rescued by European vessels should be sent back to Libya.²³

International organisations have also been criticised for their role in Libya, in particular the IOM, which has been a key implementing partner for EU projects in the country. It has provided “human rights training” for detention centre staff, offered psychosocial support and healthcare, has helped renovate detention centres, and overseen an EU-financed “assisted voluntary return program,” which is one of the few ways migrants can exit detention centres. A journalist who visited Libyan detention centres quipped about the return program: “While many of the detained migrants I spoke with in Libya expressed a desire to go home after months of suffering in decrepit facilities, it’s unclear whether their return could ever be considered voluntary. Treat anyone bad enough and they will beg to make it stop.”²⁴

For its part, the IOM vociferously defends its operations in Libya, arguing that they cannot choose with whom they work in detention centres and that they are “one of a few humanitarian organizations providing aid inside.”²⁵ Said the IOM’s operations officer for Libya, “We are not the body that determines what is a detention center and what is not.”²⁶ The organisation has criticised the automatic confinement of “rescued” migrants in Libyan detention centres and called for finding “alternatives,” including re-opening an IOM-run shelter.²⁷

The proliferation of actors involved in the detention of non-citizens in Libya raises a number of concerns related to oversight, jurisdiction, and accountability, as well as the real possibility that any external support for detention will inexorably amount to

²¹ United Nations Office of the High Commissioner for Human Rights, “UN Human Rights Chief: Suffering of Migrants in Libya Outrage to Conscience of Humanity,” 14 November 2017, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22393&LangID=E>

²² B. Riegert, “Libya Takes Over from Italy on Rescuing Shipwrecked Migrants,” *Deutsche Welle*, 5 July 2018, <https://www.dw.com/en/libya-takes-over-from-italy-on-rescuing-shipwrecked-migrants/a-44546754>

²³ InfoMigrants, “Salvini calls for migrants to go back to Libya,” 17 July 2018, <http://www.infomigrants.net/en/post/10685/salvini-calls-for-migrants-to-go-back-to-libya>

²⁴ P. Tinti, “Nearly There, but Never Further Away,” *Foreign Policy*, 5 October 2017, <http://europeslamsitgates.foreignpolicy.com/part-3-nearly-there-but-never-further-away-libya-africa-europe-EU-militias-migration>

²⁵ O. Belbesi, “Returned to Libyan Shores and Held in Detention Centres: What are the Practical Alternatives?” IOM Libya/Reuters, 18 August 2018, <https://news.trust.org/item/20180816142408-bats4/>

²⁶ P. Tinti, “Nearly There, but Never Further Away,” *Foreign Policy*, 5 October 2017, <http://europeslamsitgates.foreignpolicy.com/part-3-nearly-there-but-never-further-away-libya-africa-europe-EU-militias-migration>

²⁷ O. Belbesi, “Returned to Libyan Shores and Held in Detention Centres: What are the Practical Alternatives?” IOM Libya/Reuters, 18 August 2018, <https://news.trust.org/item/20180816142408-bats4/>

support for criminal activities. Pointing to militia involvement in operating detention centres in Libya—in addition to the roles played by the IOM and other non-state actors—one writer argues that the close association between detention and criminality in the country raises disturbing questions about the implications of Europe’s financing of migration control: “In many countries that are targeted for more migration management assistance—like Libya—there appears to be an inevitable connection between legal and illicit forms of detention and removal because of pervasive lawlessness and corruption.”²⁸

²⁸ M. Flynn, “Kidnapped, Trafficked, Detained? The Implications of Non-state Actor Involvement in Immigration Detention,” *Journal on Migration and Human Security*, 2017, <http://cmsny.org/publications/jmhs-kidnapped-trafficked-detained/>



2. LAWS, POLICIES, PRACTICES

Libya's legal situation is in turmoil, a legacy of both post-uprising instability and the Gaddafi era. As of mid-2018, the country was ostensibly divided between two main competing governments: the UN-backed Government of National Accord (GNA) and a rival administration led by the National Libyan Army (NLA) based in the eastern city of Tobruk. In reality, however, the situation on the ground is far more complex and since 2011 militias have become an integral part of Libya's institutions. There is often a wide gulf between what laws say on paper and what actually happens in practice.²⁹

2.1 Key norms. Libya's legal framework concerning irregular entry and exit, irregular migration, and detention pre-dates the 2011 civil war. Relevant provisions are contained in two laws:

- **Law No. 6 (1987) Regulating Entry, Residence and Exit of Foreign Nationals to/from Libya** as amended by Law No. 2 (2004)
- **Law No. 19 (2010) on Combating Irregular Migration**

These laws do not explicitly provide for administrative detention. Rather, under both laws, violations of migration provisions are criminalised and sanctioned with fines and imprisonment (see “2.12 Criminalisation”).

Law No. 6 (1987) Regulating Entry, Residence and Exit of Foreign Nationals to/from Libya as amended by Law No. 2 (2004) provides visa and travel document requirements for all non-citizens entering Libya. Since 2004, all nationals from Arab states—as well as from Sudan, Ethiopia, and Eritrea, but excluding Iraqis and Palestinians—have been allowed to enter Libya without a visa. All other non-citizens have to obtain a valid visa through the General Directorate of Passports and Nationality, as specified in Law No. 4 (1985).³⁰

However, under Article 11 of Law No. 19 (2010) on Combating Irregular Migration, all foreigners residing in Libya must legalise their stay in Libya within a period of two

²⁹ R. Jawad, “How Realistic are Libya's Election Plans?” *BBC News*, 27 February 2018, <http://www.bbc.co.uk/news/world-africa-43198444>

³⁰ European Commission (EC), “Supporting Human Rights-Based Migration Management and Asylum System in Libya,” 20 January 2014, http://europa.eu/rapid/press-release_MEMO-14-26_en.htm

months after entry—otherwise they will be considered to be illegal migrants and will be subject to penalties (Article 6).

Law No. 10 (2013) concerning the Criminalisation of Torture, Forced Abduction, and Discrimination has provisions intended to protect detainees from physical and mental torture (Article 2) and from restriction of personal liberty by force, threat, or treachery (Article 1).

The **Code on Criminal Procedure** prohibits arbitrary arrest and detention.

In a 2017 submission concerning Libya to the Committee on Migrant Workers, which oversees implementation of the UN Convention on Migrant Workers, the Global Detention Project highlighted the need to “reform immigration legislation to bring it in line with Libya’s obligations under the international human rights treaties it has ratified.” Among the key priorities, the GDP listed de-criminalisation of irregular migration, abolition of mandatory detention, provision of safeguards against arbitrary detention, and protection and remedies against torture and ill-treatment. The submission also suggested that those drafting new legislation should have “human rights legal and protection backgrounds.”³¹

2.2 Grounds for detention. Under Article 19 of Law No. 6 (1987), immigration-related infractions that carry penalties, such as fines and/or imprisonment, include: providing false information or documents; entering the country or residing in it illegally; violating the conditions/regulations of a visa and/or overstaying a residence visa; and remaining in the country after having been ordered to leave.

Article 17 of the same law establishes grounds for the deportation of non-citizens who have entered the country without a valid visa; overstayed their residence permit; had their visa revoked; and/or been sentenced to expulsion by a court.

Beyond this, Libyan law is vague on grounds for administrative immigration detention as well as other measures. In 2014, the European Commission (EC) reported that Libya’s “legal and regulatory framework on migration appears poor, fragmented and not harmonised,” and that refugees, asylum seekers, and migrants are “all considered to be ‘illegal migrants’ and subject to fines, retention, and expulsion.”³² Ten years earlier, in 2004, the EC reported that it was unable to acquire information from Libyan authorities on procedures and criteria for the detention of non-citizens, observing that detainees were arrested at random and issued deportation orders based on decisions made for groups of nationalities, rather than individual cases.³³

³¹ Global Detention Project, “Submission to the UN Committee on Migrant Workers: Libya,” 16 August 2017, <https://www.globaldetentionproject.org/submission-to-the-un-committee-on-migrant-workers-libya>

³² European Commission (EC), “Supporting Human Rights-Based Migration Management and Asylum System in Libya,” 20 January 2014, http://europa.eu/rapid/press-release_MEMO-14-26_en.htm

³³ European Commission (EC), “Technical Mission to Libya on Illegal Immigration 27 Nov – 6 Dec 2004,” <http://www.statewatch.org/news/2005/may/eu-report-libya-ill-imm.pdf>

The Global Detention Project (GDP) has been unable to identify legal provisions unambiguously providing for administrative forms of immigration detention. It appears that detention for immigration reasons that is not part of a criminal process occurs in a legal vacuum and could be considered “arbitrary.”³⁴ The EC previously stated that immigration detention generally occurs without a judicial order.³⁵

2.3 Asylum seekers. Until the uprising and ensuing armed conflict in 2011, the country’s 1969 Constitution, adopted by Muammar Gaddafi’s Revolutionary Command Council, prohibited the extradition of “political refugees” (Article 11). The 2011 Constitutional Declaration similarly prohibited the extradition of political refugees and guaranteed the right to asylum (Article 10). Libya is also 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](#) (otherwise known as the “Casablanca Protocols”).

“The lack of an adequate asylum system and a proper protection framework in Libya, coupled with the widespread use of detention in deplorable conditions, are factors pushing mixed migration movements underground and fuelling the smuggling market towards Europe.” – UN Secretary General, 2014

On the other hand, Libya has not ratified either the 1951 Refugee Convention or the 1967 Protocol, and has “consistently refused to sign or ratify” either of them.³⁶ The country has failed until now to adopt national asylum legislation or an asylum system. Libyan authorities do in theory provide *de facto* recognition of refugees (and protection from *refoulement*) to seven nationalities—Eritreans, Ethiopians, Iraqis, Palestinians, Somalis, Sudanese of Darfuri origin, and Syrians.³⁷ Still, it is understood that the lack of an asylum or adequate protection system contributes to migration flows across the Mediterranean. In September 2014, the UN Secretary-

³⁴ Danish Refugee Council (DRC), ““We Risk Our Lives for Our Daily Bread.” Findings of The Danish Refugee Council Study of Mixed Migration in Libya,” December 2013, https://reliefweb.int/sites/reliefweb.int/files/resources/Danish%20Refugee%20Council%20Report%20_%20Riskin%20our%20Lives_Mixed%20Migrants%20in%20Libya_Dec%202013.pdf

³⁵ European Commission (EC), “Annex of the Commission Implementing Decision on the Annual Action Programme for 2013 (Part 2) in Favour of Libya [C(2013) 9196 final]. Action Fiche for Support to rights-based migration management and asylum system in Libya,” December 2013, <https://bit.ly/2KA4XzW>

³⁶ Amnesty International, “Libya’s Dark Web of Collusion: Abuses against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

³⁷ Amnesty International, “Libya’s Dark Web of Collusion: Abuses against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

General informed the UN Security Council, “The lack of an adequate asylum system and a proper protection framework in Libya, coupled with the widespread use of detention in deplorable conditions, are factors pushing mixed migration movements underground and fuelling the smuggling market towards Europe.”³⁸ UNHCR agrees that a lack of “appropriate asylum systems and prospects for solutions ... including voluntary repatriation, resettlement, local integration and other legal pathways” contributes to onward movements from Libya.³⁹

There is no official Memorandum of Understanding between UNHCR and Libya. UNHCR has, however, been tolerated and allowed to conduct Refugee Status Determinations (RSDs) in Libya since 1991 under an informal mandate that allows it to issue asylum seekers with letters of attestation—although these are not always recognised by Libyan authorities. In July 2008, an agreement was signed between UNHCR, the International Organisation for Peace, Care and Relief (IOPCR), the International Centre for Migration Policy Development (ICMPD), and the Italian Council for Refugees to protect the rights of asylum seekers and refugees in Libya—particularly those held in detention.⁴⁰

In April 2009, a plan for elaborating a national asylum system was launched and UNHCR obtained permission to open offices in Libya. However, armed conflict in 2014 ultimately interrupted plans for elaborating a national asylum system. While UNHCR provided assistance to persons of concern in detention and advocated for alternatives to incarceration until early 2014, it suspended activities due to the upsurge in fighting within the country's main urban areas.⁴¹ Prior to this, it also ran a Migrants in Detention Working Group—although meetings were reportedly not held on a frequent enough basis.⁴² In its submission to the UN Universal Periodic Review in 2014, Human Rights Watch reported that the Libyan authorities did not allow UNHCR to register asylum seekers in detention. These included Eritreans and Somalis, whom Libya does not deport to their origin countries but who often spend long periods in detention until they can pay their way out or until their embassies

³⁸ United Nations Security Council (UNSC), “Report of the Secretary-General on the United Nations Support Mission in Libya,” 5 September 2014, <https://unsmil.unmissions.org/sites/default/files/Libya%20Report%20final%205%20Sept.%20%281%29.pdf>

³⁹ United Nations High Commissioner for Refugees (UNHCR), “Central Mediterranean Route Situation 2018 Supplementary Appeal,” 2018, http://reporting.unhcr.org/sites/default/files/2018-03%2008%20-%20Central%20Mediterranean%20appeal_%20FINAL.pdf

⁴⁰ United Nations High Commissioner for Refugees (UNHCR), “Libyan Arab Jamahiriya,” <http://www.unhcr.org/44e5c7740.pdf>; U.S. Committee for Refugees and Immigrants (USCRI), “World Refugee Survey: Libya: Statistics for Libya,” <http://www.refworld.org/docid/485f50c285.html>

⁴¹ C. Stephen, “War in Libya - the Guardian briefing,” *The Guardian*, 29 August 2014, <https://www.theguardian.com/world/2014/aug/29/-sp-briefing-war-in-libya>

⁴² Danish Refugee Council and Danish De-Mining Group (DRC/DDG), “2014: Strategic Programme Document – DRC/DDG in Libya and Tunisia,” <https://drc.ngo/media/1194589/libya-tunisia-strategic-programme-document-2014.pdf>

secure their release. Other would-be asylum seekers are deported, similar to undocumented migrants.⁴³

UNHCR has since resumed providing assistance to persons of concern in detention facilities and disembarkation zones, as well as advocating for alternatives to incarceration. The agency stresses that its activities in detention centres “do not represent an endorsement of the policy of detention,” but instead reflect the “urgent humanitarian needs in detention centres.”⁴⁴ So far in 2018, UNHCR has conducted at least 714 monitoring visits to detention facilities in Libya.⁴⁵

Since 2016, refugees, asylum seekers, and migrants intercepted at sea by the Libyan coastguard have been returned to 16 disembarkation zones spanning the north-west Libyan coastline from Zuwarah to Misratah. UNHCR and IOM are both present in disembarkation zones. In March 2018, UNHCR was providing services in six zones, where interventions focused on “provision of life-saving assistance and protection monitoring, to identify persons in need of international protection, as well as vulnerable individuals, such as unaccompanied and separated children, elderly, medical cases, women at risk or victims of trafficking.”⁴⁶ Amnesty International, however, maintains that UNHCR is only allowed to conduct preliminary protection assessments—ostensibly to identify people of concern from the seven nationalities offered de facto protection by the Libyan government—and the agency has “very little space” to advocate against individuals transferred from a disembarkation zone to detention. Ultimately UNHCR may be able to secure their release later on.⁴⁷

Libya has declared its own search and rescue zone; in June 2018, the International Maritime Organisation (IMO)—a UN agency—quietly acknowledged Libya's search and rescue zone, a vast area that human rights groups suggest will not be adequately patrolled by a Libyan coastguard that is said to be ill-equipped and prone to committing rights abuses.⁴⁸

⁴³ Human Rights Watch (HRW). “Libya: UPR Submission September 2014,” 16 September 2014, <http://www.hrw.org/news/2014/09/16/libya-upr-submission-september-2014>

⁴⁴ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” 13 April 2018, <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>.

⁴⁵ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Flash Update: Libya, 28 June-6 July 2018,” 6 July 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Libya%20Flash%20Update%206%20July%202018.pdf>

⁴⁶ United Nations High Commissioner for Refugees (UNHCR), “Libya: Activities at Disembarkation, Monthly Update,” March 2018, <https://data2.unhcr.org/en/documents/download/63047>

⁴⁷ Amnesty International, “Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

⁴⁸ Human Rights Watch (HRW), “EU/Italy/Libya: Disputes Over Rescues Put Lives at Risk,” 25 July 2018, <https://www.hrw.org/news/2018/07/25/eu/italy/libya-disputes-over-rescues-put-lives-risk>; A. Cuddy, “Prompted by EU, Libya Quietly Claims Right to Order Rescuers to Return Fleeing Migrants,” *Euronews*, 6 July 2018, <http://www.euronews.com/2018/07/06/prompted-by-eu-libya-quietly-claims-right-to-order-rescuers-to-return-fleeing-migrants>

At the time of writing, approximately 52,000 refugees and asylum seekers were registered with UNHCR in Libya.⁴⁹ UNHCR meanwhile estimates that, in addition to tens of thousands of registered refugees and asylum seekers on Libyan territory, there are also several thousand un-registered refugees and/or asylum seekers inside official detention facilities, and Libyan authorities estimate that “thousands of refugees and migrants are still held in captivity by traffickers in undetermined locations, and in dire conditions.”⁵⁰

In November 2017, UNHCR launched its Emergency Transit Mechanism (ETM) in Niger with its Italian implementing partner. Since December 2017, the Italian NGO Cooperazione Internazionale (COOPI) has been working with UNHCR to “provide refugees from Libya with shelter and protection” as part of the ETM. COOPI houses refugees and asylum seekers evacuated by air from Libya in 17 transit centres in Niamey and six in Agadez before they are resettled.⁵¹ ETM evacuations were temporarily halted in early March 2018 “following concerns that onward departures for resettlement were not keeping up with the pace of arrivals into Niger.”⁵² At the time of writing, 1,474 persons in need of international protection had been successfully evacuated by UNHCR from Libya to either Niger, Italy, or Romania. Some 1,138 refugees and asylum seekers were released from detention between January and May 2018, including those evacuated to Niger. Compared to the 1,428 released throughout 2017, figures for 2018 are thus set to outpace previous years.

2.4 Children. Children, including unaccompanied and separated children, are at risk of arrest and indefinite detention in Libya. Children do not receive preferential treatment and often share cells with adult detainees, increasing their vulnerability and the risk of abuse.⁵³ Migrant and asylum seeking children found to be in Libya irregularly are never brought before a judge.⁵⁴

⁴⁹ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Flash Update: Libya, 21-27 April 2018,” 28 April 2018, <http://reporting.unhcr.org/sites/default/files/UNHCR%20Libya%20Flash%20Update%20-%2027APR18.pdf>

⁵⁰ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” 13 April 2018, <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

⁵¹ *Cooperazione Internazionale* (COOPI), “Niger, Sheltering Libyan Refugees,” 9 May 2018, <https://bit.ly/2sQMLHj>

⁵² United Nations High Commissioner for Refugees (UNHCR), “UNHCR Flash Update: Libya, 4-11 May 2018,” May 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Libya%20Flash%20Update%2011%20May%202018.pdf>

⁵³ Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf; United Nations High Commissioner for Refugees (UNHCR), “External Update – May 2014 UNHCR Libya,” May 2014, <http://www.tawergha.org/docs/2014-05-00-libya-unhcr-report-on-internally-displaced-persons-from-tawergha-english.pdf>

⁵⁴ Amnesty International, “Libya: Human Rights Abuses Continue as Country Descends into Chaos. Amnesty International Submission to the UN Universal Periodic Review,” May 2015, <https://www.amnesty.org/download/Documents/MDE1900032015ENGLISH.pdf>

A needs assessment conducted by UNICEF in 2016 documented the “appalling situation women and children face” and, although migrant women and children often tried to travel together in order to better protect themselves along the way, guards in detention facilities reportedly often separate men, women, and children from one other once they arrive at detention centres.⁵⁵ This also leaves minors vulnerable to abuse either by guards or fellow immigration detainees.

During a 2013 visit to the Towisha “holding centre” outside of Tripoli⁵⁶, Amnesty International found that most of the minors held at the facility were at least 16, although it found two unaccompanied Somali children aged 10 and 13.⁵⁷ A year later, Amnesty International researchers also identified approximately 20 unaccompanied children, some as young as 12, from Somalia and Eritrea, who were detained alongside adults at Al-Hamra, one of the largest immigration detention centres in the country, near Gharyan, which as of November 2014 was run by the 9th Brigade, a militia nominally under the control of the Ministry of Defence.⁵⁸

2.5 Other vulnerable groups. Female migrants and asylum seekers are particularly vulnerable to abuse and ill treatment in detention in Libya—especially in the absence of female guards, which is a violation of international norms for the treatment of prisoners.⁵⁹ Women, like unaccompanied minors, are not recognised as vulnerable groups requiring greater attention.⁶⁰

Amnesty International documented testimonies from female refugees, asylum seekers, and migrants in the [Surman](#) immigration detention facility—run by the Interior Ministry’s DCIM—who recounted strip-searches by male guards. In one such testimony, a Nigerian migrant recounted how a guard “started searching me, and removed my shirt,” before sexually assaulting her on the premise that he was checking “if I was hiding a phone.”⁶¹ Reports of sexual violence in immigration

⁵⁵ United Nations International Children's Emergency Fund (UNICEF), “A Deadly Journey for Children: The Central Mediterranean Migration Route,” February 2017, https://www.unicef.org/publications/files/EN_UNICEF_Central_Mediterranean_Migration.pdf

⁵⁶ In 2015, the GDP reported the closure of this detention centre. See: Global Detention Project, “Libya Immigration Detention Profile,” February 2015, <https://www.globaldetentionproject.org/immigration-detention-in-libya-2>

⁵⁷ Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf

⁵⁸ Amnesty International, “Amnesty International’s Submission to the Council of Europe Committee of Ministers: Hirsi Jamaa and Others V. Italy (Application No. 27765/09),” 11 February 2014, http://www.amnesty.eu/content/assets/Doc2014/B1525_-_second_submission_Hirsi_-_11_Feb_2014.pdf

⁵⁹ Amnesty International, “Amnesty International’s Submission to the Council of Europe Committee of Ministers: Hirsi Jamaa and Others V. Italy (Application No. 27765/09),” 11 February 2014, http://www.amnesty.eu/content/assets/Doc2014/B1525_-_second_submission_Hirsi_-_11_Feb_2014.pdf

⁶⁰ European Commission (EC), “Annex of the Commission Implementing Decision on the Annual Action Programme for 2013 (Part 2) in Favour of Libya [C(2013) 9196 final]. Action Fiche for Support to Rights-Based Migration Management and Asylum System in Libya,” December 2013, <https://bit.ly/2KA4XzW>

⁶¹ Amnesty International, “If an African Dies Here No One Cares’: Abuses of Migrants and Refugees in Detention in Libya,” 18 December 2013, <https://www.amnesty.org/en/latest/campaigns/2013/12/if-an-african-dies-here-no-one-cares-abuses-of-migrants-and-refugees-in-detention-in-libya/>

detention facilities are rife: as one detainee reported, “At night, some armed men come and take away women and 13-year old girls. They bring them back either a few hours later or on the following day. The women and the very young girls are raped, and if they resist, they are beaten and threatened with guns.”⁶²

Racism and xenophobia against sub-Saharan refugees, asylum seekers, and migrants is commonplace in Libyan smuggling/trafficking routes as well as detention facilities. Religious minorities have also been singled-out for discrimination and abuse—or worse—inside detention facilities. Amnesty International found in 2015 that minorities held in DCIM or militia-controlled facilities “face torture and other ill-treatment on account of their religion.” Christians are at heightened risk of ill-treatment, exemplified by the words of an Eritrean national interviewed in 2016 who said, “If you’re a Christian, all I can say is God help you if they find out. ... If they see a cross or a [religious] tattoo they beat you a lot more.”⁶³

2.6 Length of detention. The 2010 Law on Combating Irregular Migration (Law No. 19) appears to provide for indefinite detention, followed by deportation, of those considered to be irregular migrants.⁶⁴ While the provisions of this law do not state precisely that indefinite detention is allowed, it is implied. As noted previously, Article 6 provides that unauthorised migrants are to “be put in jail” (without specifying detention length) and then deported after serving their sentences.

At present, one of the few ways for migrants to get out of detention is through the IOM's voluntary returns programme. An important “lifeline” for some, human rights groups still routinely question just how “voluntary” returns can be given that they are based on a choice between returning to the home they chose to leave and remaining in indefinite detention (in often abysmal conditions) in Libya.⁶⁵

2.7 Procedural guarantees. According to Article 14 of Law No. 20 (1991) on Promoting Freedoms, “No person may be deprived of his freedom, or have it restricted; neither can he be searched or questioned unless charged with an act punishable by law, or by order of a competent judicial authority within the terms and reasons set out by law. Preventive detention (custody) shall be at a known place

⁶² United Nations Support Mission in Libya and the Office of the High Commissioner for Human Rights, ““Detained and Dehumanised”: Report on Human Rights Abuses Against Migrants in Libya,” 13 December 2016, https://www.ohchr.org/Documents/Countries/LY/DetainedAndDehumanised_en.pdf

⁶³ Amnesty International, “Libya is Full of Cruelty: Stories of Abduction, Sexual Violence and Abuse from Migrants and Refugees,” 2015, <https://www.amnesty.org/download/Documents/MDE1915782015ENGLISH.pdf>; Amnesty International, “Refugees Shot at by Libyan Coastguard Before Being Detained in 'Shocking' Conditions Back in Libya,” 14 June 2016, <https://www.amnesty.org.uk/press-releases/refugees-shot-libyan-coastguard-being-detained-shocking-conditions-back-libya>

⁶⁴ Amnesty International, “Libya: Rule of Law or Rule of Militias?” 5 July 2012, <https://www.amnestyusa.org/reports/libya-rule-of-law-or-rule-of-militias/>; Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf

⁶⁵ Amnesty International, “Libya’s Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

which the relatives of the accused shall be informed of, this shall be for the shortest time required for investigation and recording of evidence.: Other safeguards include the requirement for security officers to hold a warrant from the competent authority when arresting or detaining a suspect (Article 30 of the Code of Criminal Procedure), the requirement to detain suspects only in “prisons designed for that purpose” (Article 31), the right of detainees to challenge the legality of their detention (Article 33), the right to have lawyers present during interrogation in criminal cases (Article 106), and the right to be assigned a lawyer if none was appointed by the defendant (Article 321).⁶⁶

According to the European Commission, immigration detention generally occurs without a judicial order in Libya.⁶⁷ NGO researchers previously found that detainees in most detention facilities do not receive consular assistance and do not have access to UNHCR,⁶⁸ although UNHCR is now present in six of the 16 disembarkation zones along the coast, providing assistance and healthcare, and monitoring protection needs.

Article 53 of Law No. 47 (1975) on prisons provides the right to lawyers to visit their clients in custody. In practice however, immigration detainees cannot challenge the grounds of their detention or of deportation decisions and are handed over to “holding centres” (as they are called by the Libyan authorities) after serving prison sentences, usually for ordinary criminal offences such as theft. They are hardly ever brought before a judicial authority and do not have access to a lawyer or interpreter.⁶⁹ According to Amnesty International, detainees are “placed outside judicial procedures by being held in DCIM detention centres indefinitely and without the ability to legally challenge their detention or seek other legal remedies.”⁷⁰

However, the International Committee of the Red Cross (ICRC) reported that in 2017, it had enabled 288 foreign detainees (who so requested) to inform their consular representatives of their situation. (ICRC information did not specify if the

⁶⁶ Amnesty International, “Libya: Rule of Law or Rule of Militias?” 5 July 2012, https://www.amnesty.nl/content/uploads/2016/12/libya__rule_of_law_or_rule_of_militias_.pdf?x43196%20

⁶⁷ European Commission (EC), “Annex of the Commission Implementing Decision on the Annual Action Programme for 2013 (Part 2) in Favour of Libya [C(2013) 9196 final]. Action Fiche for Support to Rights-Based Migration Management and Asylum System in Libya,” December 2013, <https://bit.ly/2KA4XzW>

⁶⁸ Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf

⁶⁹ Amnesty International, “Libya: Rule of Law or Rule of Militias?” 5 July 2012, https://www.amnesty.nl/content/uploads/2016/12/libya__rule_of_law_or_rule_of_militias_.pdf?x43196%20; Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights.” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf; Danish Refugee Council (DRC), ““We Risk Our Lives for Our Daily Bread.” Findings of The Danish Refugee Council Study of Mixed Migration in Libya,” December 2013, <https://bit.ly/2tVP8Jd>

⁷⁰ Amnesty International, “Libya’s Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>



Migrants are held in a detention centre in the coastal city of Sabratha, Libya. 9 October 2017. (Reuters/Hani Amara)

foreign detainees were convicted on immigration related grounds or for other offences).⁷³

2.8 Detaining authorities and institutions. According to Article 21 of Law No.6 (1987) Regulating Entry Residence and Exit of Foreign Nationals to/from Libya, “Specified employees within the immigration authority are authorised to execute” laws concerning migration enforcement. The principal authority operating detention centres is the Libyan Directorate for Combatting Illegal Migration (DCIM), even as numerous other actors, including militias, have taken on this role in various parts of the country.

Until 2011, immigration policies were jointly managed by the Ministry of Foreign Affairs, Ministry of Interior (MOI), Ministry of Justice, and Ministry of Defence; with the MOI serving as the overall coordinator. The police carried out immigration controls, with support from the army, air force, and navy. The navy provided backup assistance to the Coastguard Department from 2007 onwards, while the Coastguard

⁷³ International Committee of the Red Cross (ICRC), “ICRC in Libya: Facts and Figures--2017,” 5 February 2018, <https://www.icrc.org/en/document/libya-providing-assistance-thousands-people-2017>

Department is responsible for maritime border management and surveillance. The MOI departments of Anti-Infiltration and Illegal Immigration “investigated” and “processed” undocumented migrants.⁷⁹

This arrangement has, however, been complicated by realities on the ground following the 2011 uprising and ensuing armed conflict. Between 2011 and 2014, militia groups were absorbed into, or affiliated with, the Ministries of Interior and Defence; meanwhile Libya was developing into something of a “patchwork state” driven by hyper-localisation, militiafication, and the lack of central government control (or, as would be the case later, the lack of a central government at all).⁸⁰ Soon, several detention centres were reportedly managed by revolutionary brigades or militias known as *kata'ib* (singular, *kateeba*).

By 2012, officials from the Ministry of Justice and Ministry of Interior acknowledged to Amnesty International that they had “little involvement in the arrest and detention of migrants ... [and] that ‘in normal times,’ the Ministry of Interior has oversight over detention centres for migrant ... but since the conflict the Ministry has had no capacity or resources to continue doing so.”⁸¹

Some detention facilities are still under the ostensible oversight of the Ministry of Interior. In 2014, Human Rights Watch was allowed to visit nine of the country’s 19 migrant detention centres nominally run by the Ministry of Interior’s DCIM, established in 2012 to oversee places of immigration detention.⁸² Even when INGOs count facilities as official—meaning DCIM-administered—facilities, the reality on the ground can be far more difficult to ascertain. Recently, varying estimates have suggested that there are between 17 and 35 official facilities.⁸³ Detention monitoring conducted as part of the IOM's Displacement Tracking Mechanism (DTM) from 2017 onwards meanwhile counted 25 active facilities, nine recently closed, 18 inactive, and two facilities under maintenance—although it should be noted that this project only monitored facilities under the administration of the DCIM rather than other actors.⁸⁴ Sometimes facilities are run by individuals officially on the pay rolls of the DCIM, but who actually work on behalf of, or are members of, militias. In other cases, centres that the DCIM considered closed may actually be in use by non-state

⁷⁹ Frontex, “Frontex-Led EU Illegal Immigration Technical Mission to Libya 28 May – 5 June 2007,” <http://www.statewatch.org/news/2007/oct/eu-libya-frontex-report.pdf>

⁸⁰ T. Reitano and M. Shaw, “Libya: The Politics of Power, Protection, Identity and Illicit Trade,” *United Nations University Centre for Policy Research*, May 2017, http://globalinitiative.net/wp-content/uploads/2017/05/UNU-CPR-Libya-The-Politics-of-Power_-Protection_-Identity-and-Illicit-Trade-web.pdf

⁸¹ Amnesty International, “Libya: Rule of Law or Rule of Militias?” 5 July 2012, https://www.amnesty.nl/content/uploads/2016/12/libya__rule_of_law_or_rule_of_militias_.pdf?x43196%20

⁸² Human Rights Watch (HRW), “Libya: Whipped, Beaten, and Hung from Trees,” 22 June 2014, <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>

⁸³ Amnesty International, “Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

⁸⁴ International Organisation for Migration (IOM), “Displacement Tracking Matrix — Libya,” www.globaldtm.info/libya/

actors. Militias have also proved themselves adept at navigating relations with Libyan institutions as well as international actors including the Italian government and EU.

Although INGOs and EU institutions have in the past urged the Libyan government to regain control of all detention facilities, efforts to do so have been complicated by the lack of a political settlement⁸⁵ as well as the broader militiafication of Libyan institutions. In some cases militias even “run town councils and operate the coast guard in coastal cities.”⁸⁶ Since 2017 in particular, and largely spurred on by Italian and EU externalisation policies, the savvier of these militias have adeptly re-marketed themselves in order to receive international support and funding.⁸⁷

One example of this trend is the [\(Al Nasr\) Az-Zawiya](#) detention facility in Zawiya in the north west of the country. Although the facility is supposed to be administered by the DCIM, it is in fact under the de facto control of the Al-Nasr Brigade led by Muhammad al-Koshlaf who, with relative Walid al-Koshlaf, sold stolen fuel from the nearby Zawiya Refinery to local smuggling networks. UN investigators described conditions in Az-Zawiya as “inhumane,” with the facility “not suitably equipped to hold migrants” and women and children held in “critical conditions.”⁸⁸ The Koshlafs are connected to local coastguard commander Abdelrahman al-Milad (or “Bija”) who is also known to cooperate with smuggling networks. Bija has been described as the “undisputed leader of the human traffic trade.”⁸⁹ Troublingly, “Bija” receives European funding in his role as local coastguard commander.⁹⁰

Although UNHCR estimates that there are several thousand refugees and/or asylum seekers in official detention facilities, Libyan authorities also estimate that “thousands of refugees and migrants are still held in captivity by traffickers in

⁸⁵ Amnesty International, “Amnesty International’s Submission to the Council of Europe Committee of Ministers: Hirsi Jamaa and Others V. Italy (Application No. 27765/09),” 11 February 2014, http://www.amnesty.eu/content/assets/Doc2014/B1525_-_second_submission_Hirsi_-_11_Feb_2014.pdf; Human Rights Watch (HRW), “Libya: Whipped, Beaten, and Hung from Trees,” 22 June 2014, <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>; C. Malmström, “Answer Given by Ms Malmström on Behalf of the Commission,” *European Parliament*, 12 June 2014, <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2014-002692&language=EN>

⁸⁶ S. Raghavan, “Libya’s Coast Guard Abuses Migrants Despite E.U. Funding and Training,” *Washington Post*, 11 July 2017, <https://wapo.st/2BZnP7o>

⁸⁷ P. Tinti, “Nearly There, But Never Further Away,” *Foreign Policy*, 5 October 2017, <http://europeslamsitgates.foreignpolicy.com/part-3-nearly-there-but-never-further-away-libya-africa-europe-EU-militias-migration--intro>

⁸⁸ United Nations Security Council (UNSC), “Final Report of the Panel of Experts on Libya,” 1 June 2017, <https://reliefweb.int/sites/reliefweb.int/files/resources/N1711623.pdf>

⁸⁹ N. Porsia, “The Kingpin of Libya’s Human Trafficking Mafia,” *TRT World*, 20 February 2017, <https://www.trtworld.com/magazine/libya-human-trafficking-mafia-in-zawiya-301505>

⁹⁰ P. Tinti, “Nearly There, But Never Further Away,” *Foreign Policy*, 5 October 2017, <http://europeslamsitgates.foreignpolicy.com/part-3-nearly-there-but-never-further-away-libya-africa-europe-EU-militias-migration--intro>

undetermined locations, and in dire conditions.”⁹¹ Amnesty International has suggested calling these facilities “places of captivity” as opposed to “unofficial detention facilities”⁹² given the conditions within the centres.

2.9 Non-custodial measures. As Libya lacks explicit administrative immigration detention procedures, “alternatives to detention”—properly understood as non-custodial measures that form a part of legally established detention decision-making procedures—do not exist. However, there have been reports of people being released on the guarantee of an embassy or after payment of a bribe.⁹³ Libyan law also provides restrictions on liberty that fall short of detention. Under Article 18 of Law No 6 (1987), authorities can restrict a foreigner who is to be expelled to a certain area of residence or instruct him to visit the nearest security location—such as a police station—on certain dates until their expulsion.

UNHCR and other agencies have repeatedly called for immigration detention to be used as a measure of last resort, and they regularly lobby the country's authorities for the release of refugees and asylum seekers. Following a visit to Tripoli in mid-2017, the UNHCR head urged Libyan authorities to release all refugees and asylum seekers in immigration detention facilities because “other solutions” could be found for those fleeing countries in conflict.⁹⁴

A camp run by the Libyan Red Crescent in Benghazi served at one point as non-custodial measure. It hosted approximately 600 asylum seekers from Ethiopia, Eritrea, and Somalia in containers that had previously accommodated workers from an Indian company. According to observers, the camp provided “accommodation for asylum-seekers as opposed to imprisonment,” and conditions in the camp were considerably better than in “holding centres.” Restrictions were nevertheless imposed on foreign nationals’ right to liberty and freedom of movement—especially women—since they could only leave the camp for work provided that they were bailed out by a Libyan citizen. A Ministry of Defence brigade controlled movement in and out of the camp and provided security.⁹⁵

In 2018, the IOM’s chief of mission in Libya called for a renewed emphasis on “practical alternatives” to the use of detention centres, arguing that “the practice of

⁹¹ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” 13 April 2018, <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

⁹² Amnesty International, “Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

⁹³ Danish Refugee Council (DRC), “‘We Risk our Lives for our Daily Bread’: Findings of the Danish Refugee Council Study of Mixed Migration in Libya,” December 2013, <https://bit.ly/2tVP8Jd>; International Organization for Migration (IOM), “IOM Monitors Italy Arrivals during Busy Smuggling Week in Mediterranean,” 20 February 2015, <https://www.iom.int/news/iom-monitors-italy-arrivals-during-busy-smuggling-week-mediterranean>

⁹⁴ Al Jazeera, “UN Urges Libya to Release All Refugees, Asylum Seekers,” 21 May 2017, <https://www.aljazeera.com/news/2017/05/urges-libya-release-refugees-asylum-seekers-170521203216971.html>

⁹⁵ Amnesty International, “Scapegoats of Fear: Rights of Refugees, Asylum-Seekers and Migrants Abused in Libya,” 2013, <https://www.amnestyusa.org/wp-content/uploads/2017/04/mde190072013en.pdf>

automatically taking people from the water to detention is unacceptable.” The IOM official pointed to four “practical solutions”: (1) improving the data collection capacity of the Libyan coastguard, which he called an “essential prerequisite for protecting migrants against ill treatment, grave human rights violations, deportation and refoulement”; (2) improving “infrastructure for screening returned migrants, as well as migrant reception facilities along the coast to ensure that they get the assistance that they need”; (3) allowing the “reopening of IOM’s shelter for vulnerable migrants, which closed in 2011,” and opening similar shelters as “migrant detention centres” are phased out with children and victims of trafficking given priority; (4) supporting “sustainable projects” including boosting “national migration management structures.”⁹⁶

2.10 Domestic monitoring. Libya does not have an independent national monitoring regime. While DCIM guidelines appear to indicate that it has a responsibility to set up regular visits, “there is no formalised mechanism for monitoring, nor is there a mechanism for accountability.”⁹⁷

While some national NGOs have reportedly carried out visits in the past to nominally DCIM-administered detention facilities—including the International Organisation for Cooperation and Emergency Aid (IOCEA), the Libyan Red Crescent, and Youth Stamp for Human Rights and Development⁹⁸—international observers in the country express doubt about the level or veracity of local monitoring today. A Libya specialist at an international human rights group interviewed for this report said that she could not definitively say what the “visit modalities” of these local NGOs may be, the extent of monitoring they do, whether they issue “public reports on the situation in detention facilities,” or whether they have adequate “independence or financial sources.”⁹⁹

Nevertheless, INGOs and UN agencies continue to rely on national NGOs, civil society organisations (CSOs), and community-based organisations (CBOs) as implementing partners. In November 2016, the UN Office for the Coordination of

⁹⁶ Othman Belbesi, “Returned to Libyan shores and held in detention centres: What are the practical alternatives?” IOM Libya/Reuters, 18 August 2018, <https://news.trust.org/item/20180816142408-bats4/>

Anonymous source (representative from international human rights group), Skype call with Tom Rollins (Global Detention Project), May 2018.

⁹⁷ Global Detention Project, “Libya Immigration Detention Profile,” February 2015, <https://www.globaldetentionproject.org/immigration-detention-in-libya-2>. Also, United Nations High Commissioner for Refugees and Danish Refugee Council (UNHCR/DRC), “Questionnaire in Preparation for the IDC MENA 2013 Regional Workshop: Libya profile,” International Detention Coalition /Global Detention Project. November 2013.

⁹⁸ Global Detention Project, “Libya Immigration Detention Profile,” February 2015, <https://www.globaldetentionproject.org/immigration-detention-in-libya-2>. Also, United Nations High Commissioner for Refugees and Danish Refugee Council (UNHCR/DRC), “Questionnaire in Preparation for the IDC MENA 2013 Regional Workshop: Libya profile,” International Detention Coalition /Global Detention Project. November 2013.

⁹⁹ Anonymous source (representative from international human rights group), Skype call with Tom Rollins (Global Detention Project), May 2018.

Humanitarian Affairs published an overview of INGOs, national NGOs, and other actors working on the ground in Libya across various humanitarian sectors.¹⁰⁰

The IOM also conducts capacity-building trainings with national NGOs as well as local CSOs and CBOs. The IOM has conducted workshops with Libyan civil society groups on psychosocial support and humanitarian response as part of an EC-financed programme entitled “Enhancing and Supporting Civil Society Organizations and IOM Partners in Providing Humanitarian Assistance to Vulnerable Migrants and Internally Displaced Persons in Libya.” Aid workers from the Libyan Red Crescent, Libyan Crisis Committee, Tahir Al-Zawi Organization, Tamzeen Organization, and Multakan Centre have taken part in these trainings.¹⁰¹

2.11 International monitoring. Although Libya ratified seven of the nine core international human rights treaties prior to 2011, it had a very poor reporting record on implementation and on cooperation with human rights investigation mechanisms. Libya has also ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, although to date it has not reported to the Committee on Migrant Workers (CMW), which monitors implementation of that convention. In 2017, the CMW produced a list of questions that Libyan authorities are expected to respond to as part of the treaty review process.¹⁰² Many of the questions addressed by the CMW were provided in a prior GDP submission to the CMW.¹⁰³

Reports by INGOs and UN agencies tend to be the main sources of information on the situation faced by immigration detainees. In late 2014, many INGOs and international organisations—including the ICRC, UNHCR, and the IOM—suspended most of their operations in the country because of the deteriorating situation and spiralling violence, but organisations including ICRC, IOM, MSF, and UNHCR have since re-started work within the country. Despite the presence of international organisations, the Secretary-General of the UN Security Council noted in his September 2017 update that given continuing violations and abuse faced by people on the move in Libya, there are concerns over the “lack of systematically integrated human rights monitoring and reporting mechanisms by the Libyan Coastguard and other State actors dealing with migrants and refugees, as well as limited access

¹⁰⁰ UN Office for the Coordination of Humanitarian Affairs (OCHA), “Libya: Who Does What Where (as of October 2016),” 20 November 2016, <https://bit.ly/2ohKq5g>

¹⁰¹ International Organisation for Migration (IOM), “IOM Trains Libyan NGO Partners in Tunisia,” 2 October 2015, <https://www.iom.int/news/iom-trains-libyan-ngo-partners-tunisia>

¹⁰² United Nations Committee on the Protection of Rights of All Migrant Workers and Members of Their Families (CMW), “List of Issues Prior to Submission of the Initial Report of Libya,” 9 October 2017.

¹⁰³ Global Detention Project, “Submission to the UN Committee on Migrant Workers 27th Session (4-13 September 2017) List of Issues Under the Simplified Reporting Procedure – Libya,” August 2017, <https://www.globaldetentionproject.org/submission-to-the-un-committee-on-migrant-workers-libya>

available to the United Nations and non-governmental organizations to conduct independent human rights monitoring.”¹⁰⁴

The mandate of the UN Support Mission in Libya (UNSMIL) includes promotion of the rule of law and monitoring and protection of human rights, in accordance with Libya’s international obligations, including the rights of migrants and due process for detainees—however, the organisation does not currently have access to all centres.¹⁰⁵ Meanwhile, intensified EU and individual member state externalisation deals (and funding for capacity-building with Libyan authorities) towards the stated aim of improving detention conditions may have contributed to improved monitoring access—for example, in how the IOM and UNHCR now have regular access to “disembarkation zones” along the Mediterranean coast.

The EU denies it is directly involved in funding detention in Libya, but instead focuses on improving conditions. Responding to a question about the EU role in Libyan detention facilities raised in the European Parliament on 5 October 2017, the European Commissioner for European Neighbourhood Policy and Enlargement Negotiations said, “The EU does not fund the management of these centres but supports international organisations to improve access to life saving protection services and assistance (e.g. by providing sanitation or ventilation, identifying the most vulnerable cases in those centres) as well as to develop alternatives to detention which will serve as spaces where the most vulnerable cases can receive special care 24/7.”¹⁰⁶

The IOM and UNHCR today maintain a presence in 16 disembarkation zones spanning the west Libyan coastline between Zuwarah and Misratah, where irregular migrants intercepted at sea by the Libyan Coastguard are taken before being transferred to detention facilities nominally run by the DCIM. UNHCR maintains that its practice is to only undertake visits and deliver assistance to official detention centres under the administration of the DCIM, and that this policy does “not represent an endorsement of the policy of detention,” but instead reflects the “urgent humanitarian needs in detention centres.”¹⁰⁷

¹⁰⁴ United Nations Security Council, “Report of the Secretary-General Pursuant to Security Council Resolution 2312 (2016),” 7 September 2017, <https://reliefweb.int/sites/reliefweb.int/files/resources/N1726500.pdf>

¹⁰⁵ United Nations Support Mission in Libya (UNSMIL), “UNSMIL Mandate,” <http://www.unsmil.unmissions.org/Default.aspx?tabid=3544&language=en-US>

¹⁰⁶ European Parliament, “Answer to Written Question: Answer Given by Mr Hahn on Behalf of the Commission,” 5 October 2017, <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2017-004251&language=EN>

¹⁰⁷ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” 13 April 2018, <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

“The lack of human dignity in detention centres is staggering.” - MSF General Director Arjan Hehenkamp, 2017

In April 2018, the UN agency reported that out of 33 active official facilities, UNHCR and its local partners could regularly visit 19 centres, whereas four were inaccessible and 10 inconsistently accessible.¹⁰⁸ (The four inaccessible facilities were Jufra Al-Hun, [Shati](#), [Ghat](#), and [Al-Qatrun](#)—all facilities in the south that were inaccessible for unspecified security reasons). At the time of writing, UNHCR had conducted at least 493 monitoring visits nationwide during the course of 2018¹⁰⁹ compared with 1,080 monitoring visits throughout 2017¹¹⁰, and 825 monitoring visits throughout 2016.¹¹¹ Starting in June 2016, Médecins Sans Frontières (MSF) also had access to seven centres in and around Tripoli and provided medical care to detained refugees, asylum seekers, and migrants in those facilities. In February 2017 following a visit to Tripoli, MSF’s General Director Arjan Hehenkamp described “inhumane conditions” in which there was “little natural light or ventilation” as well as “dangerously overcrowded” facilities. “The lack of human dignity was staggering,” he said.¹¹²

Before temporarily suspending activities in 2014, UNHCR provided assistance to over 5,400 persons in immigration detention centres in Libya, including distributing mattresses, clothes, hygiene kits, and other core relief items. It also supported a partner agency to provide medical care to detainees. UNHCR regularly visited nearly 20 immigration detention centres managed by the DCIM and monitored the conditions of refugees and asylum seekers detained in Libya.

The ICRC also suspended activities in 2014, but prior to that conducted visits to detention facilities.¹¹³ The ICRC resumed activities afterwards, however initially in a more limited capacity “owing to the prevailing situation” in Libya.¹¹⁴

¹⁰⁸ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” 13 April 2018, <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

¹⁰⁹ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Flash Update: Libya, 4-11 May 2018,” May 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Libya%20Flash%20Update%2011%20May%202018.pdf>

¹¹⁰ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Response in 2018,” 23 February 2018, <http://reporting.unhcr.org/sites/default/files/UNHCR%20Libya%20Emergency%20Dashboard%20-%2023FEB18.pdf>

¹¹¹ United Nations High Commissioner for Refugees (UNHCR), “Libya Factsheet,” February 2017, <http://reporting.unhcr.org/sites/default/files/UNHCR%20Libya%20Factsheet%20-%20February%202017.pdf>

¹¹² Médecins Sans Frontières (MSF), “MSF Warns EU About Inhumane Approach to Migration as Leaders Meet to Discuss Cooperation with Libya,” 3 February 2017, <https://prezly.msf.org.uk/msf-warns-eu-about-inhumane-approach-to-migration-management-as-leaders-meet-today-to-discuss-cooperation-with-libya#>

¹¹³ International Committee of the Red Cross (ICRC), “Libya: What the ICRC Did in 2013,” 31 March 2014, www.icrc.org/eng/where-we-work/africa/libya/facts-figures-libya-long.htm

In 2017 a detention-monitoring database was launched under the auspices of the IOM's Displacement Tracking Matrix (DTM) project. It has since established detailed records about DCIM-administered facilities in the country and includes monthly data on “demographic characteristics of migrants, site specifications, the availability of various health and protection services to migrants, and various other multi-sectorial indicators to help identify specific needs and vulnerabilities.”¹¹⁵ The IOM and a team of trained enumerators collected data from 13 facilities in June 2017, 16 in August 2017, nine in September 2017, seven in October 2017, 14 in November 2017, 10 in December 2017, 10 in January 2018, and 10 in February 2018.

The DCIM grants some NGOs access to facilities, including the Libyan Red Crescent Society and the International Organisation for Cooperation and Emergency Aid (IOCEA), which has enabled the Danish Refugee Council (DRC) to carry out joint visits to detention centres and to complete trainings for DCIM staff. Despite the conflict, DRC/Danish Demining Group Libya reported on their Facebook page that its Tripoli team was able to visit the [Khums detention centre](#) on 12 October 2014 to distribute hygiene kits and posted photos taken inside the facility.¹¹⁶

In 2013, the DRC gained access to six centres—five in the north and one in the south of the country—to carry out monitoring, notify embassies, re-establish family links through phone calls, distribute non-food items, and train detention centre personnel on human rights, refugee law, fair detention conditions, hygiene, and first aid in collaboration with other organisations.¹¹⁷

Since Human Rights Watch's (HRW) pioneering visit to places of immigration detention in Libya in 2006, there have been numerous important reporting visits by international NGOs to places of immigration detention. Following its visit in April 2014, HRW reported that the conditions in facilities under the control of both the government and militias were marked by widespread violence. The group called on the EU and Italy to “immediately suspend all aid to the centres until it is clear the abuse has ended.” It also recommended that Libya's Interior Ministry investigate

¹¹⁴ International Committee of the Red Cross (ICRC), “ICRC Annual Report 2016—Libya,” 23 May 2017, <http://www.refworld.org/pdfid/59490d8716.pdf>

¹¹⁵ International Organisation for Migration (IOM), “DTM Libya Expands Flow Monitoring Activities, Launches Detention Centre Profiles and Rapid Assessments,” 29 May 2017, <https://unsmil.unmissions.org/dtm-libya-expands-flow-monitoring-activities-launches-detention-centre-profiles-and-rapid>

¹¹⁶ Danish Refugee Council and Danish Demining Group (DRC/DDG), “2014: Strategic Programme Document – DRC/DDG in Libya and Tunisia” <https://drc.ngo/media/1194589/libya-tunisia-strategic-programme-document-2014.pdf>; Danish Refugee Council and Danish Demining Group Libya (DRC/DDGL), “Facebook: Visit of DRC Tripoli Team to Khoms Detention Center on 12/10/2014, with Distribution of Hygiene Kits” 12 October 2014, https://mbasic.facebook.com/story.php?story_fbid=1569773136571367&id=1436573549891327

¹¹⁷ United Nations High Commissioner for Refugees and Danish Refugee Council (UNHCR/DRC), “Questionnaire in Preparation for the IDC MENA 2013 Regional Workshop: Libya Profile,” International Detention Coalition/Global Detention Project, November 2013.

abuses and that an agreement on a monitoring mechanism be reached providing UNSMIL and UNHCR unfettered access to all official migrant detention centres.¹¹⁸

Following visits in 2013, Amnesty International called on the EU Committee of Ministers to recommend that the Italian government set aside existing migration control agreements with Libya and refrain from signing further agreements in the area of border and migration control until the human rights of refugees, asylum-seekers, and migrants are protected and respected. Amnesty recommended the adoption of asylum legislation, an MoU with UNHCR, ratification of the Convention Relating to the Status of Refugees, a maximum period for immigration detention, an end to arbitrary arrests, torture and ill-treatment of foreign nationals, and that “all migration control agreements with Libya or any other country are made public and include adequate safeguards to protect human rights with appropriate implementation mechanisms.”¹¹⁹

2.12 Criminalisation. Libyan law criminalises irregular entry, exit, or stay and as such does not distinguish between migrants, refugees, victims of trafficking, or others in need of international protection.¹²⁰ Upon arrival in Libya, refugees and asylum seekers, particularly from sub-Saharan African countries, are “treated as illegal migrants and are at risk of arbitrary arrest and detention.”¹²¹

Article 6 of Law No 19 (2010) on Combating Irregular Migration provides that “illegal migrants” will be put in jail and condemned to forced labour in jail or a fine of 1,000 LYD (approximately 723 USD). Following this, they will be expelled from Libyan territory.

Under Article 19 of Law No. 6 (1987), persons who violate immigration provisions will either be imprisoned, fined, or both. Article 19, as amended by Law No. 2, increased the monetary fine to at least 2,000 LYD (approximately 1,447 USD) and introduced harsher penalties of up to 20 years' imprisonment for crossing a border without travel documents, a crime aggravated if committed by an organised criminal network.¹²²

¹¹⁸ Human Rights Watch (HRW), “Libya: Whipped, Beaten, and Hung from Trees,” 22 June 2014, <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>

¹¹⁹ Amnesty International, “Submission to the Council of Europe Committee of Ministers: Hirsi Jamaa and Others V. Italy (Application No. 27765/09),” 11 February 2014, http://www.amnesty.eu/content/assets/Doc2014/B1525_-_second_submission_Hirsi_-_11_Feb_2014.pdf

¹²⁰ Amnesty International, “Libya: Rule of Law or Rule of Militias?” 5 July 2012, <https://www.amnestyusa.org/reports/libya-rule-of-law-or-rule-of-militias/>

¹²¹ United Nations High Commissioner for Refugees (UNHCR), “Submission by the United Nations High Commissioner for Refugees (UNHCR) for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: Libya,” https://www.upr-info.org/sites/default/files/document/libya/session_22_-_mai_2015/unhcr_upr22_lby_e_main.pdf

¹²² Human Rights Watch (HRW), “Stemming the Flow: Abuses against Migrants, Asylum Seekers and Refugees,” September 2006, <https://www.hrw.org/reports/2006/libya0906/>; S. Coluccello and S. Massey, “Out of Africa: The Human Trade Between Libya and Lampedusa,” *Trends in Organized Crime*, 2007, <https://curve.coventry.ac.uk/open/file/c7adb74c-aae0-3257-9dd7-d86535582446/1/coluccellocomb.pdf>

Former deportees can also face criminal charges for attempted re-entry. Non-citizens who attempt to re-enter the country after they have been deported must first obtain authorisation from the General Director of Immigration (Article 18 of Law No 6). Former detainees, meanwhile, have little access to accountability because they have no means to seek legal redress for abuses encountered inside detention facilities.

2.13 Externalisation, readmission, and third-country agreements. Given its position as a key transit country for those seeking to enter Europe, the European Union and its member states have long seen Libya as a vital partner in externalisation policies designed to reduce migratory flows across the Central Mediterranean. In the 2000s, after a decade of open-door policy, Libya began adopting more restrictive migration policies—including the establishment of migrant detention centres—in response to pressure from a host of EU countries.¹²³ According to some accounts, Italy began making “often secretive agreements” with Libya as early as 2003 and financed “ex-territorialised migration detention camps near Tripoli in 2003, and in later years in the south at Sebha [Sabha] and Kufra.”¹²⁴ Such “cooperation measures” led to increasing mistreatment of refugees, asylum seekers, and migrants.¹²⁵

Since 2016, the EU has worked on partnering and capacity-building with the Libyan coastguard, and in 2017, Italy and the EU signed cooperation agreements with the Tripoli-based Government of National Accord (GNA) to nominally improve conditions in detention facilities as well as boosting the capacity of the coastguard and the DCIM. In May 2018, Amnesty International accused the EU of “turning a blind eye to the suffering caused by its callous immigration policies that outsource border controls to Libya.”¹²⁶ In the meantime, Italy pushed for maritime “rescue operations” to be carried out by Libyan forces.¹²⁷

Previously, in 2013, responding to steep increases in sea crossings and ship wreckages off the island of Lampedusa, the Italian government established Operation Mare Nostrum, a sea rescue mission costing some 9 million EUR per

¹²³ European Commission (EC), “Commission Implementing Decision of 16.12.2013 on the Annual Action Programme 2013 [Part 2] in Favour of Libya to be Financed from the General Budget of the European Union,” December 2013, <https://bit.ly/2KA4XzW>

¹²⁴ M.L Richey, “The North African Revolutions: A Chance to Rethink European Externalization of the Handling of Non-EU Migrant Inflows.” *Hankuk University of Foreign Studies*, 16 February 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2109199

¹²⁵ Council of Europe (COE), “Communication from a NGO (Amnesty International) in the Case of Hirsi Jamaa Against Italy (Application No. 27765/09) and Reply of the Government (original text in Italian available at the Secretariat),” 24 August 2012, <https://wcd.coe.int/ViewDoc.jsp?Ref=DH-DD%282012%29744&Language=lanEnglish&Site=CM>

¹²⁶ Amnesty International, “Libya: Shameful EU Policies Fuel Surge in Detention of Migrants and Refugees,” 16 May 2018, <https://www.amnesty.org/en/latest/news/2018/05/libya-shameful-eu-policies-fuel-surge-in-detention-of-migrants-and-refugees/>

¹²⁷ Human Rights Watch, “Towards an Effective and Principled EU Migration Policy,” 18 June 2018, <https://www.hrw.org/news/2018/06/18/towards-effective-and-principled-eu-migration-policy>

month. According to government estimates, during its one-year operation the Italian Navy rescued 150,810 migrants and prosecuted 330 smugglers.¹²⁸ Despite the operation, there were still some 3,000 deaths at sea while it was in place.¹²⁹

In May 2018, Amnesty International accused the EU of “turning a blind eye to the suffering caused by its callous immigration policies that outsource border controls to Libya.” In the meantime, Italy pushed for maritime “rescue operations” to be carried out by Libyan forces.

A year later, Italy announced that it was ending the Mare Nostrum rescue mission and was instead replacing it with “Triton”—ostensibly a border surveillance programme operating close to the Italian coast that was coordinated by Frontex, the EU border agency. A Council of Europe representative acknowledged at the time that under Triton, “There will be gaps and a vacuum in the territorial waters off Libya, for instance, and that is where the main accidents occur.” A Frontex official was also quoted as saying that, “Of course, we will also do search and rescue actions, but if you don’t have enough capacity will you be there in time? I would expect many more sea deaths the moment that Mare Nostrum is withdrawn.”¹³⁰

In June 2015, as part of what the EU called its “comprehensive approach to help better manage irregular migration and disrupt traffickers and smugglers’ networks,”¹³¹ Operation EUNAVFOR MED (dubbed “Operation Sophia) was launched. Like Italy’s Triton plan, Operation Sophia is first and foremost a counter-smuggling, rather than an extended search and rescue, operation.

Since 2016, NGO search and rescue teams have been operating in the Central

¹²⁸ *Marina Militare* (MM), “Mare Nostrum,” *Ministerio della Difesa*, 2014.
<http://www.marina.difesa.it/EN/operations/Pagine/MareNostrum.aspx>

¹²⁹ L. Davies and A. Nelson, “Italy: End of Ongoing Sea Rescue Mission ‘Puts Thousands at Risk,’” *The Guardian*, 31 October 2014, <http://www.theguardian.com/world/2014/oct/31/italy-sea-mission-thousands-risk>

¹³⁰ L. Davies and A. Nelson, “Italy: End of Ongoing Sea Rescue Mission ‘Puts Thousands at Risk,’” *The Guardian*, 31 October 2014, <http://www.theguardian.com/world/2014/oct/31/italy-sea-mission-thousands-risk>. See also, European Commission (EC) “Frontex Joint Operation ‘Triton’ – Concerted Efforts to Manage Migration in the Central Mediterranean,” 7 October 2014, http://europa.eu/rapid/press-release_MEMO-14-566_en.htm; Human Rights Watch (HRW), “EU: Act to Save Lives at Sea,” 8 October 2014, <http://www.hrw.org/news/2014/10/08/eu-act-save-lives-sea>

¹³¹ European Council (EC), “EUNAVFOR MED Operation Sophia: Mandate Extended Until 31 December 2018,” 25 July 2017, <http://www.consilium.europa.eu/en/press/press-releases/2017/07/25/eunavformed-sophia-mandate-extended/>

Mediterranean in a bid to try to provide a better Mare Nostrum replacement and to reduce the number of deaths in the Mediterranean. NGO vessels have been accused of facilitating the work of smugglers, claims that have never been backed up by evidence, and search and rescue teams have been exposed to “innuendo,” legal challenges, and even confiscation of vessels.¹³² In June 2018, Italy's Interior Ministry and officials in Malta blocked the Aquarius rescue ship, which was carrying 629 refugees and migrants, from docking at their ports.¹³³

In 2017, the Italian government once again sought a comprehensive arrangement with the Libyan authorities through a bilateral MoU with the GNA in Tripoli, signed on 2 February 2017.¹³⁴ Today, the future of the MoU is in doubt. Shortly after it was agreed, the Tripoli Court of Appeals ruled against it—largely because Prime Minister Seraj did not secure the approval of Libya's House of Representatives and so had no authority to sign the agreement, but also because of the MoU's stipulations that Libya should host large numbers of refugees, asylum seekers, and migrants.¹³⁵ Meanwhile in May 2018, a legal application was filed against Italy at the European Court of Human Rights (ECHR) by the Global Legal Action Network and the Association for Juridical Studies on Immigration, with support from the Italian non-profit *Associazione Ricreativa Culturale Italiana* (ARCI) and Yale Law School's Lowenstein International Human Rights Clinic. The submission made use of evidence collected by Forensic Oceanography—a part of the Forensic Architecture unit based at Goldsmiths (University of London)—related to a 6 November 2017 incident in which the Libyan coastguard interfered with a NGO search and rescue operation resulting in the deaths of at least 20 people.¹³⁶ Survivors of the incident were “pulled back” to Libya by the Libyan coastguard, where they “endured detention in inhumane conditions, beatings, extortion, starvation, and rape. Two of the survivors were subsequently ‘sold’ and tortured with electrocution.”¹³⁷ The lawsuit is based on the account of 17 of those survivors.

¹³² Amnesty International, “Italy: Losing the Moral Compass: Innuendos Against NGOs Which Rescue Lives in the Central Mediterranean,” 28 April 2017, <https://www.amnesty.org/download/Documents/EUR3061522017ENGLISH.pdf>

¹³³ Deutsche Welle (DW), “Spain Will Accept Migrant Ship Aquarius After Italy and Malta Refuse Entry,” 11 June 2018, <https://www.dw.com/en/spain-will-accept-migrant-ship-aquarius-after-italy-and-malta-refuse-entry/a-44150793>

¹³⁴ Odysseus Network, “Memorandum of Understanding on Cooperation in the Fields of Development, the Fight Against Illegal Immigration, Human Trafficking and Fuel Smuggling and on Reinforcing the Security of Borders Between the State of Libya and the Republic of Italy,” 2017, http://eumigrationlawblog.eu/wp-content/uploads/2017/10/MEMORANDUM_translation_finalversion.doc.pdf

¹³⁵ Z. El Zaidy, “EU Migration Policy Towards Libya: A Libyan Perspective on the Memorandum of Understanding between Italy and Libya,” July 2017, <http://library.fes.de/pdf-files/bueros/tunesien/13752.pdf>

¹³⁶ S. Kirchgaessner and L. Tondo, “Italy's Deal with Libya to 'Pull Back' Migrants Faces Legal Challenge,” *The Guardian*, 8 May 2018, https://www.theguardian.com/world/2018/may/08/italy-deal-with-libya-pull-back-migrants-faces-legal-challenge-human-rights-violations?CMP=Share_iOSApp_Other

¹³⁷ Global Legal Action Network (GLAN), “Legal Action Against Italy Over its Coordination of Libyan Coast Guard Pull-backs Resulting in Migrant Deaths and Abuse,” 8 May 2018, <https://bit.ly/2Ik5HHt>

In 2017, media reports also referred to an additional agreement aimed at “beefing up Libya's coast guard, reinforcing its southern border and improving conditions for migrants in detention centres.”¹³⁸ Troublingly, under this agreement, deals were reportedly struck with Al-Ammu and Brigade 48, two militias present in and around the major smuggling hub of Sabratha that investigators from the United Nations Panel of Experts on Libya have found to be complicit in local smuggling and human trafficking practices.¹³⁹

Far from marking a new trajectory, the 2017 MoU bears similarities to externalisation agreements conducted during the Gaddafi era. 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 with 5 billion USD in infrastructure projects over 25 years to compensate for abuses committed during its rule over the country. It called for “intensifying cooperation in fighting terrorism, organised crime, drug trafficking and illegal immigration,” and included an agreement to strengthen Libyan border controls: 50 percent of which was to be funded by Italy, and 50 percent by the EU.¹⁴⁰

Italy previously supported Libya’s immigration control efforts through verbal agreements and the provision of a “programme 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; [and] e) Operational and investigative cooperation.”¹⁴¹ In 2009, Libya and Italy launched joint naval patrols in Libyan territorial waters for an initial period of three years. At the time of the patrols, observers pointed to controversial “pushbacks” (*respingimento*)—forcibly redirecting boats en route to Italy back to Libya—arguing that they were exacerbating a humanitarian crisis in the Mediterranean. Italy defended the pushbacks, claiming that when the identities of migrants were clear and transportation was readily available, there was no need to impose administrative detention.¹⁴² Some observers claimed that the joint naval patrols were deterring migrants and asylum seekers from attempting to reach Sicily and Sardinia.¹⁴³

¹³⁸ Associated Press, “Backed by Italy, Libya Enlists Militias to Stop Migrants,” 29 August 2017, <https://www.apnews.com/9e808574a4d04eb38fa8c688d110a23d>

¹³⁹ United Nations Security Council (UNSC), “Final Report of the Panel of Experts on Libya,” 1 June 2017, <https://reliefweb.int/sites/reliefweb.int/files/resources/N1711623.pdf>

¹⁴⁰ Human Rights Watch (HRW), “Stemming the Flow: Abuses against Migrants, Asylum Seekers and Refugees,” September 2006, <https://www.hrw.org/reports/2006/libya0906/>

¹⁴¹ Government of Italy, “Response of the Italian Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Italy from 16 June to 23 June 2006,” *Council of Europe*, 5 July 2007, <http://www.refworld.org/docid/47206efb2.html>

¹⁴² Government of Italy, “Response of the Italian Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Italy from 16 June to 23 June 2006,” *Council of Europe*, 5 July 2007, <http://www.refworld.org/docid/47206efb2.html>

¹⁴³ Human Rights Watch (HRW), “Pushed Back, Pushed Around: Italy’s Forced Return of Boat Migrants and Asylum Seekers, Libya’s Mistreatment of Migrants and Asylum Seekers,” September 2009, www.hrw.org/en/reports/2009/09/21/pushed-back-pushed-around-0

In February 2012, in its first judgment on interception-at-sea in *Hirsi Jamaa and Others v. Italy*, the European Court of Human Rights ruled that acts performed by a Member State or producing effects outside its territory could constitute an exercise of jurisdiction by this State. It condemned Italy for exposing migrants to the risk of being subjected to ill treatment in Libya and being repatriated to Somalia and Eritrea, and observed that, “Italy cannot evade its own responsibility by relying on its obligations arising out of bilateral agreements with Libya.”¹⁴⁴

Despite the ruling, Italy signed an agreement with Libya in April 2012 covering training programmes, the detention of migrants, and voluntary return. The agreement reportedly lacked any concrete measures to uphold international human rights and refugee law standards. A year after the agreement was signed, representatives of the Italian Ministry of Interior conducted a needs assessment in several “holding centres.”¹⁴⁵ Another bilateral “technical agreement” was signed in Rome on 28 November 2013, according to which Italy agreed to provide drones to assist in the control of Libya’s southern border—in part, an effort to detect refugees, asylum seekers, and migrants.¹⁴⁶

The EU and Italy have both supported the refurbishment of Libyan detention centres and funded the distribution of aid in these facilities by international and Libyan NGOs,¹⁴⁷ and a 2014 HRW report found that the EU and Italy had committed some 12 million EUR to the centres for the following four years.¹⁴⁸

As part of its European Neighbourhood and Partnership Instrument (ENPI) programme, which has also financed immigration detention in [Ukraine](#), the EU announced in January 2014 a 10 million EUR programme to finance a “rights-based migration management and asylum system in Libya,” including improving detention conditions and reviewing administrative procedures.¹⁴⁹ Some EU funds are

¹⁴⁴ European Court of Human Rights (ECHR), “Returning Migrants to Libya Without Examining their Case Exposed them to a Risk of Ill-Treatment and Amounted to a Collective Expulsion,” 23 February 2012, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?%22itemid%22:%22003-3856359-4434185%22>}}

¹⁴⁵ Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf

¹⁴⁶ Amnesty International, “Submission to the Council of Europe Committee of Ministers: Hirsi Jamaa and Others V. Italy (Application No. 27765/09),” 11 February 2014, http://www.amnesty.eu/content/assets/Doc2014/B1525_-_second_submission_Hirsi_-_11_Feb_2014.pdf

¹⁴⁷ Human Rights Watch (HRW), “Libya: Whipped, Beaten, and Hung from Trees,” 22 June 2014, <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>; European Commission (EC), “Supporting Human Rights-Based Migration Management and Asylum System in Libya,” 20 January 2014, http://europa.eu/rapid/press-release_MEMO-14-26_en.htm; Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights. London,” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf

¹⁴⁸ Human Rights Watch (HRW), “Libya: Whipped, Beaten, and Hung from Trees,” 22 June 2014, <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>

¹⁴⁹ European Commission (EC), “Supporting Human Rights-Based Migration Management and Asylum System in Libya,” 20 January 2014, http://europa.eu/rapid/press-release_MEMO-14-26_en.htm

channelled via the European Union [Integrated Border Management Assistance Mission in Libya](#) (EUBAM) programmes, which focus on support to “the Libyan authorities in developing border management and security at the country’s land, sea and air borders.”¹⁵⁰

A key EU partner in Libya is the IOM, which has for several years coordinated with Libyan authorities in organising returns, beginning in 2006 when the agency opened an office in Tripoli to assist voluntary returns and other migration management efforts.¹⁵¹ The EU has been the main financier of these programs with individual EU members including Italy, Germany, and the United Kingdom, as well as Switzerland and the United States.

Despite a period of interruption in the IOM's returns programme in 2016, returns from detention have since restarted. In 2016, IOM supported 2,777 migrants in returning to their countries of origin.¹⁵² IOM's voluntary returns programme was scaled-up in November 2017 and there has been a subsequent uptick in the numbers of returns (also given the prevailing situation in Libya). In March 2018, the agency reported that 10,171 migrants had returned home since then, while a total of 23,302 migrants had returned through IOM's voluntary returns programme since January 2017.¹⁵³ By mid-2018, IOM had assisted a total of at least 8,046 returns.¹⁵⁴

As sub-Saharan migrants are often returned home via Niger, the IOM has operated several transit and assistance centres for migrants in the country, providing emergency and life-saving humanitarian assistance to expelled migrants. The IOM opened its fourth transit centre in the Nigerien city of Agadez in November 2014. This facility, funded by the Italian Ministry of Interior, can normally accommodate up to 400 people and up to 1,000 in times of crisis. The IOM's chief of mission informed the Global Detention Project that in 2014, about 2,500 migrants transited through these centres, returning from Libya or Algeria in most cases.¹⁵⁵

¹⁵⁰ European Union Integrated Border Management Assistance Mission in Libya (EUBAM Libya), “EU Border Assistance Mission Celebrates International Human Rights Day with Libyan counterparts,” 10 December 2013, http://eeas.europa.eu/archives/docs/csdp/missions-and-operations/eubam-libya/pdf/press_release_10122013.pdf

¹⁵¹ International Organisation for Migration (IOM), “IOM Opens Office in Tripoli,” 25 April 2006, <https://www.iom.int/news/iom-opens-office-tripoli>

¹⁵² International Organisation for Migration (IOM), “Humanitarian Voluntary Return (HVR) and Reintegration Assistance,” 2017, <http://libya.iom.int/humanitarian-voluntary-return-hvr-and-reintegration-assistance>

¹⁵³ International Organisation for Migration (IOM), “Voluntary Humanitarian Returns from Libya Continue as Reintegration Efforts Step Up,” 13 March 2018, <https://www.iom.int/news/voluntary-humanitarian-returns-libya-continue-reintegration-efforts-step>

¹⁵⁴ International Organisation for Migration (IOM), “171 Nigerian Migrants Return Home on First International Flight from Zintan, Libya: IOM,” 12 June 2018, <https://www.iom.int/news/171-nigerian-migrants-return-home-first-international-flight-zintan-libya-iom>

¹⁵⁵ International Organisation for Migration (IOM), “IOM Opens Agadez Transit Centre in Niger Desert,” November 2014, <https://www.iom.int/news/iom-opens-agadez-transit-centre-niger-desert> I; G. Loprete (IOM Chef de Mission, IOM Niger,) Email message to Mariette Grange (Global Detention Project), 18 November 2014.

The six IOM-operated transit centres in Niger are “supported by the Migrant Resource and Response Mechanism funded by the EU Emergency Trust Fund for Africa [*Fonds fiduciaire pour l’Afrique*], through the EU-IOM Joint Initiative for Migrant Protection and Reintegration, and co-financed by the German Cooperation, the Governments of the Netherlands, France, Switzerland, DFID and DANIDA.” The Trust fund has allocated 91.9 million EUR to Niger to prevent irregular migration, including 32 million EUR to facilitate better management of migration in the country.¹⁵⁶ On 25 June 2018, media sources quoted an IOM official according to whom migrants expelled from Algeria “come by the thousands.” Journalists reported that “Unlike Niger, Algeria takes none of the EU money intended to help with the migration crisis.”¹⁵⁷

The IOM is also one of several actors conducting training with the Department for Combating Irregular Migration (DCIM), Libyan coastguard, and national authorities. In early 2013, the IOM conducted two training sessions for DCIM staff working with migrants at the [Towisha detention centre](#) and at Tripoli International Airport.¹⁵⁸

There have been several IOM projects related to detention, including the US-funded Enhancing the Protection of Irregular Migrants as well as the EU-funded Stabilizing At-Risk Communities and Enhancing Migration Management to Enable Smooth Transitions in Egypt, Tunisia and Libya (START). Both of these entail providing assistance to irregular migrants and victims of trafficking in detention centres.¹⁵⁹ Another programme, the EU/Italy-funded SAHARA-MED programme, was designed to “prevent, detect and manage irregular migration flows” but ceased operations in the wake of the 2011 uprising and ensuing conflict.

2.14 Trends and statistics. Official government statistics from mid-2018 reported that there were at that time approximately 7,000 migrants and asylum seekers detained in 20 facilities, most of which were located in or nearby Tripoli.¹⁶⁰ Commenting on these figures, an official with the IOM said that the number of detainees was closer to 10,000 given the high number of migrants recently interdicted at sea who had been returned to Libya.¹⁶¹ However, due to the presence of a number of “unofficial” detention facilities operated by armed groups and criminal

¹⁵⁶ European Commission, “*Fonds fiduciaire pour l’Afrique – Actions au Niger*,” <https://bit.ly/2Jyr88l>

¹⁵⁷ L. Hinnant, “Walk or Die: Algeria Strands 13,000 Migrants in the Sahara,” *Associated Press*, 25 June 2018, <https://bit.ly/2N52ECg>

¹⁵⁸ International Organisation for Migration (IOM), “Libyan Officials Study Assisted Voluntary Return and Reintegration,” 3 May 2013, <https://reliefweb.int/report/libya/libyan-officials-study-assisted-voluntary-return-and-reintegration>

¹⁵⁹ International Organisation for Migration (IOM), “Libya,” <https://www.iom.int/countries/libya>

¹⁶⁰ InfoMigrants, “Up to 10,000 Migrants in 20 Centers Under the Sun, IOM Libya,” 3 July 2018, <http://www.infomigrants.net/en/post/10363/up-to-10-000-migrants-in-20-centers-under-the-sun-iom-libya>

¹⁶¹ InfoMigrants, “Up to 10,000 Migrants in 20 Centers under the Sun, IOM Libya,” 3 July 2018, <http://www.infomigrants.net/en/post/10363/up-to-10-000-migrants-in-20-centers-under-the-sun-iom-libya>

gangs (that are more accurately described as “places of captivity”), the numbers of non-citizens in detention at any one time will inevitably be higher.¹⁶²

Before the 2011 uprising, the European Commission estimated that there were between 1.8 million and three million irregular migrants in Libya;¹⁶³ the IOM estimated that the total number of migrant workers (regardless of immigration status) living in Libya before the crisis was 2.5 million, including one million Egyptians, 80,000 Pakistanis, 59,000 Sudanese, 63,000 Bangladeshis, 26,000 Filipinos, 10,500 Vietnamese, and “a large population of Sub-Saharan Africans mainly from Niger, Chad, Mali, Nigeria and Ghana.”¹⁶⁴ In 2016, the IOM identified and located 276,957 migrants in Libya, out of the around 700,000 to 1 million migrants expected to be within the country.¹⁶⁵ As of May 2018, there are approximately 52,000 refugees and asylum seekers registered with UNHCR in Libya,¹⁶⁶ although the number could be higher due to UNHCR's limited mandate and operations in Libya.

A July 2017 UNHCR-supported report estimated that 40,000 people were deported from the south of Libya between 2012-2014.¹⁶⁷

By mid-2018, nearly 19,000 people had arrived in Italy, compared to a total of 119,369 in 2017, 181,436 in 2016, 153,842 in 2015 and 170,1000 in 2014.¹⁶⁸ Meanwhile, 635 people had lost their lives in the Mediterranean while trying to reach Europe (the majority of them in the Western Mediterranean off Morocco's coastline) compared with 1,364 in 2017, 1,384 in 2016, 1,769 in 2015, and 424 in 2014.¹⁶⁹

¹⁶² Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf; Amnesty International, “Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

¹⁶³ European Commission (EC), “Annex of the Commission Implementing Decision on the Annual Action Programme for 2013 (Part 2) in Favour of Libya [C(2013) 9196 final]. Action Fiche for Support to Rights-Based Migration Management and Asylum System in Libya,” December 2013, <https://bit.ly/2KA4XzW>

¹⁶⁴ International Organisation for Migration (IOM), “Libyan Crisis One Month into IOM’s Response,” 28 March 2011, <https://www.iom.int/jahia/webdav/shared/shared/mainsite/media/docs/reports/MENA-One-Month-Report.pdf>

¹⁶⁵ International Organisation for Migration (IOM), “IOM Libya Brief,” <https://www.iom.int/countries/libya>

¹⁶⁶ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Flash Update: Libya, 21-27 April 2018,” <https://reliefweb.int/report/libya/unhcr-flash-update-libya-21-27-april-2018-enar>

¹⁶⁷ Altai Consulting and IMPACT, “Mixed Migration Trends in Libya: Changing Dynamics and Protection Challenges,” <http://www.altaiconsulting.com/wp-content/uploads/2017/07/LIB-HCR-MAS-Final-Report.pdf>

¹⁶⁸ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Flash Update: Libya, 20-27 July 2018,” 27 July 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Libya%20Flash%20Update%2027%20July%202018.pdf>; United Nations High Commissioner for Refugees (UNHCR), “Operational Portal: Mediterranean Situation,” <http://data2.unhcr.org/en/situations/mediterranean/location/5205>

¹⁶⁹ International Organisation for Migration (IOM), “Missing Migrants: Total of Deaths Recorded in Mediterranean from 01 January to 18 May,” <https://missingmigrants.iom.int/region/mediterranean>



3. DETENTION INFRASTRUCTURE

3.1 Summary. Libya does not appear to have an official catalogue of places of immigration detention (often referred to as “holding centres”). A recent UNHCR count puts the number at 33 active official detention facilities. The IOM, on the other hand, estimated in mid-2018, that there were 20 detention centres in operation at that time, not counting unofficial facilities.¹⁷⁰ Estimates from other groups, including international NGOs, have included anywhere between 17 and 35 official facilities.¹⁷¹

Detention monitoring conducted as part of the IOM's Displacement Tracking Matrix (DTM) from 2017 onwards has developed data on 25 facilities: nine recently closed; 18 inactive; and two facilities under maintenance. This project only monitored facilities under the administration of the Department for Combatting Illegal Migration (DCIM) rather than other actors.¹⁷²

In 2009, the GDP attempted to map detention sites in Libya.¹⁷³ Using cross-referenced information obtained by various rights groups during interviews with former detainees, the GDP found at least 20 immigration detention facilities.¹⁷⁴ However, since the 2011 uprising, this initial map of facilities, [which was replicated by some international organisations](#) during their early Libya mapping efforts, has changed significantly.¹⁷⁵

¹⁷⁰ InfoMigrants, “Up to 10,000 Migrants in 20 Centers Under the Sun, IOM Libya,” 3 July 2018, <http://www.infomigrants.net/en/post/10363/up-to-10-000-migrants-in-20-centers-under-the-sun-iom-libya>

¹⁷¹ Amnesty International, “Libya’s Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

¹⁷² International Organisation for Migration (IOM), “Displacement Tracking Matrix — Libya,” www.globaldtm.info/libya/

¹⁷³ Global Detention Project, “Libya Detention Profile,” 2009, <https://www.globaldetentionproject.org/wp-content/uploads/2009/11/Libya-Immigration-Detention-Profile-2009.pdf>

¹⁷⁴ Human Rights Watch (HRW), “Pushed Back, Pushed Around: Italy’s Forced Return of Boat Migrants and Asylum Seekers, Libya’s Mistreatment of Migrants and Asylum Seekers,” September 2009, www.hrw.org/en/reports/2009/09/21/pushed-back-pushed-around-0; Fortress Europe, “Border Sahara: The Detention Centres in the Libyan Desert,” 1 January 2009, <http://fortresseurope.blogspot.com/2006/01/border-sahara-detention-centres-in.html>

¹⁷⁵ See, for example, UN High Commissioner for Refugees, “Libya, Detention Centres: Map of Detention Centres in Libya and Related UNHCR Protection Activities,” *UNHCR*, June 2016, available at: https://www.globaldetentionproject.org/unhcr_gdp_libya_map_2016

Soon after the uprising, militias and revolutionary brigades (*kata'ib*) took control of some detention centres, operating them without official oversight. By mid-2013, the DCIM had regained control of many facilities formerly run by militias, nominally controlling 17 of them.¹⁷⁶ UNHCR reportedly visited 24 centres that year,¹⁷⁷ and Amnesty International reported that in April/May 2013, there were approximately 5,000 people being held in 17 poorly resourced “holding centres” under the authority of the Ministry of Interior.¹⁷⁸ In August 2014, the IOM reported that while most centres were still operational, DCIM officials at headquarters were working from their homes and that it was impossible for them to monitor the situation in detention facilities purportedly under their control.¹⁷⁹ Meanwhile, multiple sources—including lists supplied by the DCIM to Amnesty International and HRW researchers in 2013 and 2014—counted some two-dozen facilities in use.¹⁸⁰

According to sources consulted in 2013-2014, at the time the DCIM managed immigration facilities in Towisha, Zliten, Tobruk (Tobruch), Ajdabiya, Abu Saleem, Durj/ Daraj, Brak Al-Shati/ Brak Shati, Al-Gwayaa/Gwei'a (Garaboli), Sabha, Surman, Aburshada/ Bou Rashada, Al-Hamra (Gharyan), Al-Jufra/ Jufra, Al-Qatrun/ Al-Ghatroun, Sabratah, Misratah/ Karaim, Al-Lhoms/Khoms, Ain Zara , Kufra, Souq Al-Hadika, and Al-Bayda.¹⁸¹

However in April 2018, UNHCR counted 19 facilities—regularly visited by the UN agency and its partners—in Triq al-Sika, Triq al-Matar, Qasr Bin Ghasheer, Ain Zara, Tajoura, Zwara, Azzinan Daher Al Jabal, Azzawiya al-Nasr, Janzour, Ghiryana al

¹⁷⁶ Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf; Danish Refugee Council (DRC), “We Risk our Lives for our Daily Bread’: Findings of the Danish Refugee Council Study of Mixed Migration in Libya,” December 2013, <https://bit.ly/2tVP8Jd>

¹⁷⁷ United Nations High Commissioner for Refugees and Danish Refugee Council (UNHCR/DRC), “Questionnaire in Preparation for the IDC MENA 2013 Regional Workshop: Libya Profile,” International Detention Coalition /Global Detention Project, November 2013.

¹⁷⁸ Amnesty International, “Scapegoats of Fear: Rights of Refugees, Asylum Seekers and Migrants Abused in Libya,” <https://www.amnestyusa.org/reports/scapegoats-of-fear-rights-of-refugees-asylum-seekers-and-migrants-abused-in-libya/>

¹⁷⁹ International Organisation for Migration (IOM), “Updated Situation Report, Vol.4/2014,” 24 August 2014, <https://reliefweb.int/report/libya/iom-libya-updated-situation-report-vol-4-2014-august-24th-2014>

¹⁸⁰ Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf; Human Rights Watch (HRW), “Libya: Whipped, Beaten, and Hung from Trees,” 22 June 2014, <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>; United Nations High Commissioner for Refugees and Danish Refugee Council (UNHCR/DRC), “Questionnaire in Preparation for the IDC MENA 2013 Regional Workshop: Libya Profile,” International Detention Coalition /Global Detention Project, November 2013; Danish Refugee Council (DRC), “We Risk our Lives for our Daily Bread’: Findings of the Danish Refugee Council Study of Mixed Migration in Libya,” December 2013, <https://bit.ly/2tVP8Jd>

¹⁸¹ H, Salah (Libya researcher, Human Rights Watch), email message to Mariette Grange (Global Detention Project), 6 November 2014; Amnesty International, “Amnesty International Report 2013. The State of the World’s Human Rights,” May 2013, http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf; M. Mughrabi-Talhami (Libya researcher, Amnesty International), email message to Mariette Grange (Global Detention Project), November 2014.

Hamra, Alkhums Suq Alkhamis, Zliten, Kararim/Misrata, Alkufra, Ejdabia, Ganfouda, Albayda, Shahhat and Tobruk. These are all nominally DCIM-administered facilities. UNHCR at the same time counted 33 facilities active across the country.¹⁸²

Although the DCIM has, according to reports, nominally regained control over many of the country's main immigration detention sites, some facilities still appear to remain in the hands of militias that control large portions of Libyan territory or who have assimilated into governmental institutions including the Ministry of Interior and the coastguard. Maintaining an accurate picture of Libya's detention estate is made more difficult by the fact that the DCIM regularly closes facilities and opens others—for example in April 2018, the DCIM ordered the closure of five facilities (including [Aburshada](#) in Gharyan and Derj near the Algerian border) and a similar decision was made regarding four other centres two months earlier.¹⁸³ Another problem is knowing for certain whether a centre is “actually operated by or even under the control of the DCIM”¹⁸⁴ as opposed to militias. Ongoing armed conflict in some areas, particularly in the south, has also led to the closure of DCIM facilities.

The types of facilities currently used in Libya for immigration-related detention are also not always clear—for instance, whether they are prisons, informal camps, police cells, or specialised centres. However, sources that the Global Detention Project (GDP) was able to consult seem to agree that the facilities are generally dedicated immigration detention centres. To the extent that this is the case, it represents something of an anomaly in the region since most North African countries—including [Morocco](#) and [Egypt](#)—tend to use prisons or police stations for immigration detention. This regional variation could be the result of the long-term European involvement in Libyan migration management.

Although the centres appear to be dedicated immigration sites, it is unclear if these should be coded as Ad Hoc, Criminal, or Administrative.¹⁸⁵ If a facility is used exclusively to hold people imprisoned as part of a criminal process stemming from immigration status, then arguably it should be considered a criminal prison. On the other hand, most sources agree that the detention of foreigners in Libya tends to occur outside any legal process and often in a situation lacking official sanction, like in facilities operated by militias. Such facilities would appear to meet the qualification for being coded Ad Hoc (according to GDP typology). The GDP, however, has opted

¹⁸² United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” 13 April 2018, <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

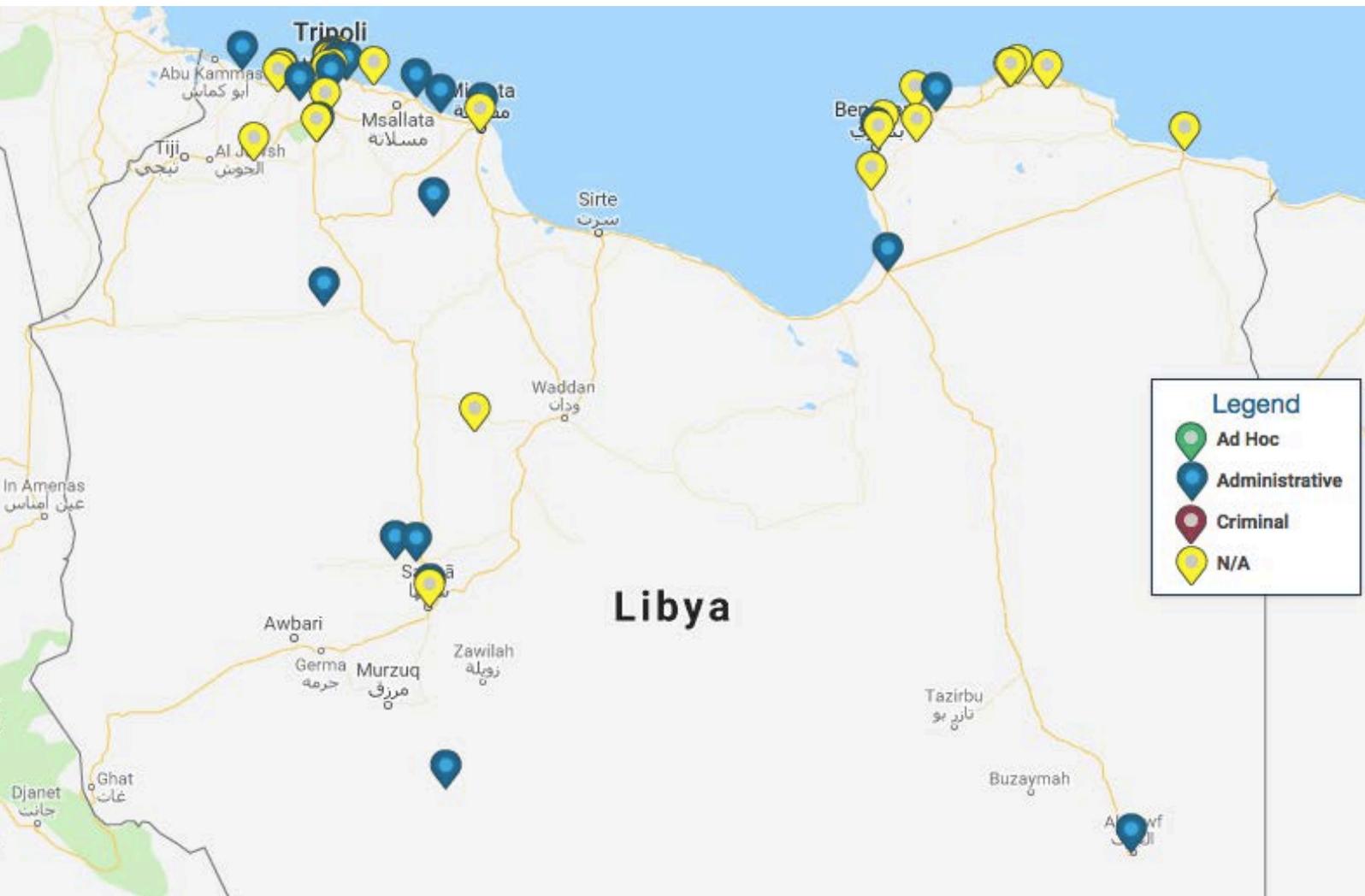
¹⁸³ The Libya Observer, “Decision Issued to Close Down Four Illegal Immigration Shelters,” 1 February 2018, <https://www.libyaobserver.ly/inbrief/decision-issued-close-down-four-illegal-immigration-shelters>; The Libya Observer, “Five Illegal Migrants Shelter Centers Shut Down in Libya,” 19 April 2018, <https://www.libyaobserver.ly/inbrief/five-illegal-migrants-shelter-centers-shut-down-libya>

¹⁸⁴ Amnesty International, “Libya's Dark Web of Collusion: Abuses against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

¹⁸⁵ For more information about the GDP typology, see: M. Flynn, “An Introduction to Data Construction on Immigration Detention,” *Global Detention Project*, July 2011, https://www.globaldetentionproject.org/wp-content/uploads/2016/06/GDP_data_introduction_v2.pdf

to code the facilities Administrative for the time being, mainly because foreigners who are detained in them appear to be held as a matter of administrative convenience for local authorities until a long-term solution, such as expulsion from the country, is found.

3.2 Detention facilities. Below, the GDP provides details of the country’s main immigration detention centres about which it has received information. Some of this information is based on data provided in the IOM’s detention monitoring database, part of the Displacement Tracking Matrix (DTM) project, which has monitored conditions inside official immigration detention centres under the authority of the DCIM since 2017. Other sources include reports by international NGOs, first-hand reports by journalists and investigators, as well as the Global Detention Project (GDP)/International Detention Coalition (IDC) questionnaire completed by UNHCR and the Danish Refugee Council in November 2013.



Immigration detention facilities in Libya (Global Detention Project / Google Maps)

Detention facilities have been divided into broad geographical areas, and follow the same delineation as UNHCR documentation on detention facilities (as opposed to alphabetical order).

3.2.a Facilities in and around Tripoli

Triq al-Seka. UNHCR have accessed [Triq al-Seka](#) and other Tripoli facilities in order to distribute health kits and conduct basic protection activities.¹⁸⁶ On its day of assessment in August 2017, the IOM found 471 detainees—both male and female—including 190 Nigeriens, 120 Nigerians, 80 Moroccans, 24 Sudanese, and 21 Ghanaians. Another assessment in July 2018 found 1,200 inside including 445 Eritreans, 110 Somalians and 75 Pakistanis. BBC journalists visiting Triq al-Seka described inmates as mostly “Africans in search of work, who were stopped at sea, or trying to get there” including one young man apprehended at Tripoli's airport for travelling on a fake visa.¹⁸⁷ In December 2017, there were 788 immigration detainees inside Triq al-Seka including 191 Cote d'Ivoriens, 160 Malians, 97 Sudanese, 95 Nigerians, and 59 Gambians (as well as another 330 people of different nationalities).¹⁸⁸

Hamza (Tariq al-Matar). In February 2018 there were 630 immigration detainees in [Tariq al-Matar](#) including 290 Nigerians, 200 Sierra Leoneans, 80 Ghanaians, and small groups of other nationalities of no more than five persons (such as Somalis). Whereas in July 2018, there were 1,770 inside including 680 Eritreans, 240 Sudanese and 200 Somalians.

(Qasr) bin Gashir. In February 2018 there were 472 immigration detainees in [Qasr bin Gashir](#) including 200 Sierra Leoneans, 90 Nigerians, 55 Malians, 40 Senegalese, and 28 Nigerians. Whereas in July 2018 there were 539 inside including 310 Eritreans, 151 Sudanese and 28 Ethiopians.

Ain Zara. [This centre](#) serves as a holding facility for migrants indiscriminately arrested during the course of police raids and street sweeps in Tripoli. Migrants are subsequently detained for a limited period before being transferred to other centres across Libya. Activity at the detention centre is extremely fluid and the population can vary. In July 2018 there were 700 immigration detainees inside including 288 Somalians, 237 Eritreans and 78 Ethiopians.

Tajura (Tajoura). In the autumn of 2017, the IOM met DCIM chief Muhammad Beshir and senior officers at [Tajura](#) to discuss “improving the living conditions of [the]

¹⁸⁶ United Nations High Commissioner for Refugees (UNHCR), “Libya Operation: UNHCR Update, 26 June - 5 July 2017,” <http://www.refworld.org/pdfid/596616724.pdf>

¹⁸⁷ O. Guerin, “Libyan Migrant Detention Centre: 'It's Like Hell',” 7 September 2017, <http://www.bbc.co.uk/news/world-africa-41189247>

¹⁸⁸ Quoted DTM data for Triq al-Seka mentioned 16 Malians, however because DTM in order of size (largest groups first), GDP presumes the actual figure was 160.

migrants, rehabilitation of the centre and capacity building training of the staff.” Since then, [Tajura](#) has been earmarked for international assistance. The facility has also become one of six disembarkation zones serviced by UNHCR along the country's north-west coastline.¹⁸⁹

3.2.b Facilities in western Libya (and the western Mediterranean coast)

Zuwarah. Although Zuwarah was once known as a major smuggling hub, its significance declined for a while since local activist networks, community groups, and security forces turned against smugglers in 2015. However, according to reports from early 2018, there were up to 800 migrants and refugees detained at the facility, including Nigerians, Nigeriens, Cote d’Ivoriens, Malians, and Senegalese.¹⁹⁰

Sabratah. A former school, [this centre](#) now acts as an improvised and ill-equipped detention centre. Following the outbreak of armed clashes in and around Sabratah in September 2017, more than 14,000 immigration detainees previously held in “numerous informal detention centres and camps” were transferred either to Zuwarah or an assembly point in Sabratah where, from there, the DCIM distributed detainees mostly among detention facilities in the Tripoli area including Triq al-Seka, Gharyan, Tajura, and Tariq al-Matar.¹⁹¹

Al-Nasr (Az-Zawiyah). [Az-Zawiyah](#) is located inside an old factory warehouse that was active during the Gaddafi era, and can reportedly hold up to one thousand people at any one time. Officially, or on paper at least, this is a DCIM-run centre however the reality on the ground is far more complex. Sometimes known amongst migrants as the “Ossama Centre,” Az-Zawiyah is run by the head of a local militia and is one of several facilities where those intercepted at sea by the Libyan coastguard are taken after disembarkation.¹⁹² The militia in charge of the centre has good links with a local coastguard commander that UN investigators confirmed was operating both with people smuggling and fuel smuggling networks in and around Zawiyah.

¹⁸⁹ International Organisation for Migration (IOM), “IOM Libya Update, 30 September - 23 October 2017,” https://www.iom.int/sites/default/files/mission_newsletter/file/Libya-newsletter-update-30sept-23oct2017.pdf; United Nations High Commissioner for Refugees (UNHCR), “Libya: Disembarkation Points,” 27 September 2017, <https://data2.unhcr.org/en/documents/download/61005>

¹⁹⁰ Medecins San Frontieres (MSF), “Time Running out for 800 Migrants and Refugees in Zuwara Detention Centre,” 4 May 2018, <https://www.msf.org/libya-time-running-out-800-migrants-and-refugees-zuwara-detention-centre>

¹⁹¹ International Organisation for Migration (IOM), “IOM Libya - Emergency Response Activity Summary (7-16 October 2017),” <https://reliefweb.int/sites/reliefweb.int/files/resources/IOM%20Libya%20Emergency%20Response%20Snapshot%207%20-%202016%20October%202017.pdf>; Amnesty International, “Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

¹⁹² Amnesty International, “Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

The UN investigated an incident at the Az-Zawiyah facility where guards shot dead several migrants. Eyewitness accounts indicated that a child and an adult were killed while attempting to flee the centre, before another adult was brought back inside blindfolded and subsequently shot.”

Abuses inside Az-Zawiyah are well documented. UN investigators found “inhumane detention conditions...not suitably equipped to hold migrants,” with women and children held in “critical conditions.” And in April 2016, the IOM joined a call from the UN to investigate an incident at the facility where guards shot dead five migrants—eyewitness accounts suggested that a child and an adult were killed while attempting to flee the centre, before another adult was brought back inside blindfolded and subsequently shot.¹⁹³

In December 2017, there were 65 immigration detainees inside the facility, including 35 Cameroonians, 22 Senegalese, six Malians, and two Guineans.

Al-Hamra (Gharyan) and Aburshada (Bou-Rashada). These are two separate facilities whose evolution is interlinked. [Aburshada](#) was formerly under the control of a militia group, which was reluctant to hand over control to the DCIM. In order to put pressure on the militia, DCIM established [Al-Hamra](#) as an official detention centre nearby. By March 2013, the DCIM had regained control of Aburshada. Reports at the time of writing suggest that the DCIM is in the process of closing down Aburshada, although it was not possible to independently verify the current status of the facility.¹⁹⁴

In May 2014, some 80 sub-Saharan migrants held at the Al-Hamra centre went on hunger strike for four days asking for better conditions and treatment. Nasserredine Al-Ghariani, head of the centre, warned the DCIM that he would release all the prisoners if they did not come up with a solution.¹⁹⁵ Meanwhile in late 2016, the IOM responded to reports of a series of deaths in Al-Hamra by promising to improve conditions although it remains unclear exactly what policies were enacted in the facility. A seriously ill migrant died in Al-Hamra on 6 November 2016, and reports

¹⁹³ United Nations Security Council (UNSC), “Final Report of the Panel of Experts on Libya,” 1 June 2017, <https://reliefweb.int/sites/reliefweb.int/files/resources/N1711623.pdf>; Amnesty International, “Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

¹⁹⁴ The Libya Observer, “Decision Issued to Close Down Four Illegal Immigration Shelters,” 1 February 2018, <https://www.libyaobserver.ly/inbrief/decision-issued-close-down-four-illegal-immigration-shelters>

¹⁹⁵ A. Abdul-Wahab, “Prisoners at Gharian Detention Centre on Hunger sStrike,” *Libya Herald*, 8 May 2014, <http://www.libyaherald.com/2014/05/08/prisoners-at-gharian-detention-centre-on-hunger-strike/#axzz3Nmge0N2x>

indicate that there were several other deaths prior to this, including in October of that year.¹⁹⁶

In February 2018, there were 933 immigration detainees inside Al-Hamra, including 160 Ghanaians, 135 Gambians, 95 Senegalese, 58 Cote d'Ivoriens, and 80 Malians (as well as some 450 people of different nationalities). However Al-Hamra has a much large capacity: in November 2017 it held 4,100 people—1,700 Nigerians, 1,500 Ghanians, 600 Malians, and 300 Egyptians. There are regular services including thrice daily meals as well as healthcare, however migrants still cannot access legal services, telephones, and/or psychosocial services.

Khums (Khoms). Before the 2011 uprising, [the centre](#) was built by a Chinese company to house its workers employed in a railway construction project. Post-uprising, the centre was used as an improvised and “temporary” centre to detain irregular migrants. In the past, many detainees transferred to this centre were those who had been rescued at sea. However, when IOM researchers went to document conditions in 2017, the centre was in fact empty. In July 2018 there were 283 immigration detainees inside Khums including 72 Malians, 49 Cote d'Ivoriens and 39 Nigeriens.

Zliten. Recently renovated when the GDP conducted its last assessment of detention conditions in Libya, [Zliten](#) was one of the key disembarkation zones prior to the Italian MoU with the GNA in February 2017. However, in mid-November 2017, there were just three immigration detainees inside the facility, all of them Nigerians, whereas in July 2018 there were 200 inside including 70 Nigeriens, 70 Sudanese and 30 Malians.

Misratah (Kararim). In July 2012, the first established detention centre (post-uprising) in Misratah was called Al Kharouba (military base). This centre was managed by the DCIM as well as by a local brigade. However, following pressure from local residents who opposed the centre’s location, it was forced to close in September 2012. Subsequently, in November that same year, [Kararim detention centre](#) (a former gas production facility) opened approximately 20 kilometres south of the city. Kararim remains open today. In 2017, UN investigators noted “marginally better” conditions in Kararim compared with other centres, although commented that the facility was still “extremely poor and inhumane, according to human rights activists who visited the prison.”¹⁹⁷ In July 2018 there were 462 immigration detainees inside Kararim including 84 Nigeriens, 58 Bangladeshis and 43 Sudanese.

¹⁹⁶ International Organisation for Migration (IOM), “IOM Works to Improve Conditions in Libyan Immigration Detention Centre,” 11 August 2016, <https://www.iom.int/news/iom-works-improve-conditions-libyan-immigration-detention-centre>

¹⁹⁷ United Nations Security Council (UNSC), “Final Report of the Panel of Experts on Libya,” 1 June 2017, <https://reliefweb.int/sites/reliefweb.int/files/resources/N1711623.pdf>

3.2.c Facilities in eastern Libya (and the eastern Mediterranean coast)

UN documentation mentions several other detention facilities in eastern Libya (other than the facilities detailed below), however there is little information available about these facilities given the lack of access because of on-going military/security developments in the east of the country. Those facilities include Alabyar, Albayda, Almarj, Assahel (To'meita), Alqubba, Jaghbub, Jalu, and Tamimi.

Ajdabiya. In December 2017, there were 10 immigration detainees inside [Ajdabiya](#) including five Sudanese, three Egyptians, and two Chadians whereas in July 2018 there were 18 detainees including 10 Sudanese, three Egyptians and four Chadians. The Ajdabiya facility was moved to a new location in Al-Salakana, which, as of late 2013, was reportedly in a bad state of repair.

Ganfuda. [This centre](#) in Benghazi was under the Preventative Security militia in October 2014,¹⁹⁸ but has since been returned to the control of the DCIM.

Tocra (Toukra). In June 2017, no immigration detainees were reported to be inside [Toukra](#). Nevertheless, what little information the IOM collected regarding available services suggested that the facility was poorly serviced.

Shahhat. In February 2018, there were 29 immigration detainees inside [Shahhat](#) including nine Egyptians, seven Eritreans, seven Sudanese, three Nigerians, and one Ethiopian national. Whereas in July 2018 there were 16 detainees including eight Egyptians, seven Sudanese and one Iraqi.

Tobruk (Tubruch). In February 2018, there were 140 immigration detainees inside [Tobruk](#) including 136 Egyptians and four Sudanese nationals whereas in July 2018 there were 35 detainees including 27 Egyptians and eight Sudanese. Earlier visits found a similar composition of mostly Egyptians and Sudanese nationals, presumably because of the detention facility's relative proximity to the Egyptian border and, with it, irregular routes from the Horn of Africa and Egypt itself.

Given political and military developments in the east of Libya since 2013, access to the facility has often been difficult. As of late 2013, UNHCR had not visited this facility due to security concerns. However, this seems to have changed in more recent years. In April 2018, UNHCR counted Tobruk as one of 19 out of 33 official detention centres “regularly visited by UNHCR and partners.”¹⁹⁹

¹⁹⁸ M. Mughrabi-Talhami (Libya researcher, Amnesty International), email message to Mariette Grange (Global Detention Project), November 2014.

¹⁹⁹ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

3.2.d Facilities in southern Libya (and Sahara Desert regions)

Al-Jufra (Jufra). This centre operates as a holding point for irregular migrants crossing from the south to the north. After being arrested, detainees are then transferred to the larger Sabha or Brak al-Shati detention centres. In May 2013, it held 37 detainees mainly from Nigeria, Niger, and Cameroon. Jufra, sometimes known as Jufra al-Hun, was one of four detention facilities in the south of the country that UNHCR found inaccessible for security reasons in April 2018.²⁰⁰

Sabha (Tariq Al-Matar). The city of Sabha has long been an important staging-post for irregular migrants arriving from neighbouring countries, as well as from West Africa. Because of its relative proximity to the Nigerian border, [Sabha detention centre](#) receives detainees from centres across Libya as a prelude to transportation and deportation. The original centre consisted of a number of decaying hangars with cells housing more than 100 prisoners in some instances. In May 2013, Sabha was undergoing extensive renovations, resulting in all detainees being moved to a derelict Italian-era detention centre located within a large police station with a poor infrastructure.²⁰¹ Between 2012 and 2014, Sabha operated as the main collection point for deportations conducted via DCIM facilities around the country. A July 2017 report by Altai Consulting, and Impact (for UNHCR) estimated that 40,000 people were deported in this way until 2014, when Sabha was closed and deportations halted.²⁰²

Shati. Like its counterpart in Sabha, [Shati](#) is in poor condition and requires substantial refurbishment to be brought up to standard. The actual facility consists of about four to five large cells, each regularly housing more than 100 detainees. In March 2013 it held 160 detainees mainly from Somalia, Eritrea, Sudan, Niger, Chad, and Nigeria. It was undergoing a renovation in May 2013,²⁰³ and was one of four detention facilities in the south that UNHCR found inaccessible for security reasons in April 2018.²⁰⁴

Ghat. In previous documentation, [Ghat](#) was reportedly in use as of 2013 but not listed by the DCIM. This centre was renovated in May 2013,²⁰⁵ but was empty at the

²⁰⁰ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

²⁰¹ Amnesty International, “Scapegoats of Fear: Rights of Refugees, Asylum-Seekers and Migrants Abused in Libya,” 2013, <https://www.amnestyusa.org/wp-content/uploads/2017/04/mde190072013en.pdf>

²⁰² Altai Consulting and IMPACT, “Mixed Migration Trends in Libya: Changing Dynamics and Protection Challenges,” <http://www.altaiconsulting.com/wp-content/uploads/2017/07/LIB-HCR-MAS-Final-Report.pdf>; Amnesty International “Libya’s Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

²⁰³ Amnesty International, “Scapegoats of Fear: Rights of Refugees, Asylum-Seekers and Migrants Abused in Libya,” 2013, <https://www.amnestyusa.org/wp-content/uploads/2017/04/mde190072013en.pdf>

²⁰⁴ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

²⁰⁵ Amnesty International, “Scapegoats of Fear: Rights of Refugees, Asylum-Seekers and Migrants Abused in Libya,” 2013, <https://www.amnestyusa.org/wp-content/uploads/2017/04/mde190072013en.pdf>

end of the year when the DCIM informed UNHCR that it would soon be operational. Ghat was one of four detention facilities in the south that UNHCR found inaccessible for security reasons in April 2018.²⁰⁶

Kufra. Kufra is an isolated city in the Sahara desert in south-eastern Libya that serves as key transit route for irregular migration. 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, but which are frequently overcrowded.²⁰⁷ Multiple observers have reported that conditions at this centre are among the worst in the country. It is reportedly 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.²⁰⁸

In February 2018, there were 111 immigration detainees inside Kufra including 97 Eritreans, 10 Chadians, and four Sudanese nationals. In July 2018 there were nine detainees present including seven Sudanese and two Nigerians. Services inside still appear to be incredibly poor with no health services or functioning latrines, and food is provided just once a day. In 2016, an Ethiopian man who'd been held at Kufra recounted “being beaten regularly, being placed in a box, and being flogged and burned with hot water,” while the man's wife “said the head of the centre would regularly beat her and the other women there.”²⁰⁹

Al-Qatrun (Al-Ghatroun). This [centre](#) is located approximately 400 kilometres south of Sabha, near the Niger/Chad borders, and is primarily used as a last holding point for detainees before deportation. The centre was reportedly in fair condition after an expansion and refurbishment works in 2013, however it has not been possible to verify present conditions due to security reasons.²¹⁰ The facility has an overall capacity of 1,500.

²⁰⁶ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

²⁰⁷ Human Rights Watch (HRW), “Pushed Back, Pushed Around: Italy's Forced Return of Boat Migrants and Asylum Seekers, Libya's Mistreatment of Migrants and Asylum Seekers,” September 2009, www.hrw.org/en/reports/2009/09/21/pushed-back-pushed-around-0

²⁰⁸ Fortress Europe, “Border Sahara: The Detention Centres in the Libyan Desert,” 1 January 2009; <http://fortresseurope.blogspot.com/2006/01/border-sahara-detention-centres-in.html>; Human Rights Watch (HRW), “Pushed Back, Pushed Around: Italy's Forced Return of Boat Migrants and Asylum Seekers, Libya's Mistreatment of Migrants and Asylum Seekers,” September 2009, www.hrw.org/en/reports/2009/09/21/pushed-back-pushed-around-0; *Asinitas Onlus*, “Come un uomo sulla terra (Like a Man on Earth),” A documentary by Riccardo Biadene, Andrea Segre, and Dagmawi Yimer. Directed by Andrea Segre and Dagmawi Yimer in collaboration with Riccardo Biadene.

²⁰⁹ Amnesty International, “Refugees Shot at by Libyan Coastguard Before Being Detained in 'Shocking' Conditions Back in Libya,” 14 June 2016, <https://www.amnesty.org.uk/press-releases/refugees-shot-libyan-coastguard-being-detained-shocking-conditions-back-libya>

²¹⁰ United Nations High Commissioner for Refugees (UNHCR), “UNHCR Libya Alternatives to Detention in Libya, April 2018,” <https://reliefweb.int/report/libya/unhcr-libya-alternatives-detention-libya-april-2018-enar>

3.3 Conditions in detention. Detention conditions in Libya have long been a source of deep concern to the international community—perhaps more publicly so following the widespread outcry to reports in April 2017 of “slave markets” in the country.²¹¹

These concerns, however, are certainly not new. As early as 2005, a former director of the Italian secret service, testifying to the Italian Parliament, described how, “Undocumented migrants in Libya are caught like dogs,” and placed in overcrowded facilities that are in such a poor state of repair that “policemen must wear a dust mask on the mouth because of the nauseating odours.”²¹² In subsequent investigations completed before the outbreak of the uprising and ensuing civil war, numerous NGOs as well as the European Commission reported on the abhorrent conditions inside facilities.²¹³ This state of affairs led one researcher to argue that, “In avoiding its human rights responsibilities by transferring the repressive aspect of its immigration policy to Libya, the EU has set the conditions for one of the most damaging detention systems in the world, whose main features—including inhumane living conditions, daily violence and cruel treatment amounting to torture, all in a context of arbitrary detention—impact in a dramatic way on the health of detained migrants.”²¹⁴ An analysis by a Libyan civil society activist suggested that while some centres are in “very bad condition,” the number of migrants detained and situations in which they are detained (“whether rescued at sea, apprehended in the cities, or captured en route in the desert or before they embark boats to Europe”) put untenable pressure on facilities badly “in need of rehabilitation, reconstruction and support.”²¹⁵

Civil war, militiafication, and a breakdown in law and order throughout the country has only deteriorated detention conditions further. Longstanding criticisms include overcrowding, scarcity of food and drinking water, limited or inexistent access to health services (leading to the spread of skin diseases and other medical problems), lack of access to fresh air, and poor hygiene conditions. But the frequency, and severity, of reports regarding poor conditions inside detention facilities has increased

²¹¹ E. Graham-Harrison, “Migrants from West Africa Being ‘Sold in Libyan Slave Markets,’” *The Guardian*, 10 April 2017, <https://www.theguardian.com/world/2017/apr/10/libya-public-slave-auctions-un-migration>

²¹² Fortress Europe, “Border Sahara: The Detention Centres in the Libyan Desert,” 1 January 2009; <http://fortresseurope.blogspot.com/2006/01/border-sahara-detention-centres-in.html>

²¹³ Human Rights Watch (HRW), “Pushed Back, Pushed Around: Italy’s Forced Return of Boat Migrants and Asylum Seekers, Libya’s Mistreatment of Migrants and Asylum Seekers,” September 2009, www.hrw.org/en/reports/2009/09/21/pushed-back-pushed-around-0; European Commission (EC), “Annex of the Commission Implementing Decision on the Annual Action Programme for 2013 (Part 2) in Favour of Libya [C(2013) 9196 final]. Action Fiche for Support to Rights-Based Migration Management and Asylum System in Libya,” December 2013, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/neighbourhood/pdf/key-documents/libya_aap_2013_part_2_merged-financing-decision-and-action-fiches_en.pdf

²¹⁴ H. Van Aelst, “The Humanitarian Consequences of European Union Immigration Policy’s Externalisation in Libya: The Case of Detention and its Impact on Migrants’ Health,” *BSIS Journal of International Studies*, Vol 8, 2011.

²¹⁵ Z. El Zaidy, “EU Migration Policy Towards Libya: A Libyan Perspective on the Memorandum of Understanding Between Italy and Libya,” July 2017, http://festunis.org/media/2017/pdf/EU_MigrationPolicyTowardsLibya.pdf

since 2014, and reports indicate that abuses are carried out by members of the DCIM as well as by armed groups.

In the first half of 2014, UNSMIL/OHCHR visited at least 11 detention centres for migrants and reported “conditions of grave concern, including chronic overcrowding, poor sanitation and health care, and insufficient food. There were also consistent reports of physical or verbal mistreatment, labour exploitation, sexual abuse, extortion and confiscation of identity documents, and minors were being detained with adults. Women detainees reported that they were subjected to sexual violence.”²¹⁶

A former director of the Italian secret service, testifying to the Italian Parliament, described how, “Undocumented migrants in Libya are caught like dogs,” and placed in overcrowded facilities that are in such a poor state of repair that “policemen must wear a dust mask on the mouth because of the nauseating odours.”

In 2017, UNSMIL visited detention centres under the control of the DCIM in Gharyan, Tripoli, Misratah, and Surman where thousands were being detained. Investigators documented “cases of torture, ill-treatment, rape and other forms of sexual violence,” while the facilities themselves “remained overcrowded, and detainees were often malnourished, living in poor hygienic conditions and with limited or no access to medical care.”²¹⁸ In his update to the UN Security Council in September 2017, the Secretary-General suggested that detention conditions in Libya were such that they could, “in themselves...amount to torture or other ill-treatment.”²¹⁹

The EU, IOM, and UNHCR have sought to either mitigate protection risks, and/or improve conditions more generally, by providing services where possible and attempting to improve detention infrastructure. The EU denies it is directly involved in

²¹⁶ Office of the High Commissioner for Human Rights (OHCHR), “Report of the United Nations High Commissioner for Human Rights on the Situation of Human Right in Libya and on Related Technical Support and Capacity-Building Needs,” 12 January 2015.

²¹⁸ United Nations Security Council (UNSC), “Report of the Secretary-General on the United Nations Support Mission in Libya,” 22 August 2017, <https://unsmil.unmissions.org/sites/default/files/n1725784.pdf>

²¹⁹ Amnesty International, “Libya’s Dark Web of Collusion: Abuses against Europe-Bound Refugees and Migrants,” 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>; United Nations Security Council (UNSC), “Report of the Secretary-General Pursuant to Security Council Resolution 2312 (2016),” 7 September 2017, <http://www.statewatch.org/news/2017/sep/un-2017-09-report-libya-implementation-resolution-2312.pdf>

funding detention in Libya, but instead focuses on improving conditions. Responding to a question about the EU's role in Libyan detention facilities, raised in the European Parliament on 5 October 2017, European Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn said, "The EU does not fund the management of these centres but supports international organisations to improve access to life saving protection services and assistance (e.g. by providing sanitation or ventilation, identifying the most vulnerable cases in those centres) as well as to develop alternatives to detention which will serve as spaces where the most vulnerable cases can receive special care 24/7."²²⁰

Corruption is endemic in Libya: Transparency International's 2017 Corruption Perceptions Index ranks Libya 171st out of 180 countries.²²¹ Human Rights Watch (HRW) reported that corruption is also rife in Libya's detention facilities and that smugglers even run some facilities. Former detainees have said that they were forced to pay bribes of around 500 USD to officials to be released. "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," one ex-detainee told HRW. "Everything depends on money."²²²

This is a system of coercion and exploitation that can combine prison guards, DCIM officials, smugglers and traffickers, as well as corrupt coastguard officials. Sometimes DCIM centres release migrants in order to refer them to smuggling/trafficking networks with whom they cooperate, and in some cases smugglers negotiate the release of immigration detainees purely so that they can force them to pay for a sea crossing to Italy. Because immigration detention is arbitrary and indefinite, for many the "only hope of release from refugee and migrant detention centres is through escaping, buying their way out or being sold on to people smugglers."²²³

During a visit in 2014, HRW spoke to an Eritrean migrant who explained that he had to pay 1,000 USD to guards at Gharyan to be freed. Others have reported similar stories. In a written testimony to Terre des Hommes in Sicily in 2014, a young migrant from Gambia wrote that he had been kidnapped by "armed robbers"

²²⁰ European Parliament, "Answer to Written Question: Answer Given by Mr Hahn on Behalf of the Commission," 5 October 2017, <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2017-004251&language=EN>

²²¹ Transparency International, "Corruption Perceptions Index 2017," https://www.transparency.org/news/feature/corruption_perceptions_index_2017#table

²²² Human Rights Watch (HRW), "Pushed Back, Pushed Around: Italy's Forced Return of Boat Migrants and Asylum Seekers, Libya's Mistreatment of Migrants and Asylum Seekers," September 2009, www.hrw.org/en/reports/2009/09/21/pushed-back-pushed-around-0

²²³ Amnesty International, "Refugees Shot at by Libyan Coastguard Before Being Detained in 'Shocking' Conditions Back in Libya," 14 June 2016, <https://www.amnesty.org.uk/press-releases/refugees-shot-libyan-coastguard-being-detained-shocking-conditions-back-libya>; Amnesty International, "Libya's Dark Web of Collusion: Abuses against Europe-Bound Refugees and Migrants," 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>

colluding with police upon arrival in Libya after crossing the desert and given a telephone to contact his parents who had to pay for his release.²²⁴

Incarceration by, or on tip-offs from, private citizens as well as criminal gangs has also been a growing problem. There have been cases in which migrants, including those with proper documents, have been sent to detention centres following disagreements with dishonest or abusive employers. In other cases, detainees have been forced to work without pay at their place of detention in exchange for their release.²²⁵ Detained migrants are sometimes contracted out as informal work gangs to private employers in conditions of forced labour, reportedly with the complicity of prison and detention centre guards, and then returned to detention when their employers no longer require them. Migrants have also reported being detained by criminal gangs and of then being threatened with extortion.²²⁶ Elsewhere, rights groups have documented multiple cases of private citizens kidnapping refugees, asylum seekers, and migrants and then extorting money out of them.²²⁷

²²⁴ N. Porsia, and C. Stephen, "Eritrean Migrants Risk Detentions and Beatings in Libya for a Life in Europe." *The Guardian*, 1 August 2014, <http://www.theguardian.com/world/2014/aug/01/eritrean-migrants-detention-beating-libya-europe>

²²⁵ Amnesty International, "Scapegoats of Fear: Rights of Refugees, Asylum Seekers and Migrants Abused in Libya," 2013, http://www.amnesty.eu/content/assets/recruitment/Formatted_Libya_Scapegoats_report_final.pdf

²²⁶ U.S. Department of State (USDS), "Trafficking in Persons Report 2014," June 2014, <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm>; Danish Refugee Council (DRC), "'We Risk Our Lives for Our Daily Bread.'" Findings of The Danish Refugee Council Study of Mixed Migration in Libya," December 2013, <https://bit.ly/2tVP8Jd>

²²⁷ Amnesty International, "Libya's Dark Web of Collusion: Abuses against Europe-Bound Refugees and Migrants," 11 December 2017, <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>



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