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EXECUTIVE SUMMARY

DETAINED YOUTH

THE FATE OF YOUNG MIGRANTS,
ASYLUM-SEEKERS AND REFUGEES
IN LIBYA TODAY

STUDY 1
JULY 2015

EXECUTIVE SUMMARY

This study paints a damning picture of the immigration detention of young migrants, asylum-seekers and refugees in Libya today. Based on in-depth interviews with 45 former detainees (85 per cent of whom were unaccompanied children or young people), the study reveals a consistent pattern of arbitrary detention; of people held for months at a time without any form of due process in squalid, cramped conditions. Detention occurs in facilities across the country, many of which are reported to be under the control of the governing authorities or militia forces. Serious violations, including allegations of violence and brutality, are said to be commonplace, including in some of Libya's most well-known detention centres.

As the first study of its kind to assess the particular plight of detained refugee, asylum-seeking and migrant children and youth in Libya's immigration detention centres, it provides timely information about the current situation in the country. The right to liberty and freedom from arbitrary detention is among the most fundamental of rights belonging to all human beings, and its consistent denial, especially to vulnerable minors and young people, is a matter of the gravest concern. The absence of a humane and orderly framework for handling migration flows in Libya is no doubt a contributing factor to the ever increasing numbers of migrants, asylum-seekers and refugees willing to risk their lives in the Mediterranean to reach the safety of Europe.

BACKGROUND

Human rights violations in the course of immigration detention in Libya have been an issue for years. Prior to the 2011 conflict and the overthrow of Gaddafi, Libya as a regional migration hub and gateway to Europe was consistently criticised by human rights observers for pursuing migration management policies that fell far short of international standards. This study updates the situation and finds that the current fragmentation and disarray in Libya provides ever more fertile ground for the abuse of migrant and refugee populations, including children and youth.

The study was carried out from November 2014 to February 2015 using a qualitative methodology that involved intensive interviews with migrants and refugees once they had left Libya and arrived in Europe. The interviews were carried out at research sites in Calais/France, Sicily/Italy, Malta, and the UK and primarily involved children (under 18) and young people (18 to 25 years) who had experienced detention in the two years prior to the start of the study (from November 2012 onwards). Migrants and refugees from North-East Africa (Eritrea, Ethiopia, Somalia and Sudan) were prioritised as being of particular interest as part of a wider research exercise on North-East African migratory routes being carried out by the commissioning organizations involved in the North Africa Mixed Migration Task Force.

The study focused on cases of detention by 'State actors', albeit recognising that the boundaries between State and non-State agents are somewhat blurred with the country being fragmented into two parts controlled by rival governments, each struggling for power and legitimacy, and supported by armed groups. Libyan Dawn, an alliance of Islamist militias and their allies have been in control of the capital Tripoli in the west of the country since August 2014 thus ousting the internationally 'recognised' government to the city of Tobruk in the east of the country. Both sides are battling for the hearts and minds of a myriad of militias in control of different areas.

Thus in the current Libyan context, detention by the 'State' is taken to mean the governing authorities responsible for particular areas whether they represent the 'recognised' government, the de facto government or militias. 45 of the interviewees reported being detained by the authorities (police or soldiers) and then taken to what appear to be 18 different detention facilities. They based their claim on recollections of uniforms, vehicles, premises and insignia. Incarceration by non-State actors without governing responsibility (smugglers, traffickers, civilian gangs) appears to be a common experience too. The study collected information on these experiences but does not include them in the main analysis.

FINDINGS

Based on primary data the study arrived at findings on the following aspects: the drivers of migration, the journey to Libya, the circumstances and conditions of detention, and life after detention.

Drivers of migration: Interviewees gave varying reasons for leaving home depending on where they came from. Those from North-East African countries cited mostly political reasons, violence and conflict as main drivers for their movement and their intent to seek international protection. Many of these reported persecution directed at themselves or their families on account of these factors. The picture from West Africa is the reverse with nearly all interviewees reporting family tensions and inter-personal difficulties as the reason for leaving their countries of origin. Minors say they left alone rather than with family members because they personally faced imminent threats and harassment; because their families couldn't afford to send more than one person; or because as orphans, they had to fend for themselves.

Journey to Libya: Family members often provided financial support for the journey. Those from North-East Africa frequently received money from relatives in the Middle East or Europe. Interviewees from West Africa also received family support though to a lesser extent, and none reported financial assistance from abroad. Transit across the Sahara desert was extremely arduous, migrants and refugees said they had to travel for days with little food and water in the searing heat of the day and the bitter cold at night. They often faced new demands for cash as well as violence from smugglers and tribes in the desert. Women faced the danger of sexual violence. On arrival in Libya, migrants and asylum-seekers were sometimes immediately held by smugglers seeking to extort more money from them. Once free to go, they said they started to make a living by picking up odd jobs, for example, in construction or car washing but found day to day life hazardous given the ever present threat of violence and extortion from Libyan civilian gangs.

Circumstances of detention: Interviewees described being arrested abruptly and arbitrarily whilst going about their daily business. The reason for arrest, where given, was usually stated to be 'illegal' entry or lack of papers, usually identity documents or sometimes health cards. Arrests were typically accompanied by violence. None of the migrants and refugees reported any kind of legal process in terms of being informed of their rights or having access to a lawyer. They were only allowed to call families and friends to ask for money to be released; they were not able to apply for asylum and none were offered support to return home. Most migrants and refugees stayed in detention for a number of months.

Conditions in detention: Conditions were frequently described as deplorable. Men and women were usually kept separately but unaccompanied boys were often detained with unknown adult males. Beatings and violence were commonplace and sexual violence by guards, an ongoing risk for female detainees. There was typically no recourse for complaint. Food was usually inadequate; most said they only received one meagre meal a day. Sanitation conditions were deplorable; toilets were filthy and insufficient in number, and access to showers and a change of clothing, rare. Most reported sleeping in crowded cells without bedding or mattresses. Outdoor access was restricted except in situations where detainees were taken out to do unpaid work for detention centre staff or outside employers. Medical treatment was usually lacking. These types of conditions were also found to be prevalent in key immigration detention centres that were visited by international agencies according to detainees, and thus had the benefit of exposure to international standards and requirements. Such facilities include the ones at Sabha, Abu Salim, Brak Shati, and Gharyan.

Life after detention: Interviewees say they were able to leave detention, either by paying hefty bribes, by escaping or simply by being let go at the will of the guards. Sometimes locals came and secured the release of detainees in exchange for their unpaid labour. Migrants and refugees remained vulnerable to re-detention after release though this did not appear to be occurring as much as in the past, possibly because they quickly attempt to cross the Mediterranean to Europe. Once in Europe, the fate of the migrants, asylum-seekers and refugees varies. Those who have an unresolved immigration status face an uncertain and difficult future, especially if they are living without support in the 'jungles' (makeshift camps of migrants, asylum-seekers and refugees on the fringes of the town) of Calais and elsewhere. Children and young are at risk of being exploited by organised criminal gangs operating in Europe. Those in receipt of some form of protected status were found to be getting on with their lives, acquiring an education, language skills and work in an effort to make a new future for themselves. Some ex-detainees continue to bear the physical and psychological scars of their arduous experiences but a sizeable number said that they were not experiencing any lasting effects.

CONCLUSIONS

While these testimonies indicate clear violations of international human rights law, the current challenge in Libya is to know who is accountable for such breaches. Given the breakdown of law and order, the ongoing political crisis and armed hostilities, and the break-up of the country into areas controlled by two 'Governments' and various militias, the chains of command and control over the various centres where illegal detention is occurring, are unclear. Governing authorities and militias in all parts of the country are reminded that the immigration detention practices found by this study are in breach of international human rights standards in the following ways:

- Detention for immigration purposes ought not to be mandatory or automatic; it should be a measure of last resort, only permissible for the shortest period of time and when no less restrictive measure is available.
- Authorities have an obligation to establish a presumption in favour of liberty, to first consider alternative non-custodial measures, proceed to an individual assessment and choose the least intrusive or restrictive measure.
- The reasons put forward to justify detention should be clearly defined and exhaustively enumerated in legislation.
- If, as a measure of last resort, an authority resorts to detention for immigration-control purposes in an individual case, this should be considered only when someone presents a risk of absconding or presents a danger to their own or public security.
- Administrative detention should not be applied as a punitive measure for violations of immigration laws and regulations, as those violations should not be considered criminal offences.

The right to liberty and freedom from arbitrary detention is among the most fundamental of rights belonging to all human beings. Therefore, the above are minimum requirements for the detention of non-nationals as prescribed by international law. The need for a humane and orderly framework for managing migration flows in Libya is taking on ever increasing importance. There can be little doubt that the absence of such a system is contributing to the growing numbers of migrants, asylum-seekers and refugees seeking to escape Libya for the safety of Europe. Record numbers are taking on the hazardous voyage across the Mediterranean; in the space of one weekend in May 2015 alone, Italian coastguards rescued nearly 6,000 migrants and refugees.¹The widespread detention of non-nationals in appalling conditions in Libya, far from acting as a deterrent to entering Libya, appears to be a contributing factor in the desire of people to leave the country at any cost. Libya, once a destination for migrants and refugees, a place of economic opportunity and safety, is now a departure point at best or a place to escape from at worst.

From the perspective of the migrants and refugees themselves, detention in Libya is but one of many travails they face in their quest for safety, security and better opportunities in life. The study highlights the sheer ingenuity, determination and courage of young migrants, asylum-seekers and refugees as they make their way across North and Sub-Saharan Africa, escaping captivity, brutality, and overcoming numerous hardships.

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¹ Kirchgaessner, 2015.

VOICES FROM DETENTION

SAMIR'S STORY

'...My name is Samir. I am 17 years old. I come from Darfur in Sudan. My father died during an attack on our village by government forces several years ago and I went to live with my uncle along with my siblings. I married very young, when I had just turned 17 in accordance with tradition. I married my uncle's daughter in order to preserve my father's name. I never had the chance to go to school. I earned a living by working in the market, running errands for a business man. One day I was taking some money, (equivalent of) 150 Euros, to a local school for orphans on behalf of my boss when the police caught me and took me to a prison. They kept me there for a month, gave me electric shocks, beat me with weapons. Sometimes I was starved for days and also threatened with rape. My uncle managed to get me released because of his connections but the police imposed a lot of conditions which made it very unsafe for me to stay there.

My family thought I should leave for my own safety. My uncle paid 600 Euros to a smuggler to get me to Libya. I was put in a truck; there were 80 of us, Eritreans and Sudanese. The journey across the Sahara took six days and we survived on the little food and water we had taken with us. Some people died from hunger and thirst. When we arrived at the Libyan border, the smugglers divided us up into smaller groups and took us by car to Ajdabiya. People who had money were released immediately. As I didn't have enough, the smuggler took me to a farm and made me work there for 20 days without payment, following which he dropped me off in Tripoli. After about a month, in May 2014, I was arrested and taken to Abu Salim jail. I was kept there for ten days and then transferred to Ain Zara for 20 days. There was no legal process in either facility; no lawyers or judges, the only requirement was to pay but I did not have any money for my release. The UN visited Abu Salim one day and took away a sick person. No-one visited us in Ain Zara.

Men and women were separated in both facilities but minors were kept with adults. The officers beat us every day.

In Ain Zara, I didn't know how many women there were, I saw them from afar. The guards used to rape them. We heard the women screaming all the time. I used to see officers walking and talking about rape. We only had one meal a day in both places - macaroni, rice. The drinking water was salty. The toilets were inside the cells in Abu Salim; we put some clothes up for a bit of privacy. The toilets were outside in Ain Zara but too few of them, only three bathrooms for 400 people. If you couldn't find a space in the cell at night, you had to sleep in the bathroom. There was no health care; one man was very sick in Ain Zara but there was no doctor and he died. We were taken out every day from both places to work in the officers' houses, doing cleaning, building works. One day, one of the bosses at Ain Zara took me and another detainee to clean his house. Then, on account of it being Ramadan, he just let us go.

After leaving detention, I worked in a factory in Tripoli for a while but had to leave there due to fighting in the city in around June 2014. I went to Garabulli. I got together the 1000 Libyan dinars required to go to Italy through my own savings and with the help of my friends. When gathering people for the journey, the smuggler kept us locked up in a farm for three days. Then one morning, they took us to the sea, put us on the boat, gave us a phone to call the Italians and a map, and set us off. We spent two days at sea and then called the Italians after which a boat arrived and took us to Sardinia. We were then taken to Torino, given food, clothes and a shower, and let go. They did not take my fingerprints in Italy. I decided to go to France because I saw people who had applied for asylum in Italy living on the streets. I left with a group of Eritreans, and when we arrived in Paris, we learnt that is a place called Calais from which we could go to England "because British protects you". I stayed in Calais for two months - even though I was in a tent in the 'jungle'; I felt safe, at least I wasn't worried that the government would try and get someone to kill me. I managed to get across to England in January 2015....'

This testimony was given by a 17 year old male asylum-seeker from Sudan who was detained in Abu Salim and Ain Zara facilities in Libya in mid 2014. He was interviewed in Calais, France in December 2014. 'Samir' is a pseudonym.

VOICES FROM DETENTION

SAMAKA'S STORY

'...My name is Samaka and I come from rural Mali. I am 20 years old. I was born a twin but my mother died during the delivery along with my twin brother. My father died in a car accident later the same year. My uncle took me in to live with him and his wife. They did not have children and they loved me like their own son. They were poor and could not afford to send me to school. My uncle took me every day to work with him as a shepherd. My uncle died in 2012. His wife had already left him the year before. I was now alone in my uncle's house and carried on his work, tending to his 150 sheep.

One day I was grazing the sheep in the pastures when a group of Tuareg rebels appeared and killed some of them. I was very angry but couldn't do much about it as they control the area. They went away taking the dead sheep with them and came back for the following three days, killing more of my sheep each time. On the fourth day they came again and took all my sheep and then kidnapped me as well. They took me to a warehouse in Ansongo where I was held captive for five months by myself. They wanted me to join their group and fight with them but because I refused, they kept me prisoner. They gave me drugs to keep me quiet but they did not beat me. Each month a doctor came and took blood from me to give to the wounded rebels. I felt very weak as I did not have enough food to eat. I wasn't allowed to speak and the guards would threaten to kill me if I said anything at all. One night when the guards got drunk and fell asleep, I managed to escape. I didn't know where to go so I ran and ran for hours. The next morning I found myself in a big street. I was tired and very thirsty. I saw a man in a car and asked him to help me. At first the driver was scared but when I told him what had happened to me he agreed to help.

He put me in touch with a friend of his who took me by boat along the river Niger to Niamey, the capital of Niger. I was then put in touch with another man in Agadez who transports gasoline from Niger to Libya once a month. I had to wait a month for the trip to come round. I lived with other migrants, asylum-seekers and refugees in abandoned houses and survived on meals provided by volunteers. I then made the journey to Libya, hidden in the back of a truck and arrived in Sabha in April 2013. I know the journey is very dangerous but I was fortunate not to face any risks. On arrival, I got out of the truck and soon after the police stopped me and asked for my ID documents. As I didn't have any, I was taken to Sabha jail where I was detained for 3 months and then afterwards taken to another detention centre in Tripoli for another three months. There was no legal process, no lawyer, no judge, no opportunity to claim asylum. I could not go back to my home country but in any case they did not offer me any support to return. There were no visits from the outside world.

The detention centre in Sabha was a large building with many rooms. The detainees were all black people from different countries. They were mainly men. Women were kept separately and there were some female guards*. There were some children aged six to 15, only a few were unaccompanied. There were five people to each room. The toilets were in the rooms and there was no shower. The facility was patrolled by armed guards. We were beaten every day. We had to wear prison uniforms but could not wash or change them. We were given food once a day, pasta and bread and some drinking water. We were never allowed out of the room. There was no chance of seeing a doctor even when we were ill.

One day a general came to the camp with many armed soldiers. He spoke Arabic and I managed to understand a little of what he said. He told us that we could not stay in Libya any longer as we were not wanted there. He would take us to the sea and put us on a boat to Europe. If we tried to escape they would kill us. The guards took 90 of us and forced us on to a truck. There was boat waiting for us at the seashore. It was too small for all of us, but nonetheless they forced us all on and pushed the boat out, saying they wished we would all die at sea. One of our group started to steer the boat but there was only 20 litres of petrol in the tank and it soon ran out. We drifted for five days without food and water. Five people died. The Italian navy then caught sight of us and came to rescue us. We were taken to Lampedusa and from then on to Palermo and Catania. I've now got a permit to stay here while my asylum claim is being assessed. I go to school every day and hope to receive international protection so that I can look for a job and start a new life in Italy....'

*The presence of female guards in Sabha was not confirmed by key informants.

This testimony was given by a 20 year old male asylum-seeker from Mali detained in Sabha detention centre, Libya, in 2013. He was interviewed in Sicily, Italy in January 2015. The name 'Samaka' is a pseudonym.

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This study paints a damning picture of the immigration detention of young migrants, asylum-seekers and refugees in Libya today. Based on in-depth interviews with 45 detainees (85 per cent of whom were unaccompanied children or young people), the study reveals a consistent pattern of arbitrary detention; of people held for months at a time without any form of due process in squalid, cramped conditions. Detention occurs in facilities across the country, many of which are reported to be under the control of the governing authorities or militia forces. Serious violations, including allegations of violence and brutality, are said to be commonplace, including in some of Libya's most well-known detention centres.

As the first study of its kind to assess the particular plight of detained refugee, asylum-seeking and migrant children and youth in Libya's immigration detention centres, it provides timely information about the current situation in the country. The right to liberty and freedom from arbitrary detention is among the most fundamental of rights belonging to all human beings, and its consistent denial, especially to vulnerable minors and young people, is a matter of the gravest concern. The absence of a humane and orderly framework for handling migration flows in Libya is no doubt a contributing factor to the ever increasing numbers of migrants, asylum-seekers and refugees willing to risk their lives in the Mediterranean to reach the safety of Europe.



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