

25 April 2023

Mr. Tomoya Obokata

Special Rapporteur on contemporary forms of slavery including its causes and consequences

Office of the High Commissioner for Human Rights,
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Dear Special Rapporteur Obokata,

Input for report of the SR on slavery to the 54th session of HRC

I am writing on behalf of Lawyers for Justice in Libya (LFJL) to share with you our most recent findings in relation to our ongoing work on the human rights situation of migrants, refugees and asylum seekers (henceforth 'migrants and refugees') in Libya, including in relation to homelessness and contemporary forms of slavery. Homelessness amongst migrants and refugees in Libya is driven by both existing vulnerabilities and their insecure status in the country.

Background

LFJL is deeply concerned over the grave crimes and egregious human rights violations being committed against migrants and refugees in Libya and the general lack of accountability in the country. The widespread and systematic violence and exploitation faced by migrants and refugees in Libya – including arbitrary detention, murder, torture, rape, enslavement, sexual slavery, extrajudicial killing and enforced disappearance – is well documented by national and international human rights and humanitarian actors including United Nations (UN) bodies, the International Criminal Court, and numerous non-governmental organisations (NGOs). In April 2022, the Office of the Prosecutor of the ICC made the preliminary assessment that these crimes may constitute crimes against humanity and war crimes.¹ Throughout its mandate, the UN Independent Fact-Finding Mission on Libya (FFM) additionally gathered “overwhelming evidence” providing reasonable grounds to believe that crimes against humanity, particularly enslavement, torture, and rape, continue to be committed against migrants and refugees in Libya.²

These crimes have been facilitated not only by the climate of impunity in the country, fueled by years of conflict and political divisions, but also by Libya's inadequate legal framework on migration and lack of protection mechanisms. Many migrants and refugees come to Libya fleeing conflict or persecution or seeking a better livelihood or economic opportunity. Due to the ongoing hostilities and lack of security in the country it has increasingly become a transit country to Europe as many seek to escape the violence inside Libya. However,

¹ Twenty-third report of the Prosecutor of the International Criminal Court to the United Nations Security Council pursuant to Resolution 1970 (2011), 21 April 2022, para. 25, available at: <https://www.icc-cpi.int/sites/default/files/2022-04/2022-04-28-otp-report-UNSC-libya-eng.pdf>.

² See, Report of the Independent Fact-Finding Mission on Libya, 27 March 2023, available at: <https://www.ohchr.org/en/hr-bodies/hrc/libya/index>.

migrants and refugees entering Libya irregularly are vulnerable, by law, to arrest, indefinite detention and forced labour due to the criminalisation of “illegal” entry, stay and exit under Law No. 19 of 2010.³ In addition, Libya is not a party to the 1951 Convention relating to the Status of Refugees or its additional protocols, and the general principle of asylum, refugeehood and other provisions of protection, for example for victims of human trafficking, is absent in its domestic legislation. The United Nations High Commissioner for Refugees (UNHCR) is not officially recognised and is unable to operate according to its full mandate – having access only to the West of Libya and not permitted to grant asylum outside of ten nationalities pre-profiled and accepted by the Libyan state. Moreover, registered asylum-seekers often are not protected by their UNHCR status given the generalised lawlessness throughout the country.

The current legal framework not only contravenes international law and human rights standards but has also led armed groups, militias and state security forces, often in close cooperation with smugglers and traffickers, to indiscriminately and systematically target migrants and refugees and arbitrarily and indefinitely detain them for the purpose of migration management, but also as a way to generate profit and gain power.⁴

Cycle of Detention

Because of the lack of safe and legal pathways to Libya and onward asylum countries, migrants and refugees often turn to smugglers to cross the border into Libya, entering them into the system of prolonged arbitrary and unlawful detention and extortion, where they are often transferred from one intermediary to another for financial gain. Migrants and refugees also arrive in these places of captivity having been rounded up from their homes, streets or at checkpoints by armed groups, militias or state security forces. Smugglers, traffickers, armed groups and militias deprive migrants and refugees of their liberty by sequestering and holding them in makeshift detention facilities or by detaining them in “official” detention centres under the nominal control of the Department for Combating Illegal Immigration (DCIM) but in fact run by state-affiliated militias and armed groups. Migrants and refugees are often transferred, and in some cases sold, from one place of captivity to another.⁵

European migration management and border externalisation reliant on cooperation with Libyan authorities to prevent migration flows to Europe have further fueled the vicious cycle of detention and abuse at the hands of state and non-state actors in Libya. Such policies have primarily relied on providing training, as well as financial, material and technical support to the Libyan Coast Guard (LCG) to enable them to carry out interception at sea and return to Libya.⁶ Returned migrants and refugees are automatically detained in DCIM centres, placing them back in the cycle of abuse. This system has rewarded, encouraged and bolstered the ability of actors in Libya to

³ Law No. 19 of 2010 on Combatting Illegal Migration, available at: <https://security-legislation.ly/en/law/32174>.

⁴ See Lawyers for Justice in Libya, ‘No Way Out’: *Migrants and refugees in Libya face crimes against humanity*, November 2021, available at: https://uploads-ssl.webflow.com/5a0d8805f2f99e00014b1414/61962b156783d0619800396a_No-Way-%20Out-migration-lfjl-libya-report.pdf.

⁵ See Amnesty International, *Libya’s dark web of collusion: Abuses against Europe-bound refugees and migrants*, 11 December 2017, available at: <https://www.amnesty.org/en/documents/mde19/7561/2017/en/>.

⁶ Report of the Independent Fact-Finding Mission on Libya, 27 March 2023, para. 46, available at: <https://www.ohchr.org/en/hr-bodies/hrc/libya/index>.

indefinitely and arbitrarily detain migrants and refugees under inhuman conditions while further commodifying them for financial gain.⁷

Homelessness and contemporary forms of slavery

LFJL argues that this severe arbitrary deprivation of liberty, in some cases lasting several months or years, amounts to homelessness. It prevents migrants and refugees from accessing basic shelter and safe, adequate and affordable housing⁸ resulting in their exposure to contemporary forms of slavery.

In most cases, the physical structures where migrants and refugees are held captive are not designed for this purpose and are unfit for human habitation. There is a serious lack of provision of basic requirements needed to sustain human life and overcrowding is systemic. In “official” centres and other places of captivity, migrants and refugees are subjected to serious human rights violations within the context of detention, including murder, torture, forced labour and rape, in some cases amounting to crimes against humanity. The length of their captivity in these locations is often contingent upon the transfer of a ransom payment or on a decision by those controlling their liberty that they have paid off their “debts” in situations of sexual slavery or forced labour. Examples of forced labour include detainees being forced to staff or carry out building work on the detention facility itself. In other cases, sponsors from the local area come to the facility to offer money in return for labour. Following payment to the operator of the detention facility, detainees are released to sponsors to work with the promise that they will be returned to the centre at the end of a specified period. For a larger sum, migrants and refugees are released to the sponsor indefinitely and are made to work off their debt by working for the sponsor – construction, manufacturing, cleaning, maintenance and farming work is most common.

Outside of detention settings, migrants and refugees are similarly unable to access basic civil and economic rights due to the lack of protection frameworks. Due to their status of disempowerment, migrants and refugees are exposed to a chronic cycle of homelessness and abuse with no legal remedy due to the lack of relevant legislation and the breakdown of the justice system.⁹

Libyan legislation and local norms are hostile to ‘foreigners,’ and militate against their access to stable livelihood. As a result, many migrants and refugees experience homelessness because of their precarious economic situation. In addition, lack of legal access to employment renders migrants and refugees further vulnerable to exploitation and contemporary forms of slavery. Migrants and refugees frequently enter situations of bonded labour and fraudulent recruitment practices are rife – informal oral contracts are often used, for example, to force migrant women into prostitution. Access to shelter may rely on an employer, and if disagreements and misunderstandings occur, or if an employer becomes abusive, migrants and refugees can be made homeless on a whim.

Migrants and refugees not deprived of their liberty have frequently gathered in urban areas in settlements known as ‘migrant hubs,’ where they live under conditions that may amount to homelessness, for example in overcrowded housing or temporary makeshift shelters lacking basic sanitation requirements. Illustrative of the

⁷ See Amnesty International, ‘No one will look for you’: Forcibly returned from sea to abusive detention in Libya, 15 July 2021, available at: <https://www.amnesty.org/en/documents/mde19/4439/2021/en/>.

⁸ Committee on Economic, Social and Cultural Rights, General Comment No.4 (1991), The right to adequate housing (art.11 (1) of the Covenant).

⁹ Mixed Migration Monitoring Mechanism Initiative, “Invisible Labour: Women’s Labour Migration to Libya”, December 2017, available at: https://mixedmigration.org/wp-content/uploads/2018/05/028_invisible-labour.pdf.

cycle of detention and exploitation, armed groups, militias and state security forces have frequently targeted these areas to conduct security raids, mass arrests and abductions.

For example, in October 2021 during a well-documented raid,¹⁰ security forces answering to the Ministry of the Interior of the Government of National Unity entered Gargaresh – an area of Tripoli which emerged as a hub for several thousand migrants and refugees in 2019 – claiming to be sweeping the location for suspected terrorists and criminals. Security forces violently broke into homes, fired live ammunition, damaged belongings, and stole valuables. Victims alleged that they were subject to brutal violence, humiliation, rape, and torture. Media reports suggest that more than 4,000 individuals were arrested and transferred to the notorious Al Mabani collection and return centre,¹¹ as well as to Ain Zara detention centre¹² to face detention under deplorable human rights conditions. Subsequently, incidents of shootings were reported at Al Mabani. The International Organisation for Migration (IOM), stated that six people were killed.¹³ However, in a subsequent meeting with UNHCR’s Chief of Mission, spokespeople for the migrant community stated that dozens were killed.¹⁴

In the wake of the raid on Gargaresh, the mass detention at Al Mabani, and the escape of many migrants and refugees, many of the people affected, including women and children, protested outside UNHCR’s day centre in Sarraj, Tripoli to demand their evacuation from Libya.¹⁵ Some sources suggest that thousands of people were present at the protest.¹⁶ However, instead of taking action to provide support, protection and remedy, UNHCR closed its centre on 30 December 2021. What had become an encampment outside the centre was violently broken up on 10 January 2022.¹⁷ Tents were allegedly burnt,¹⁸ at least one individual was reported injured,¹⁹ and 600 people were allegedly taken back to Ain Zara detention centre.²⁰

Remaining challenges and practical recommendations

The human rights situation of migrants and refugees in Libya remains dire, with grave abuse and exploitation – both resulting from and leading to homelessness – remaining widespread. As outlined above, the lack of access to basic rights and protections is a driver of both homelessness and contemporary forms of slavery, and a

¹⁰ Chiara Denaro, “Beyond Violent Raids, Sit-In Evictions and Arbitrary Detention in Tripoli (Libya): How Black Refugee Voices Refuse to be Silenced” 17 March 2022, available at: <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2022/03/beyond-violent>.

¹¹ *ibid.*

¹² *ibid.* See also Hassan Kadano, tweet, 11 January 2022, available at: <https://twitter.com/hassankadano/status/1480887124408905730?s=20>.

¹³ France 24, “Guards shoot dead six migrants at Libya detention centre: IOM”, 8 October 2021, available at: <https://www.france24.com/en/live-news/20211008-guards-shoot-dead-six-migrants-at-libya-detention-centre-iom>.

¹⁴ Refugees in Libya, “Meeting with the UNHCR-Libya Chief of Mission Mr Jean Paul Cavalieri and his Deputy Jamal, Refugees and Asylum Seekers” 31 October 2021, available at: <https://www.refugeesinlibya.org/copy-of-letter-to-the-pope>.

¹⁵ *ibid.*

¹⁶ Chiara Denaro, “Beyond Violent Raids, Sit-In Evictions and Arbitrary Detention in Tripoli (Libya): How Black Refugee Voices Refuse to be Silenced” 17 March 2022, available at: <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2022/03/beyond-violent>.

¹⁷ FFM Libya, Conference Room Paper: Detailed findings of the Independent Fact-Finding Mission on Libya, paras. 133-134, 27 March 2023, available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session50/A_HRC_52_CRP.8-EN.docx.

¹⁸ Hassan Kadano of Balady Institute for Human Rights, tweet on 11 January 2022, available at: <https://twitter.com/hassankadano/status/1480887134626230272?s=20>.

¹⁹ *ibid.*

²⁰ MSF Sea, tweet on 11 January 2022, available at: https://twitter.com/MSF_Sea/status/1480859816947896320?s=20.

complex matrix between detention, homelessness and contemporary forms of slavery, including sexual slavery,²¹ exists. The vulnerability of migrants and refugees in Libya is compounded by the incorporation of armed groups and militia, with alleged involvement in human rights violations and crimes under international law, into state security apparatuses. The challenges are thus inseparable from the fragmentation of the state, the presence of irregular security actors, and the absence of both, a regularly constituted civilian authority and a functioning justice system.

Unless there is accountability for all past and ongoing human rights violations and international crimes committed by all parties in Libya against migrants and refugees, it will be impossible for the situation to be remedied and for the access of migrants and refugees to protection, safety and justice to be ensured. However, accountability in Libya remains elusive and impunity has been deeply entrenched. In the current context, the Libyan authorities are both unwilling and unable to protect and promote the rights of migrants and refugees. In parallel, the ability of civil society, including humanitarian actors, to fill the protection gap and operate freely and without hindrance is severely limited. Civil society actors, including those working to provide support and protection to migrants and refugees, are regularly targeted for their work and face threats, violence, arbitrary arrest and detention, and enforced disappearance. The Libyan authorities have also issued a series of repressive regulations impeding the ability of local and international civil society to work in Libya.

In light of the above findings on the human rights situation of migrants and refugees in Libya, their experiences of contemporary forms of slavery and homelessness, and the ongoing accountability and protection gap, LFJL recommends that the Special Rapporteur on contemporary forms of slavery fully examine, advise and publicly report on the situation, including through the request and completion of a country visit.

We stand ready to support your mandate in any way possible and to provide further information where necessary.

Sincerely,



Marwa Mohamed
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²¹ Report of the Independent Fact-Finding Mission on Libya, 27 March 2023, para. 52, available at: <https://www.ohchr.org/en/hr-bodies/hrc/libya/index>.



About LFJL:

Lawyers for Justice in Libya (LFJL) is a Libyan and international independent non-governmental organisation and UK-registered charity that is dedicated to strengthening the rule of law and human rights in Libya. LFJL is a leading member of Libyan civil society and a recognised international actor with Libyan expertise. LFJL's consistent on-the-ground activity and presence mean we have unusual insight, influence, and trust in a country that is difficult for international organisations to penetrate. For more information about our work, see www.libyanjustice.org.