

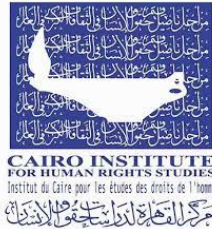
NGO coalition request to African Commission on Human Rights to probe atrocities against migrants in Libya

On 22 July 2019 the Cairo Institute for Human Rights Studies (CIHRS) in cooperation with the Libyan Platform Coalition, and the support of the Association for Juridical Studies on Immigration (ASGI) submitted a joint request to the African Commission on Human and Peoples' Rights, demanding an investigation into the gross human rights violations against refugees and migrants in Libyan detention centers. The NGOs also requested the Commission, pending a detailed probe, to provisionally order the Libyan Government of National Accord (GNA) to immediately stop abuses against refugees and migrants detained in centers throughout Libya, including in Tajoura, Zawiya and Zintan.

The request alleged multiple violations of fundamental rights guaranteed by the African Charter of Human and Peoples' rights, including Prohibition of Torture and Cruel, Inhuman and Degrading Treatment (Article 5), Right to Personal Liberty and Protection from Arbitrary Arrest (Article 6) and Right to Fair Trial (Article 7). The three NGOs claim that these violations entail Libyan GNA's responsibility both for its actions in official detention centers and for its failure to prevent or punish abuses committed by armed militias in unofficial detention centers.

The allegations contained in the request were based on documentation publicly available and on field research and testimonies collected from a number of persons detained in Tajoura, El Nasr Zawiya and Zintan, who claim to have been tortured, kept in inhumane conditions, starved, denied access to sanitation, food and legal aid. The three detention centers were officially run at the time by the Ministry of Interior of the internationally-recognized Government of National Accord (GNA) based in Tripoli. Still today though, in addition to a network of over 20 such official centers, there is an unknown number of unofficial detention facilities throughout Libya directly operated by armed militias, where migrants and refugees are systematically abused, including through torture.

Since 2019, despite the change of government in March 2021, the situation continued to worsen and the Libyan government did not make any efforts to improve the conditions of detention centers nor the more general one of foreign citizens in the country.

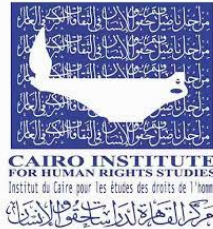


The 2021 and 2022 investigations of the UN Fact Finding Mission for Libya (FFM) indicated that migrants, asylum-seekers and refugees are subjected to a litany of abuses at sea, in detention centers and at the hands of traffickers. Crimes against humanity are committed against migrants on a widespread scale by State and non-State actors, with a high level of organization and with the encouragement of the State.

Violations are not episodic but are rather part of an operational model - defined also as a business model - consisting of the following moments: (i) route in the desert in the hand of smugglers, where being victims of extreme violations, and brought by the same smugglers to official or unofficial centres to prepare for the departure (ii) the interception at sea by the so-called Libyan Coast Guard, often characterised by extremely risky procedures; (iii) Migrants' systematic return right after disembarkation to Libyan detention centres managed by the Directorate for Combating Illegal Migration (DCIM) of the Ministry of the Interior and eventually their sale to criminal groups; (iv) migrants' exposure to torture and ill-treatment for the purpose of extortion or various forms of exploitation and 'profit extraction' such as forced labour, forced prostitution and kidnapping for ransom (see also the Reports of the FFM: October 2021, March 2022, July 2022). This model works as a circle: migrants are over and over detained, abused, pulled back.

Moreover in early October 2021, the Libyan government carried out raids and random mass arrests in Tripoli neighborhoods. Many foreign nationals were arrested including people officially registered by UNHCR and those in particularly vulnerable situations, such as minors and pregnant women. The foreign nationals were later imprisoned in detention centres run by the Libyan Ministry of the Interior where they were subjected to ill-treatment and torture. In the Al Mabani center, six people were killed and 24 injured by gunfire. The reaction to such violent and discriminatory measures was unprecedented: thousands of migrants have been protesting for almost two months in front of the UNHCR office in Tripoli, demanding to be transferred to a safe country and their safety to be guaranteed. For the first time, even in the international press, a new entity emerges under the name Refugees in Libya, formed by a committee of migrants interacting with international organizations and actors in Libya and elsewhere.

However following these protests, Libyan civil society organizations also experienced persistent repression and criminalization from the government when showing solidarity with



the protesters and more generally for supporting foreign citizens in the country. This is not a new trend, but a systematic behavior of Libyan authorities against civil society. The Libyan Presidential Council's decree 286/2019 regulating the work of NGOs in Libya poses several limitations on the work and the freedom of expression of civil society. Although such Council decree has been frozen by a decision of the Civil Court in Benghazi n. 581/2022 it is still illegitimately applied by the authorities, making it even more difficult and dangerous for activists to bring forward their work in support of migrants and refugees' human rights and more generally as a watchdog for democracy.

Activists in fact are more and more in danger, in a country where transitional justice is still failing to free the population from some of the laws of the precedent Gheddafi regimes. Supporting migrants and refugees and advocating for their rights can also lead to criminal charges, with the application of the artt. 207 and 208 of the Penal code that could lead to death sentence.

The request made in 2019 has been part of a broader effort to challenge illegal policies aimed at curbing migration flows, undertaken by the NGOs. Cases brought before domestic and international courts so far also challenge actions by the EU and its member States, especially Italy such as delegating pushbacks to the Libyan Coastguard and contributing to the system of illegal detentions in Libya.

UN institutions, as well as the International Criminal Court are deeply concerned by the situation in Libya and are taking measures within their mandate and competence. The ICC Prosecutor Karim A.A. Khan KC just announced his upcoming mission to Libya.

The African Commission for Human and People's Rights already in 2019 (resolution n. 418/2019) urged all parties in Libya to respect human rights.

We therefore urge the Commission to take a position on our request, and to reaffirm its function to “ensure the protection of human and peoples’ rights” as enshrined in the Banjul Charter and to call on Libya to respect its human rights obligations, in particular with regard to the most vulnerable people such as migrants and refugees.

Banjul, 29 October 2022