



It Comes at a Cost: The International Community’s Ongoing Failure to Address Worsening Human Rights Violations in Libya

For the past decade, Libya, a once vibrant and stable oasis with a thriving economy in Northern Africa,¹ has struggled to manage the thousands of migrants that use the country as a stopping point on the treacherous journey across the Mediterranean Sea² to Europe. According to 2020 estimates, there are currently over 650,000 migrants in Libya³, and more than 20,000 migrants have died attempting to cross the Mediterranean from the country since 2014.⁴ When former dictator Muammar Gaddafi was ousted and killed in 2011⁵, an already dire migrant situation grew much worse. Human traffickers, terrorist organizations and other prominent African gangs have capitalized on the leadership void in the country, taking advantage of overrun refugee camps and establishing strongholds in the nation’s most populous cities.⁶ All of this extensive “political and institutional uncertainty” has thwarted any of Libya’s attempts to establish a true “security network.”⁷ Yet, despite this being one of the most violent and

worsening migrant crises the modern world has ever witnessed, little has been done to combat daily human rights violations inside Libya. Despite ample CNN video footage of humans being sold at slave auctions outside Tripoli⁸, not to mention numerous images of boats overloaded with refugees sinking, and refugee camps teeming with starving children, Libya has yet to officially outlaw slavery – as the world has continued to watch on in horror.⁹ In attempting to convey the magnitude of Libya’s plight and grave need for assistance, the U.N. Migration Agency Director-General once said that “[t]he abuse of migrants... held against their will in squalid, inhumane conditions is a blot on [the world’s] conscience.”¹⁰

Sources of Libya’s Migrant Population

Recent events in Libya have highlighted the stark need for intervention, and suggest that not only does Libya bear responsibility for the crimes against migrants they have permitted to run rampant within their borders, but, so too do the countries from which these migrants have fled as well as the countries that return migrants rescued at sea back into the hands of corruption, subjecting them to perilous danger. In just recent weeks, Nigerian officials rescued approximately 107 Nigerian citizens from trafficking organizations and detention centers in Libya.¹¹ While the rescues are commendable, and certainly a step in the right direction, the Nigerian government’s rhetoric surrounding the repatriations highlights a problematic tendency to minimize the severity of the situation and a failure to recognize that such rescues would be unnecessary were Nigerians not fleeing to Libya in the first place.¹² In the wake of the last month’s rescue of 107 Nigerians, the majority of whom were victims of human trafficking, the Nigerian Chargé D’affaires to Libya explained that these victims were not the “regular” migrants Libya sees from Nigeria; rather these were “irregular migrants...cajoled into the dangerous journey [across the Mediterranean] in search of proverbial and elusive greener pasture.”¹³

Similarly, the zonal commander for Nigeria's National Agency for the Prohibition of Trafficking in Persons ("NAPTIP") stated just this month that in order for migrants to ensure their own safety, they "must always ensure that traffickers don't prey on their desperation."¹⁴ The use of such language suggests a fundamental disregard for migrants' vulnerability and dearth of options, and places blame on the victims of trafficking as opposed to the perpetrators.

Europe's Role in the Crisis

When migrants depart Libya for Europe, often fully aware of the risks such a journey entails, they do not plan nor do they desire to be returned to a Libyan detention center, official or unofficial, in the event of failure.¹⁵ Libya lacks both the infrastructure and resources to provide the migrants the most basic human needs and rights.¹⁶ Yet with full knowledge of the dangers inherent in returning migrants to the country from which they have fled, European countries continue the practice of "rescuing" those attempting to cross the Mediterranean Sea, and "returning" them right back to Libya.¹⁷ For many, if not most, of the migrants returned to Libya, all that awaits them is more instability and greater susceptibility to human traffickers and gangs.¹⁸ Whether knowingly or not, Europe has played a critical role in perpetuating "oppressive practices and the enslavement of African migrants" in failing to find a real place of refuge for these migrants.¹⁹ The sordid Libyan detention centers "run by militias linked to authorities in Tripoli," are arguably a far riskier place to reside than on the boats headed to Europe, no matter how perilous the journey may prove to be.²⁰ Yet European countries frequently tout these returns as victories, sometimes returning thousands of migrants back to the country they fled in one given week.²¹ This practice of returning migrants has been ongoing since Gaddafi's 2011 death, while international migration and refugee agencies continue to plea with Europe and other

developed countries to find an “urgent and measurable shift” in their approach to Libya’s migration crisis, including a call to “end to migrant returns to “unsafe” Libya.”²²

International Legal Implications

Not only is returning migrants to Libya inhumane, it is also technically illegal under international law.²³ In June 2021, the International Organization for Migration (“IOM”) and the U.N. Refugee Agency (“UNHCR”) issued a joint statement, reiterating that “under international maritime law, rescued individuals should be disembarked at a place of safety.”²⁴ Clearly, Libyan detention centers do not come close to meeting the qualifications for such.²⁵ And while both organizations do have staff attempting to provide aid in Libya, they have been overwhelmed by the number of refugees and simply cannot qualify as a safe harbor.²⁶ In the same statement, IOM and UNHCR emphasized that many of these migrants are going missing, suggesting that they are being returned right into the hands of human trafficking organizations who in turn disperse the migrants throughout vast trafficking networks.²⁷ Thus far, European countries have failed to acknowledge that these returns are directly fueling an already blooming human trafficking industry in Libya, nor have they made a concerted effort to find alternate places of refuge.²⁸

Conclusion

While Libya cannot manage its own migrant crisis without cooperation from other countries explicitly and implicitly involved in the matter, it is imperative that drastic action be taken by the international community to compel the Libyan government to amend its own practices. Libya has failed to outlaw slavery,²⁹ and this travesty is further complicated by the fact that Libyan security officials work hand-in-hand with armed militias, gangs, and terrorist organizations for shared financial benefit.³⁰ There is a dire need to “adopt a new policy that takes into account the human dimension concerning the issue of asylum and migration” and puts

a stop to such flagrant human rights violations.³¹ To assist in this process, international aid organizations are calling for the establishment of a more modern system of judicial review and seek to compel the release of, at minimum, the most vulnerable subset of detained migrants.³²

¹ See Katie Kuschminder, *Once a Destination for Migrants, Post-Gaddafi Libya Has Gone from Transit Route to Containment*, Migration Policy Institute (Aug. 6, 2020) <https://www.migrationpolicy.org/article/once-destination-migrants-post-gaddafi-libya-has-gone-transit-route-containment> [<https://perma.cc/D893-7XKR>].

² As of today there have been over 1300 migrant deaths in the Mediterranean Sea in 2021, more than double the number from 2020. See Missing Migrant Project, *Total of Deaths Recorded in Mediterranean*, <https://missingmigrants.iom.int/region/mediterranean> [<https://perma.cc/N8AN-GU47>] (last updated Sept. 10, 2021).

³ See Katie Kuschminder, *supra* note 1.

⁴ Associated Press, *UN: Over 20,000 migrant deaths on Mediterranean since 2014*, ABC News (March 6, 2020, 7:50am) <https://abcnews.go.com/US/wireStory/20000-migrant-deaths-mediterranean-2014-69432700> [<https://perma.cc/QZ4R-84EJ>].

⁵ See Katie Kuschminder, *supra* note 1.

⁶ Amnesty Int'l, *Libya 2020*, AI Report POL 10/3202/2021, <https://www.amnesty.org/en/wp-content/uploads/2021/06/English.pdf> (explaining conflict persists primarily in Tripoli, Libya's capitol, and in other cities in the western region of the country).

⁷ Danielle D. Rogers, *Dreams of Liberation Bound by Bondage*, 28 MICH. ST. INT'L. L. REV. 323, 329 (2020).

⁸ See Nima Elbagir & Raja Razek, *People for sale: Where lives are auctioned for \$400*, CNN (Nov. 15, 2017) <https://www.cnn.com/2017/11/14/africa/libya-migrant-auctions/index.html> [<https://perma.cc/A2WB-VFC6>].

⁹ See Clara Didier, Fatou Diouf & Jessie Lee, *The return of slavery in Libya 2*, Generation for Rights Over the World (Jan. 2021), <https://www.growthinktank.org/wp-content/uploads/2021/01/The-return-of-slavery-in-Libya.pdf>.

¹⁰ William Lacy Swing, *The abuse of migrants in Libya is a blot on the world's conscience*, CNN (Nov. 14, 2017, 2:38pm), <https://www.cnn.com/2017/11/14/opinions/libya-migrants-protected-opinion-lacy-swing/index.html> [<https://perma.cc/Z4UM-YNHX>].

¹¹ See *FG repatriates another batch of 107 Nigerians stranded in Libya*, VANGUARD (Aug. 25, 2021) <https://www.vanguardngr.com/2021/08/fg-repatriates-another-batch-of-107-nigerians-stranded-in-libya/> [<https://perma.cc/7NRF-2DHM>].

¹² Niger, Egypt and Nigeria have consistently remained some of the largest sources of displaced migrants in Libya. See International Organization for Migration, *Libya's Migrant Report – September-October 2020*, https://reliefweb.int/sites/reliefweb.int/files/resources/DTM_R33_Migrant_Report.pdf (last visited Sept. 12, 2021).

¹³ *FG repatriates another batch of 107 Nigerians stranded in Libya*, *supra* note 9.

¹⁴ *NAPTIP rescues 350 Nigerians trafficked to Libya, arrest 6 traffickers in 9 months*, THE GUARDIAN (Sept. 8, 2021, 7:48am) <https://guardian.ng/news/naptip-rescues-350-nigerians-trafficked-to-libya-arrest-6-traffickers-in-9-months/> [<https://perma.cc/X3H4-AE2T>].

¹⁵ See William Lacy Swing, *supra* note 10.

¹⁶ See *id.*

¹⁷ Press Release, Amnesty Int'l, *Libya: Horrific violations in detention highlight Europe's shameful role in forced returns* (July 15, 2021).

¹⁸ See Associated Press, *More than 150 migrants freed in Libya in raid on human traffickers*, LA Times (Feb. 22, 2021) <https://www.latimes.com/world-nation/story/2021-02-22/libya-over-150-migrants-freed-in-raid-on-traffickers> [<https://perma.cc/88RE-GQWD>].

¹⁹ Danielle D. Rogers, *supra* note 7.

²⁰ *Id.*

²¹ See *id.*

²² *Id.*

²³ See Press Release, IOM & UNHCR, *IOM and UNHCR Condemn the Return of Migrants and Refugees to Libya* (June 16, 2021), <https://www.unhcr.org/en-us/news/press/2021/6/60ca1d414/iom-unhcr-condemn-return-migrants-refugees-libya.html> [<https://perma.cc/HZJ2-X2ZL>]. See also *What Is International Maritime Law?*, SCHECHTER, McELWEE, SHAFFER & HARRIS, L.L.P. BLOG, <https://maintenanceandcure.com/maritime-blog/what-is-international>

maritime-law/ [https://perma.cc/MN3L-S6PR] (last visited Oct. 3, 2021) (defining international maritime law “as the Law of the Sea” or “the laws used to govern international waters. It consists of a body of conventions, regulations, and treaties used to govern nautical issues and regulate maritime organizations.”)

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *See id.*

²⁸ *See Migrant crisis: EU leaders agree plan to stop Libya influx*, BBC NEWS (Feb. 3, 2017), <https://www.bbc.com/news/world-europe-38850380> [https://perma.cc/86HB-2D7L] (suggesting that Europe’s return of migrants to Libya “makes a mockery of the EU’s so-called fundamental values of human dignity and rule of law”).

²⁹ *See* Clara Didier, Fatou Diouf & Jessie Lee, *supra* note 9.

³⁰ An Amnesty International official report revealed this information on Libyan collusion with criminal organizations. Danielle D. Rogers, *supra* note 7.

³¹ *Asylum seekers’ drowning at sea is due to repeated illegal returns*, MIRAGE NEWS (Aug. 30, 2021), <https://www.miragenews.com/asylum-seekers-drowning-at-sea-is-due-to-622246/> [https://perma.cc/8LAA-HP6B].

³² *See* IOM & UNHCR, *supra* note 23.