

EXILES FROM LIBYA FLEE TO EGYPT

Double tragedy for Sub-Saharan Africans

Article 1: All human beings are born free and equal

in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3: Everyone has

the right to life, liberty and security



I. INTRODUCTION -----	4
II. INSECURITY AND EMERGENCY AT THE BORDER -----	7
III. VIOLENCE TARGETING SUB-SAHARAN AFRICANS IN LIBYA -----	12
IV. KEY RECOMMENDATIONS -----	19
APPENDIX: INTERVIEW SUMMARIES -----	20

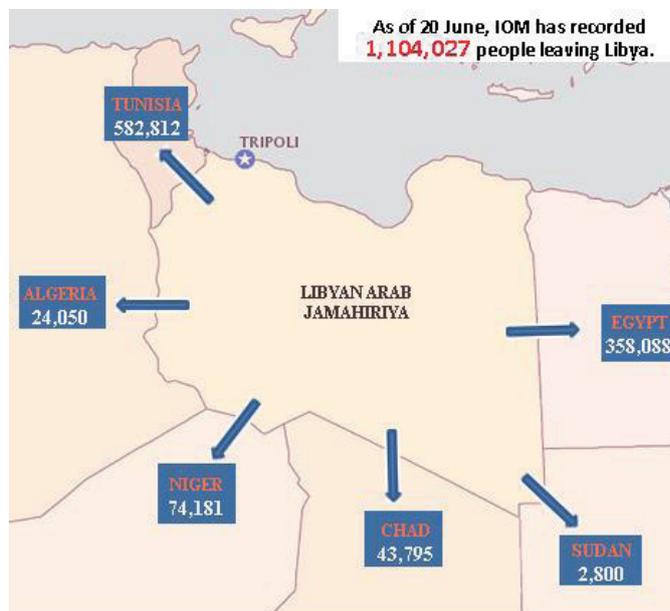
FIDH would like to thank all those met by the mission. FIDH extends particular thanks to Africa and Middle East Refugee Assistance (AMERA) and the African Centre for Justice and Peace Studies, for assistance in organising the mission.

I. INTRODUCTION

1. Hundreds of thousands of migrant workers and refugees flee Libya

The conflict that began in Libya on 17 February 2011 with a popular revolt against the regime of Colonel Gaddafi, following the Tunisian and Egyptian revolutions in January, triggered a mass exodus of the civilian population into neighboring countries. The violence perpetrated by Gaddafi's security forces against civilians, the conflict led by rebel groups controlling eastern Libya to overthrow the regime and NATO bombings have caused thousands of deaths and injuries and forced hundreds of thousands of people to flee the country. In addition, as detailed in this report, violence specifically targeting immigrants from Sub-Saharan Africa has forced thousands of migrant workers and refugees to flee Libya.

According to figures from the International Organization for Migration (IOM) dated 20 June 2011, more than 1.1 million people have fled Libya since late February, mostly over land borders with Tunisia and Egypt. Of those only about 19,000 exiles have tried to escape by sea, arriving in Lampedusa and Malta between 26 March and 14 June 2011, representing 1.7% of the exodus from Libya. Fantasies of "invasion" voiced in Europe have therefore no basis in reality, but have nonetheless been used to justify extraordinary surveillance measures at sea aiming to prevent the arrival of migrants and refugees into European territory. The multiplication of these barriers has had dramatic consequences – as of 14 June the UNHCR estimates that over 2,000 people have drowned while fleeing Libya since February - and contributes to violations of the right to seek refuge abroad.



See www.iom.int

The vast majority of those fleeing Libya between February and June were immigrants working in Libya: over 500,000 persons originating from Egypt, Tunisia, Asia (Bangladesh, Pakistan and China) and numerous Sub-Saharan African countries.

Libya, with its vast oil reserves and small population (approximately 6.4 million), resorted massively to foreign labor to run its economy: a figure of 1.5 million migrant workers before the start of the conflict is most commonly cited, but other estimates are around 2.5 million (including about 1 million Egyptians).

2. Severe violations of the rights of migrants and refugees in Libya before the conflict

Prior to the recent rebellion, migrants arriving in or transiting through Libya were regularly victims of serious human rights violations, including physical violence, arbitrary arrests and detention and forced returns. Migrants in an irregular situation were often arrested and detained in camps, in terrible conditions, sometimes for many years. Others were expelled from Libya, in violation of international law and the principle of non-refoulement.

Libya has never ratified the UN Convention on the Status of Refugees of 1951 and does not have a system guaranteeing the right to asylum. Registration of asylum seekers, documentation activities and refugee status determination procedures were carried out by the UNHCR until June 2010, when the body was expelled by the Libyan government without explanation.

This coincided with the beginning of negotiations between Libya and the European Union on the conditions and amount of an assistance fund to be granted to Libya for the purpose of fighting irregular migration¹. This policy, under which the EU made Gaddafi a partner in fighting irregular migration into Europe and ignored the grave human rights violations committed against migrants in Libya, formed part of the EU's general policy of externalising border controls².

3. Allowed across the Libyan border only to remain in transit

The geography of Libya, vast expanses of desert with populated areas located mainly along the Mediterranean, explains the fact that the exodus has been concentrated at the Tunisian and Egyptian borders (about 582,812 and 358,088 entries in Tunisia and in Egypt respectively since the conflict began as of 20 June 2011), while smaller numbers have fled across the southern borders with Chad and Niger.³

The Egyptian and Tunisian governments have maintained their borders open to those fleeing Libya. But for most migrants admission into the country does not mean the right to stay. With the exception of those with Libyan nationality, who until now have been allowed to settle temporarily in Tunisia and Egypt, nationals of other countries are kept in border areas pending evacuation to their countries of origin or - for refugees who cannot return home - resettlement in host countries. The IOM and the UNHCR are responsible for coordinating humanitarian assistance in border areas and organizing departures.

4. FIDH's fact-finding mission at the Egyptian-Libyan border

Alerted by information on the precarious situation of refugees and migrants stranded at the Egyptian/ Libyan border at Salloum and by reports of acts of violence specifically targeting immigrants from Sub-Saharan Africa in Libya, FIDH sent a fact-finding mission to the border with two main objectives:

- To document the situation of the exiles at the border;
- To collect direct testimony from exiles on their experiences in Libya since the outset of the conflict.

1. The National Indicative Programme for Libya 2011-2013 negotiated between the EU and Libya, includes the fight against illegal migration as one of its three priorities. The budget proposed by the EU for the programme was 60 million euros.

2. See further FIDH and UFTDU press statement (in French), Libye/UE : La FIDH et l'UFTDU condamnent les propos racistes du Colonel Khadafi, 30 septembre 2010, <http://www.fidh.org/Libye-UE-La-FIDH-et-l-UFTDU-condamnent-les-propos>

3. See IOM situation reports <http://www.iom.int/jahia/Jahia/lang/fr/pid/1>.

Following a mission organized by CIMADE at the Tunisian-Libyan border in early April,⁴ the FIDH mission took place from 8-14 May 2011, including three days at the Salloum border. The mission delegation was composed of Geneviève Jacques, member of FIDH's International Board and former Secretary General of CIMADE, who also participated in the mission to Tunisia, Mohamed Badawi, a Sudanese lawyer from Darfur and deputy director of the Sudanese organization, African Centre for Justice and Peace Studies, and Christine Tadros, Refugee Status Determination Team Leader at the refugee aid organization, Africa and Middle East Refugee Assistance (AMERA), based in Cairo. The team was accompanied by a freelance journalist, Gael Grilhot.

In Cairo, the mission delegation met with officials from the IOM (Enrico Ponziani and Reham Hussein) and UNHCR (Mohamed Al Dayri and Mark Fawe) who provided information on the work done by the organizations since the outbreak of the Libyan crisis. The mission also met with Jason Bellanger, representative in Egypt of the Catholic Relief Service, one of the NGOs providing humanitarian aid at the border until the end of April and with Nancy Baron, Director of the Psycho-Social Training Institute in Cairo and professor at the American University Center for Migration and Refugees Studies in Cairo, who had worked for several weeks to provide social support to exiles at the Salloum border. A meeting with the Director of a human rights organization in Egypt, the Egyptian Initiative for Personal Rights, Hossam Bahgat, addressed the wider challenges facing Egypt during this period of political transition.

At the Salloum border post, the mission met with UNHCR representative, Jean Paul Cavaliere and the Team Leader for Refugee Status Determination procedures, Nazneen Farooqi. The mission also met with several IOM representatives.

The delegation encountered no difficulties exchanging with male migrants at the Salloum Land Port, addressed spontaneously and randomly on the site. It was more difficult to exchange with the few women migrants present in Salloum. They were gathered separately in a customs hangar and on two occasions male migrants prevented the delegation from talking to the women, claiming that they "would speak only to United Nations personnel." In total, the delegation conducted more than 50 individual interviews and 4 group interviews at the Salloum Land Port, with migrants originating from 12 different countries. The delegation also met with several migrants of Palestinian origin in a no man's land between the Egyptian and Libyan border controls.

On 8 May, the total population on the site was 1,401 individuals, of which 609 had been registered by the UNHCR as asylum seekers and refugees.

4. See press release and CIMADE report at www.lacimade.org.

II. INSECURITY AND EMERGENCY AT THE BORDER



1. Deplorable living conditions

The scene upon arrival at the customs area of the Salloum Land Port is striking: in a desert environment swept by winds of dust and sand, the Egyptian customs buildings, sheds, awnings of unloading trucks and car parks are full of men, as well as several women and children, sitting or lying on the floor on cardboard or blankets, with their luggage stacked behind them. In some corners, tarpaulins are attached to the fences, forming makeshift tents: those who have been at the border for some weeks have improvised makeshift shelters to avoid sleeping outside. The site gives an impression of chaos, anguish and filth. Some of the exiles met by the mission delegation told of their anxiety waiting in these conditions: “this is not a place to live, we are human beings!”

And yet, as the delegate from the Catholic Relief Service (CRS) reported, the situation has improved considerably since the first arrivals at the end of February. In March, there were up to 6,000 or 7,000 people, forced to sleep outside despite the harsh climatic conditions and there was insufficient food and water. For a while, the nearby small town of Salloum offered meals to the exiles, as well as plastic sheeting. Today, water supplies and food are now provided by various organisations including the UNHCR, the Egyptian Red Crescent and World Food Programme. From the beginning, the Egyptian Ministry of Health has provided ambulances and medical personnel.

However, unlike in Tunisia, there is no “camp” in Salloum because the Egyptian authorities refused to allow any permanent installation on their territory, even in the form of tents. It is a general and longstanding policy in Egypt (the “no encampment policy”), which has remained in force in the face of the exodus from Libya. Nevertheless, at the time of the FIDH mission, there was a plan to construct several large tents (“rubber halls”). Tubular structures were already in place, but permission to complete their construction had not yet been granted, evidence of the reluctance of the Egyptian authorities to allow refugees to settle in this place. The rubber halls were finally completed on 18 May.



In this context, with minimal sanitation facilities, the living conditions of exiles on the Egyptian border are degrading and disrespectful of human dignity. But - although desired by all – it is not easy for people to leave :

- Settling in Egypt is not an option: the Egyptian government has made this clear from the beginning. The border remains open on the condition that exiles are evacuated quickly;
- Migrants who can and want to return to their country of origin are registered by the IOM and wait for group flights to be organised to take them home;
- Those who had fled to Libya to escape persecution at home and who therefore cannot return to their country of origin are registered by the UNHCR, which conducts interviews for determination of refugee status and then looks for resettlement countries.

The procedures are not the same for everyone and, consequently, the time it takes to find a sustainable solution for each individual varies from a few days or weeks for migrants, to several months for refugees.

For the dignity of everyone, and especially for those who will wait for months in Salloum, it is urgent and essential that living conditions are improved.

2. For migrants, a solution - repatriation

Foreigners who do not qualify for UNHCR protection and who are not Libyan (the United Nations calls them “Third Country Nationals”) are offered repatriation by the IOM as soon as possible to their country of origin, far from Salloum and far from Libya, where they have lived through difficult and sometimes dramatic experiences.

According to recent statistics, the IOM evacuated 34,791 people from the Egyptian-Libyan border between 26 February and 16 May. The largest groups were from Bangladesh, Chad and Niger. In early May, most of the migrants on the site were Chadian.

Upon arrival at the Egyptian border, migrants are required to register with the IOM. As many of these migrants do not have, or no longer have, a passport, embassy representatives come to the site to identify them and provide them with passes. This poses problems for those who come from countries without representation in Egypt, as described by a young Cape Verdean met by the delegation, who had been waiting for almost two months to meet with an embassy representative in order to obtain a pass to return.

Large groups are then taken by bus to airports (Marsa Matruh or Cairo), where flights chartered by the IOM repatriate them to the capital of their country. At the time of the FIDH mission a group of more than 300 Chadians were preparing for departure and rows of buses were ready to take them to Cairo airport (over 7 hours drive). For smaller groups, fewer seats are reserved in regular airliners.

The IOM's objective, as stressed by the manager met by the delegation, is to speed up repatriation so that migrants do not stay more than 5 or 6 days in Salloum. However, this depends on the funds available to the organization from international donors. The concern is that the international community will lose interest in these migrants, and "forget" this inhospitable border post, where the IOM is planning to reduce staff if the number of new arrivals continues to decline.

According to those met by the delegation, it is impossible to know how many immigrants are still in Libya and could potentially arrive at the border. According to a UNHCR official, on 9 May, there were more than 200 immigrants stranded in Misrata awaiting evacuation to Benghazi and then to the Egyptian border. How many more? A member of the Chadian Consulate in Benghazi, met at the border, estimates that there were approximately 500,000 Chadians working in Libya before the conflict, only 400,000 of which have returned to Chad, so there are still some 100,000 Chadians in Libya.



3. For refugees, an anxious wait before departure to a new exile

Among the hundreds of thousands of foreigners working in Libya at time of the onset of the conflict were several thousand people who had gone to Libya to flee wars, internal conflicts or fear of persecution in their home countries (including, for example, Sudanese from Darfur, Eritreans, Ethiopians Oromos and Somalis). Some had sought and been granted refugee status by the UNHCR in Libya (before the UNHCR was expelled by Gaddafi's government in June 2010). All are now obliged to apply for refugee status since there is no possibility of returning to their country of origin.

According to the UNHCR website, the number of people registered with the UNHCR in Salloum was 609 on 8 May. (On the day the mission delegation left a UNHCR official said that 30 new people had arrived who had not yet been registered).

By nationality:

- Sudan : 340
- Eritrea : 105
- Ethiopia : 76
- Somalia : 68
- Chad : 9
- Iraq : 6
- Democratic Republic of Congo : 2
- Ghana : 1
- Liberia : 1

The UNHCR has deployed teams of professionals, recruited for periods of several weeks from their posts in other parts of the world. These teams are responsible for all the procedures leading to the recognition of refugee status under the 1951 Convention on Refugees and the African Union Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969 and for finding places for resettlement in third countries. At the time of the mission, the UNHCR team was composed of:

- 3 officers and a supervisor for the determination procedure

- 3 officers and a supervisor for procedures pertaining to resettlement in third countries
- 2 protection officers
- 3 or 4 interpreters
- 1 coordinator

Interviews are conducted by officers in small rooms in the administrative buildings at a rate of 6 per day, 5 days per week. Recommendations for acceptance or rejection are sent to the supervisor for a decision. If rejected at first instance, applicants are provided with an oral explanation of the reasons for refusal and are automatically given an appeal interview within one week. Another officer is in charge of the second appeal hearing and the coordinator takes the final decision.

As of 10 May, 218 people (out of 609) had undergone the Refugee Status Determination procedure, with a recognition rate of 78%.

Once recognized as refugees, individuals meet the officers in charge of resettlement, and the wait may be much longer before being accepted into a host country.

As of the beginning of June 2011, Sweden had provided 150 spaces: a Swedish mission was on site to review applications. Departures were scheduled for mid-June.

The United States of America had pledged to take 200 refugees. A mission was scheduled to arrive soon for interviews, but the security screening procedures are very long for the United States, approximately 6 months. UNHCR is negotiating for these refugees, pending a final decision of the United States, to be transferred to a transit shelter in Timisoara, Romania.

UNHCR teams reported being subjected to dual pressure:

- The Egyptian authorities insist that departures speed up and that the Salloum Land Port is not transformed into a refugee camp;
- Asylum seekers who have just gone through a second traumatic experience in Libya, following the experiences which caused them to flee in their home countries, are particularly anxious about their fate, not to mention the deplorable living conditions at Salloum.

It is the responsibility of states in the North, and particularly all those who have committed to NATO's military operations "to protect civilians" under United Nations Resolution 1973, to protect these other civilian victims of the Libyan conflict, who are living in precarious conditions at the Libyan border. Concretely, this requires new and more generous funding for operations of repatriation of migrants, as well as offers to host refugees (a little over 3,000 people, including refugees at the borders in Egypt and Tunisia).

4. Palestinians kept in no man's land

During the reign of President Hosni Mubarak, the entry of Palestinians on Egyptian territory was strictly limited. In fact, according to the Palestinians met in Salloum, it was impossible for Palestinian residents in Libya to pass the land border; one man had tried 8 times over 30 years but had been turned back at every attempt.

These strict controls persist and Palestinians are not allowed to enter Egypt: they must wait in no man's land before being transported directly to the Gaza border.

But, since the fall of Mubarak, it is possible to obtain permits to enter Palestine by the Rafah crossing in southern Gaza. To obtain these permits allowing passage through Egypt, applicants must first contact by phone the representation of the Palestinian Authority in Cairo and provide

personal information, then they are sent to the Egyptian authorities, who conduct a screening process. Once the process is complete, Palestinians are allowed to cross the border in buses escorted by UNHCR, which funds the trip, and are driven to the border with Gaza.

Hence the surreal situation of persons staying for several days in the open, barely sheltered under some blankets serving as tents, in the desert no man's land separating the borders of Libya and Egypt.

A total of 200 Palestinians have followed this procedure since the end of January and 34 were awaiting their turn at the time of the FIDH mission. Most of the Palestinians interviewed said that they planned to return to Libya.

5. Transitional homes for Libyans in Egypt

Thus far, Libyans have been able to enter Egypt without a visa. However, at the time of the FIDH mission, panic was rising since the Egyptian authorities had decided on 7 May that Libyans should obtain visas from Egyptian Consulate in Benghazi. Following protests and chaos generated at the border by this sudden move, this decision was lifted after two days and Libyans could again move freely across the border. Traffic is heavy in both directions, especially for commercial purposes.

According to the Egyptian authorities of Marsa Matruh, some 95,000 Libyans have come to Egypt since February 2011 and 35,000 have returned to Libya (although the precise numbers are difficult to estimate). This would mean that, as of June 2011, about 60,000 Libyans are still in Egypt, spread over the entire northern coast of the country, from Salloum to Alexandria. The vast majority of these families rent apartments in residential complexes along the sea that are not occupied during the winter season. Problems are likely to arise, the mission delegation was told, when the tourist season starts and owners want to reclaim their homes.

Some families in need, mainly senior persons accompanying small children, have benefited from the solidarity of local people and from the help offered by a charity headed by the Sheikh of Marsa Matruh.

A UNHCR mission was mandated to investigate the needs of Libyans in this precarious situation in the region of Marsa Matruh from 2-4 May and recommended that funds be allocated for emergency aid for food and basic supplies through the Egyptian Red Crescent.



III. VIOLENCE TARGETING SUB- SAHARAN AFRICANS IN LIBYA

The FIDH mission gathered extensive consistent and alarming reports about violence and other grave human rights violations targeting migrants from Sub-Saharan Africa in Libya, because of the colour of their skin.

These conclusions are based on the experiences reported by exiles interviewed by the FIDH delegation between 10-12 May at the Salloum border post. Interviewees were, in most cases, either direct victims of, or witnesses to, violence. Almost all of those who spoke to the mission delegation had been living in the Eastern part of Libya, which is under the control of the opposition. The abuses reported are alleged to have been perpetrated by armed Libyan men, operating in Benghazi and other areas now under the responsibility of the Interim National Council of Libya. The mission did not meet with migrants fleeing from Tripoli or other parts of Western Libya (the majority of whom flee through Tunisia).

The mission delegates, after explaining that they were from a human rights organization, asked each individual approached if they were willing to describe what happened to them in Libya before the start of conflict and since the outbreak of hostilities in mid-February. Those interviewed were very willing to talk about their traumatic experiences in Libya. All the more so, since they had never been asked about it. Interest was so high that interviews that began with one person sometimes ended with a small group with other exiled people spontaneously intervening to tell their own story.

In total, the mission conducted more than 50 individual interviews and collected information from 4 groups of exiles of the following nationalities:

- Sudan : 17 individuals (15 of whom originated from Darfur) and 2 groups
- Chad : 8 individuals and 2 groups
- Eritrea : 7
- Somalia : 6
- Nigeria : 4
- Ethiopia (from the Oromo region) : 3
- Liberia : 1
- Cape Verde : 1
- Democratic Republic of Congo (DRC) : 1
- India : 1
- Palestinians (in no man's land between the Egyptian and Libyan borders) : 4

The nationalities most represented in this sample, Sudanese and Chadians, reflect those most present in Salloum at the time of the mission.

Interviewees were mostly single men, between 20 and 40 years old, who had been working for several years in Libya in various kinds of jobs, from farm workers to doctors or traders. Most of them lived in Benghazi, with some from Tobruk, Ajdabia or Misrata. The time spent at the Salloum border varied widely between 2 months and 2 days.

Most had come to Libya to find work, make a living and send money to their families back home.

All Sub-Saharan Africans testified that they had taken the decision to leave their jobs and flee Libya because they could no longer live in hostility and fear of violence they had experienced personally as black Africans, having become targets of violent abuse since the outbreak of rebellion.

The different types of abuse reported by those interviewed are presented below, illustrated by a few significant testimonies transcribed by members of the delegation. A table in the appendix to this report summarises all violations reported by each respondent.



1. Discrimination and social exclusion before the conflict

Few of those interviewed focused on their experience in Libya before the outset of the conflict in February 2011.

A young Cape Verdean man expressed simply what others mentioned in passing, namely “we were discriminated against because we are black, but we couldn’t do anything about it, we knew we were there to work. We lived among ourselves.”

The most serious abuse reported before the conflict concerned the excessive and arbitrary punishment for perceived “moral” transgressions (in particular in relation to alcohol and women), the lack of rights of those detained on the basis of their irregular migration status and the violence suffered by them.

- ***Arbitrary arrest, detention and discrimination***

“Before the conflict, there were many problems and no freedom: the police could throw you in jail if your breath smelled of alcohol. One day the police threw stones at my head because I said hello to a woman.”

D., Nigerian, 39 years old, in Libya for 8 years, first in Tripoli and then in Benghazi, car mechanic with regular migration status

“In 2001, I spent 11 months in prison on the basis of a simple accusation without any proof: in court the judge dealt with 60 cases in one hour. As blacks, we were not treated the same.”

E., Nigerian, 36 years old, in Libya for 10 years, electrician

- ***Violence against irregular migrants in detention***

The delegation heard numerous testimonies on the deplorable conditions of detention of migrants with irregular migration status in Libya.

E., Ethiopian Oromo entered Libya in October 2009 after fleeing Ethiopia. He was arrested in January 2010 in Benghazi on the basis of irregular migration status and detained. He escaped from prison, with all other prisoners, in February 2011, when rebels broke into the prison at the outset of the rebellion.

“I was imprisoned for 1 year, 2 months and 19 days only because I could not produce papers. I have seen other men who had been in prison for 5 years for the same reason. To leave, you had to pay 1,000 LYD or know someone with power. There were about 4,000 people in that prison in Benghazi; most were Africans from Mali, Ghana, Niger and Chad. There were also drug dealers and criminals, but most were illegal immigrants. I was beaten and abused every day; I lost a tooth because of the blows. The guards were merciless and treated us like we were not human beings.”

R., Eritrean, entered Libya in early 2009, worked as a painter in Tripoli for 1.5 years before travelling to Benghazi where he was arrested for failure to produce papers in November 2010.

“I was arrested along with a group of 35 Eritreans in November 2010 and taken to the Kuwayfiyah prison in Benghazi. 33 of paid money to be released, but me and another guy had no money so we stayed in prison. If you don't have valid papers in Libya, they treat you badly and you stay in prison if you can't pay. We were poorly fed, and even when we were sick we weren't given medicine. I was held with common criminals and traffickers.”

2. Targeted attacks against Sub-Saharan Africans since the beginning of the conflict

All interviewees, including Palestinians and Indian citizens who were not directly targeted, reported that rumours had been circulating that Gaddafi's forces recruited mercenaries from Sub-Saharan Africa to kill Libyans.

There were also rumours - that the mission was unable to verify - on the use of Sub-Saharan Africans as “human shields”.

“In Misrata people said that there are African mercenary forces supporting Gaddafi that are used as snipers, and others serve as human shields.”

K., Indian, engineer in an international company in Misrata, evacuated on 1 May, arrived at Salloum Land Port on 9 May

“In March, Gaddafi's troops took some 40 Sudanese men in the industrial area of Al Djabia and forced them to serve as human shields against attacks from rebel forces. Later they were released but were then re-arrested by the rebels who accused them of being mercenaries.”

M., Sudanese from Darfur, lived in Al Djabia

A deadly amalgam: black African = mercenary is at the origin of violent attacks and other serious abuses targeting migrants from Sub-Saharan Africa.

Sudanese from Darfur in particular denounced the disastrous consequences of the declaration made by President Omar al Bashir in Doha on 18 February 2011, accusing members of the Darfur rebel group, the Justice and Equity Movement (JEM), as having enlisted as mercenaries alongside Gaddafi forces. Many of those interviewed confirmed that the Sudanese in Libya have been particularly targeted since this statement: “The rebels kept asking us: have you come from Darfur?”.

While Bashir's statement strengthened rumours against the Sudanese, suspicion was not confined to nationals from Sudan but extended to all Africans with black skin, giving rise to

racist abuse: “Everywhere we were accused of being “Mourtazaka” (mercenaries) and we were threatened”, a group of Nigerians told the mission.

The main violations reported by those interviewed by the FIDH delegation were:

- ***Murder/ extrajudicial killings***

“We were three Sudanese men working on a farm in the region of Sirte. One day in March, armed men came to attack us, accusing us of being mercenaries: another Sudanese man was killed and myself and the other man were arrested and brutally attacked. Our Libyan boss went to see the men who had attacked us and told them we were not mercenaries but workers on his farm. We were then released and taken to hospital.”

K., Sudanese Darfur, a worker on a farm near Sirte

“I witnessed a direct attack against black Africans in the Al Hadiga market in Benghazi by armed Libyans: a Sudanese man was killed and a Chadian man was wounded. I don’t know of any Sudanese men who have participated in the fighting in Libya, on one side or the other.”

M., Sudanese engineer in Benghazi, Libya for 25 years

“In my neighborhood of Aruba, I saw a group of armed Libyan men break into a house where a Nigerian family lived. The woman tried to run away but the Libyans shot and killed her.”

S., Nigerian footballer, in Libya for 3 years

These eyewitness accounts were corroborated by numerous other reports that circulated among the exiles: a few who had saved their mobile phones showed us scenes where we saw black Africans lying wounded on the ground. One refugee told us he had decided to leave immediately after seeing images of a black African man slain in Benghazi.

- ***Arbitrary arrests and detention***

In the street, and in taxis and buses, black Africans were systematically questioned, threatened and often arrested following altercations.

K., Chadian, 40, in Libya for 10 years, a grocer in Benghazi, plays a leading role in the Chadian community:

“In March, I was informed that 6 Chadians had been injured and taken to a hospital and 40 others arrested, following a violent dispute at a market in Benghazi between armed Libyans and Chadians. As a community leader I went to the rebel headquarters in Benghazi and told them it was wrong to target blacks, if they wanted to replace the dictatorship of Gaddafi they should not behave like that!

I was taken to prison where I was able to free 15 people I knew personally: they were immediately handed over to the Red Cross and transferred to the border on March 26. The wounded were evacuated to Egypt.”

- ***Rape***

3 cases of rape were reported to the delegation. In all cases the perpetrators were armed, acted as a group and took advantage of the vulnerability of families, when the father was absent and mother alone with her daughters. A Sudanese refugee, working as a doctor in Benghazi since 2004, told us that he was aware of several cases of rape of Sub-Saharan African women since the outset of the rebellion.

“In March, a Sudanese family was attacked at night by 3 armed men in Benghazi. The father was away. Only the mother, her daughter aged 23 who was a university student, and a cousin were at home. The men kidnapped the girl, threatening the mother and cousin with weapons. Libyan neighbors were alerted and tried to chase after the men but they did not catch them. Two days later the girl was found in the street in shock. One of the two

attackers was arrested but he was released a day later. After this incident, men began to set up guard at night to protect their families.”

D., Sudanese from Darfur, resident of Benghazi

“At three o’clock in the morning, armed Libyans forced open the door of the apartment of a Sudanese family and took their 19 year old daughter. She was found two days later and returned to her home by a Libyan man.”

S., Sudanese resident in Benghazi

“On 28 March, in the district of Al Mayouri, a Chadian family was attacked by Libyans who lived in the same neighborhood. In the house that day, there was the mother and her four daughters, aged 14, 16, 17 and 19. The father was absent. The men took the girls and dragged them out of the house. Fortunately Libyan neighbors intervened and were able to prevent the girls from being raped. The whole family sought refuge at the Red Cross in Benghazi and were evacuated to Chad through Salloum. No complaint was filed with the police.”

T., Chadian, resident in Benghazi

- ***Property damage and looting***

Many of those interviewed reported incidents of looting. Apartments inhabited by Sub-Saharan Africans were targeted by men carrying guns or knives, who forced their way in, usually at night, attacked the occupants and looted whatever property they found.

A Sudanese engineer told the FIDH delegation that he had witnessed widespread looting in his neighborhood, “but I would not say the perpetrators were rebels, they were thieves.”

E., 36 year-old Nigerian, in Libya for 10 years, electrician in a regular situation

“I rented an apartment in a house where there were also Libyan families. When the rumors of African mercenaries began circulating, I stayed locked up at home from 18 February to 2 March out of fear.

At the end of April my apartment was robbed and everything was taken, television, DVDs etc. and nobody responded. When my landlord came, he refused to take my rent for the month of May and said it was better for me to leave Libya.

I know other Africans whose homes have been looted by Libyans who wore military fatigues. But in Benghazi you can buy a military jacket on the market for 5 LYD!”

S., Somalian, in Libya for 3 years, construction worker

“Libyans forcibly entered my house in the middle of the night, they attacked me and wounded me with knives. They took whatever they found. I ran towards the port to take refuge at the Red Cross.”

Other persons met by the mission reported very similar experiences between March and April 2011.

- ***Harassment, violence, theft***

Such abuses appear to have been very common, in the street, in shops and at checkpoints.

“On 3 May, I was in a taxi that was stopped by three armed Libyans at the Al Hadira market in Benghazi. They forced me out and took the money I had on me (500LYD) and my mobile phone. The taxi driver, who was a Libyan man, told them it was wrong to do that, but they shouted that they ‘needed to clean the dirt out of the country.’”

T., Chadian, recently arrived in Salloum

“At Tobruk things were quieter at the beginning. But with all these rumors about mercenaries, Africans began to be harassed. People looked at us like we were dogs. I have

a Ghanaian friend who was beaten and robbed. We are accused of being pro-Gaddafi. My Syrian boss told me that I had to leave Libya. I had a good job.”

J., Liberia, 40 years old, 5 years in Libya, welder, lived in Tobruk

“One day I was in a shop with a friend when some Libyan men approached us and told us to follow them to an office. There they accused us of being pro-Gaddafi; they took our phone and locked us up. They brought reporters to tell them we were mercenaries, but we denied this and they became very aggressive. They threatened to kill us and we stayed locked up for 7 days. In the end, a London journalist alerted the Red Cross who came and got us out.”

E., Eritrea, in Libya 3 years, welder, worked in Benghazi for 4 months

Because of racketeering at checkpoints, exiles now prefer to take the Red Cross bus to the border. A Nigerian man who arrived on 9 May in Salloum told the delegation: “I went to register with the Red Cross in Benghazi and waited three days for a bus to the border. It’s too dangerous to travel alone as a black African. We arrived here yesterday, with 43 others, on a Red Cross bus. We had no problems on the way and we arrived with all our luggage.”

- ***Dismissal from work without payment***

Many of those met by the FIDH delegation reported that they had been sent away from their jobs without being paid. The delegation met with two groups of Chadian men working on farms or with camels for Libyan men in the Benghazi area. The following account summarizes the experience of these groups:

“We heard stories of mercenaries on the radio and that among them there were Chadians. From then on, our boss started to mistreat us, accusing us of wanting to kill Libyans. We told him we were just workers coming here to earn money, but he didn’t believe us and dismissed us without paying us our wages. We do not have passports or work permits. Many Chadians in Libya don’t have any papers.”

K., Chadian, 30 years old, in Libya for 2 years, keeper of camels (“camel boy”) for a Libyan man in the region of Benghazi

These men told the FIDH delegation that they were paid every 4 to 6 months and that they had thus been sent away without several months pay. They reported that there were still many Chadians in Libya who would not leave until they were paid their salaries. These testimonies were confirmed to the delegation by an IOM employee, who said they had witnessed the arrival of groups of Chadians who had nothing at all, just the clothes on their backs.

3. What justice for victims?

The evidence gathered by the FIDH mission points to widespread and systematic abuses and racially motivated violence targeting Sub-Saharan Africans in Eastern Libya.

These allegations of grave violations of human rights go almost systematically uninvestigated in Libya and impunity reigns. These abuses are not only crimes under national law in Libya, but also amount to grave violations of international human rights and humanitarian law, as enshrined in international conventions ratified by Libya, including the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the four Geneva Conventions and Protocol II to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts, to which Libya is party, as well as under customary international humanitarian law. They may also amount to war crimes and as such fall within the jurisdiction of the International Criminal Court (ICC).

On 18 May 2011, FIDH transmitted the conclusions and recommendations raised in this report to the National Transitional Council. FIDH called on the Council to issue an urgent public declaration condemning these grave crimes and calling for their immediate cessation. FIDH further called on the Council to open independent, thorough and effective investigations into these allegations in accordance with Libya's obligations under international law. At the time of writing FIDH is still awaiting a response.

International investigations

On 25 February 2011, the United Nations Human Rights Council established a Commission of Inquiry to investigate abuses committed during the ongoing political unrest in Libya⁵. The Commission submitted its first report to the Council on 6 June in which it concluded that crimes against humanity and war crimes have been committed during the conflict in Libya by Gaddafi's forces and by forces connected to the opposition.

The report states: "Migrant workers, particularly those from sub-Saharan Africa, were subject to mistreatment in violation of international human rights law and international humanitarian law. Mistreatment of migrant workers has taken many forms, including having their houses subject to arbitrary search, being beaten and subject to other cruel and inhuman treatment. The most serious attacks on migrant workers appear to have been linked to a suspicion that such persons were "mercenaries" on the basis of their national origin or skin colour. Attacks were most frequently made by persons associated with the opposition forces. There were also cases of Government forces subjecting migrant workers to human rights violations, including arbitrary arrest, physical attacks and other ill-treatment, which require further investigation. In many locations, there were reports of attacks by unaffiliated armed civilians. The failure of authorities to protect migrant workers from such attacks raises separate issues of responsibility. Further investigation is required on the reports of extrajudicial killings received by the commission."⁶

The Commission further concluded that acts of torture and cruel treatment and outrages on personal dignity, committed during the period of armed conflict by opposition armed forces, against migrant workers and those believed to be mercenaries, constitute war crimes under the Statute of the ICC⁷.

On 26 February 2011, the United Nations Security Council referred the situation in Libya to the ICC⁸. This resulted in the opening of an investigation by the ICC Prosecutor on 3 March. The ICC Prosecutor has affirmed that reports of abuses and grave violations committed against migrants in Libya are currently under investigation by the ICC.

In the first report on the investigation presented to Security Council on 4 May, the Prosecutor stated: "Several sources have also reported the unlawful arrest, mistreatment and killings of Sub-Saharan African civilians wrongly perceived to be mercenaries. Reportedly, angry mobs of protesters assaulted Sub-Saharan Africans in Benghazi and other cities and killed dozens of them. The new authorities in Benghazi allegedly arrested a number of Sub-Saharan Africans and it is unclear whether they were innocent immigrant workers or combatants, turned prisoners of war"⁹.

In a press statement issued on 16 May 2011, announcing that the first three arrest warrants had been requested against Gaddafi, his son, Saif Al-Islam Gaddafi and the head of military intelligence, Abdullah Al-Sanousi, the ICC Prosecutor announced that investigations would continue into "the allegations of attacks against Sub-Saharan Africans wrongly perceived to be mercenaries"¹⁰.

5. Resolution adopted by the Human Rights Council, Situation of human rights in the Libyan Arab Jamahiriya, S-15/1. 25 February 2011.

6. Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, A/HRC/17/44, 1 June 2011, p.6.

7. Ibid. p.7.

8. S/RES/1970 (2011).

9. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, Statement to the United Nations Security Council on the situation in the Libyan Arab Jamahiriya, pursuant to UNSCR 1970 (2011), 4 May 2011, para 13.

10. Statement by ICC Prosecutor during a press conference on Libya on May 16, 2011, see www.icc-cpi.int

IV. KEY RECOMMENDATIONS

Concerning the situation of migrants and refugees at the Salloum border post

FIDH calls upon the Egyptian authorities to:

- Maintain open borders with Libya to allow those who are threatened to flee Libya without formality of any kind;
- Ensure that those who are awaiting departure at the border are lodged in conditions that respect human dignity.

FIDH calls upon donor States and the European Union to finance the emergency repatriation of migrants who want to return to their countries of origin.

FIDH calls upon the state parties to the Geneva Convention on Refugees and its Protocols, and in particular the Member States of the European Union, to offer to resettle refugees recognized by UNHCR in Salloum, for whom there is no possibility of resettlement in the region. FIDH calls on them to refrain from any military or political action that would affect the right of asylum seekers to request asylum in the country of their choice.

Concerning the racist violence against Sub-Saharan migrants in Libya

FIDH demands all parties to the conflict to:

- Respect the provisions of international human rights and international humanitarian conventions ratified by Libya, including Article 3 common to the Geneva Conventions and Additional Protocol 2 to the Geneva Conventions;
- Cease immediately attacks and acts of violence and discrimination committed against migrant populations and investigate, prosecute and sanction the perpetrators of these crimes;
- Cooperate fully with ongoing investigations of the International Criminal Court.

FIDH calls on the Libyan Interim National Council, on the basis of corroborative evidence gathered by the mission, to:

- Take all necessary measures, in accordance with international law, to end the acts of violence targeting migrants and refugees from sub-Saharan Africa, including physical abuse, harassment, racist threats, dismissal without payment of wages;
- Investigate and bring to justice perpetrators of crimes (murder, rape, theft) committed by armed men in the area controlled by insurgents and placed under the authority of the CNT;
- Enable victims to have access to justice and reparation for abuses suffered.

FIDH requests the Prosecutor of the International Criminal Court to continue investigations into the situation in Libya and prosecute those bearing the most responsibility for grave crimes under international law, committed by all sides, including attacks targeting migrants.

FIDH calls on the African Commission on Human and Peoples' Rights, meeting in extraordinary session in August 2011, and the Summit of the African Union, meeting in June-July 2011 in Malabo, Equatorial Guinea, to denounce these crimes and call for effective investigations and prosecutions.

Appendix: Interview summaries

Nationality	Number of those interviewed	Years in Libya	Age (approx.)	Profession	Reported Violations
Chad	1	10	40	Grocer	Witness: Arbitrary arrests of 40 Chadians in Benghazi by armed men in late March. Followed by attacks resulting in 6 hospitalized for injuries.
Chad	1	5	35	Not Available	Victim: Attacked at night, robbed and looted by armed men in Benghazi on 26 April. Witness: Attempted kidnapping and rape of 4 Chadian girls on 28 March (allegations known by the Chadian community in Benghazi)
Chad	1	Not Available	35	Not Available	Victim: Pulled out of taxi, assaulted and abused by armed men in Benghazi on 5 May. Money and phone stolen from victim.
Chad	1	Not Available	25	Not Available	Victim: Extortion at checkpoint on 22 April. Money (1200 LYD) stolen from victim.
Chad	1	Not Available	25	Not Available	Victim: Attacked by men in uniform in the street in Benghazi on 15 March. Money (3600 LYD) stolen from victim.
Chad	3	1-3	30	Farm Workers	Victims: Termination of employment without pay in April. Accused of being mercenaries.
Chad	12	1	30	Farm Workers	Victims: Termination of employment without pay. Threatened by employers.
Chad	10	1	30	Camel Workers	Victims: Abused by owners because considered to be mercenaries.
Sudan-Darfur	1	Not Available	Not Available	Farm Worker	Victim: Attacked by three armed men on 18 February. Victim worked on a farm in the Sirte region with two other migrants. Two were wounded, including the victim, and the third was shot dead.
Darfur	1	Not Available	Not Available	Craftsman	Victim: Attacked by men carrying knives in victim's own car.
Darfur	1	3	40	Shopkeeper	Witness: Kidnapping and rape of 19-year-old Sudanese woman. Found after two days in shock. Her traumatized father sent his family back to Sudan. (He is a refugee and cannot return.)
Darfur	1	26	50	Designer	Evacuated from Misrata. Witness: Arrests and targeted violence against black Africans, particularly from Darfur.
Darfur	1	Not Available	Not Available	Not Available	Witness: Kidnapping and rape at night by Libyan neighbors of 23-year-old Sudanese female student. Attacker found but released one day later.

Nationality	Number of those interviewed	Years in Libya	Age (approx.)	Profession	Reported Violations
Darfur	1	Not Available	Not Available	Not Available	Witness: Arrests in the street of 6 Chadians and Nigerians by armed men on 23 February in Benghazi.
Darfur	1	Not Available	Not Available	Not Available	Victim: Attacked in own home by armed men in afternoon of 17 March. Money and passport stolen.
Darfur	1	1	25	Security Guard	Victim: Termination of employment without pay. Harassed in the street by Libyans.
Darfur	1	1	30	Shopkeeper	Victim: Extortion and physically attacked at checkpoints. Money and cell phone stolen.
Darfur	1	8	30	Welder	Victim: Termination of employment without pay by Turkish employer. Accused of being a mercenary. Passport and document burned by employer.
Darfur	1	21	Not Available	Legal assistant	Witness: Friend in Benghazi was arrested, detained for 3 days, then returned home by armed men who looted his house. Money (1800 LYD) was stolen from victim. Victim: Extortion on the road to border. SIM card was stolen from victim. Paid 500 LYD to Libyan to be driven to the border in his car.
Darfur	1	Not Available	Not Available	Not Available	Witness: Abduction of 40 Darfurians in the industrial zone in Ajdabiya (approx. 160 km south of Benghazi) by Gaddafi's forces for use as human shields.
Darfur	1	1	Not Available	Farm Worker	Victim: Termination of employment without pay from a farm in Benghazi.
Darfur	1	Not Available	Not Available	Not Available	Witness: Attacks against black Africans by Libyan armed men near the market square in Benghazi.
Darfur	1	5	25	Painter	Victim: Harassed in the streets of Benghazi. Accused of being a mercenary. Heard of Africans having been stabbed.
Sudan	1	7	50	Doctor	Witness to many acts of violence in capacity as doctor and community leader : Discrimination in hospitals against black Africans seeking treatment. Rape of African women, but not systematic. Looting of houses and arbitrary arrests of black Africans accused of being mercenaries (mostly Sudanese from Darfur, Chadians, Nigerians and Ghanaians). Victim: Extortion at checkpoint. Money (300 USD) and cell phone stolen.

Nationality	Number of those interviewed	Years in Libya	Age (approx.)	Profession	Reported Violations
Sudan	1	25	50	Engineer	Direct Witness: to murder of a Sudanese man at the Al Harira market in Benghazi and violence against Chadian man by armed men. Knows many cases of beatings and lootings by armed men against black Africans.
Darfur	15	Not Available	Not Available	Not Available	All members of group reported that they had been victims of great hostility in the month of February. Felt threatened and were afraid to leave their homes.
Eritrea	1	5	40	Homemaker	Witness: General climate of unease and fear for black Africans. Husband forced to leave his job.
Eritrea	1	6	37	Engineer	Witness: Increased discrimination. Insecurity. Victim: Termination of employment.
Eritrea	1	5	23	Mechanic	Witness: General climate of fear for black Africans accused of being mercenaries. Some killed by armed men. Arrest of 3 Eritreans.
Eritrea	1	Less than 1	25	Not Available	Victim: Detained in early 2011 due to irregular migration status, paid fee to be released from jail.
Eritrea	1	3	30	Welder	Victim: Arbitrarily arrested in a shop by armed Libyans. Accused of being a mercenary. Detained for 7 days and released by the Red Crescent.
Eritrea	1	3	25	Not Available	Victim: Detained in November 2010 for irregular migration status. Badly treated in prison. Escaped in February after the start of the uprising.
Eritrea	1	3	30	Painter	Victim: Arbitrarily arrested on 20 February with 2 other Eritreans by a group of young Libyans. Accused of being mercenaries. Spent 3 days in jail in Riyadia where the guards threatened to kill them. Released by the Red Crescent.
Somalia	3	2	30	Not Available	Victims: Looting of home overnight by armed men in Benghazi. Wounded by knives. Money and personal belongings stolen. Witnesses: Saw a black African attacked by a group of young Libyans on a street in Benghazi. Accused of being a mercenary and stabbed.
Somalia	1	3	30	Construction Worker	Victim: Money and documents stolen from victim when apartment was looted. Money and telephone stolen from victim by extortion on the street.

Nationality	Number of those interviewed	Years in Libya	Age (approx.)	Profession	Reported Violations
Somalia	1	1	30	Farm Worker	Victim: Termination of employment. Friends all fled due to general climate of fear. Witness: Threats by a group of 20 young Libyans with knives driving around farms.
Somalia	1	2	18	Maintenance Officer	Victim : Attacked by a Libyan. Accused of being a mercenary. Saved by another Libyan. Termination of employment without 2 months' pay.
Nigeria	1	18	48	Welder	Evacuated from Misrata with pregnant wife. House was bombarded in Misrata by Gaddafi's forces.
Nigeria	1	3	30	Soccer Player	Evacuated from Misrata. Witness : Targeted attacks against black Africans who were asked if they were pro-Gaddafi. Money and telephone stolen. Shot a woman in her neighborhood while she was trying to flee after an attack on her house.
Nigeria	1	8	39	Mechanic	Victim: Before the rebellion, victim of racial discrimination. After the outbreak of rebellion, termination of employment without pay.
Nigeria	1	10	36	Electrician	Victim: Before the rebellion, imprisoned for 11 months without trial. Since February, apartment was looted and owner asked him to leave. Witness: Saw pictures of a black African with a severed head in Benghazi in April.
Ethiopia-Oromo	1	2	20	Coffee Shop Vendor	Witness: Attacks by gangs against black Africans suspected of being pro-Gaddafi. General climate of fear. Sought refuge at the Red Crescent in Benghazi for 1 month.
Ethiopia-Oromo	1	2	30	Market Vendor	Victim: Detained for 1 year for irregular migration status in 2010. Escaped on 19 February. Threatened by a guard with a gun. Fled to Port Juliana and was saved by the Libyan Red Crescent.
Ethiopia-Oromo	1	2	40	Not Available	Victim: Detained from January 2010 to February 2011 for irregular migration status. Violence in prison where there were approx. 4,000 undocumented black Africans. Witness: On 19 February, rebels entered the prison. The police killed a Chadian man.

Nationality	Number of those interviewed	Years in Libya	Age (approx.)	Profession	Reported Violations
Liberia	1	5	40	Welder	Victim: Before the rebellion, racial discrimination (insults and threats). After the rebellion, termination of employment. Witness: Ghanaian friend was beaten and robbed. Africans accused of being pro-Gaddafi were harassed in the streets.
Cape Verde	1	1	23	Cook	Victim: Suffered racial discrimination, but impossible to lodge complaint. Witness: On a bus with Libyans and 4 Chadian men, armed men arrested the Chadian men.
Congo (DRC)	2	2	30	Construction Worker	Victims: Extortion on the road to the border checkpoint. Witnesses: Beatings of black Africans in Benghazi. Informed of murders of 4 Malian men and 5 Chadian men.
India	1	12	40	Engineer	Evacuated from Misrata. Victim : Before the rebellion he had no problems, but after the outbreak of the rebellion it became so dangerous in Misrata that he could not leave his house. Witness: presence of black African mercenaries in Misrata.
Palestine	3	10-20	30 - 40	Homemaker	In "no man's land" waiting for permission to be transferred to Gaza to see their families. There were no problems for the Palestinians in Libya and they will return. Witnesses to atrocities committed against black Africans in Ajdabiya : houses looted and women raped. Rumors about the use of black Africans as mercenaries by Gaddafi's forces.
Palestine	1	25	55	Shopkeeper	Palestinians are generally treated well in Libya. With the political changes in Egypt, he can finally return to Gaza to see his family. Witness: Saw videos of black Africans killed by Libyans.

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of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest,

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