



UNITED NATIONS  
**HUMAN RIGHTS**  
OFFICE OF THE HIGH COMMISSIONER

# **Nowhere but Back: Assisted return, reintegration and the human rights protection of migrants in Libya**

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## **Executive Summary**

Report by the UN High  
Commissioner for Human Rights

October 2022

## BACKGROUND

The situation in Libya today is marked by a complete failure to protect the human rights of migrants. The Libyan legal framework criminalizes the irregular entry, stay and exit of migrants from Libyan territory, imposes mandatory detention and deportation of all foreign nationals convicted of “acts of illegal immigration”, and does not guarantee the rights of specific legal categories of migrants—such as refugees, migrant workers, victims of trafficking, or children—as provided under international law.



**“This desperate situation requires all concerned to ensure that no migrant is compelled to accept assisted return to an unsafe or unsustainable situation in their country of origin.”**

**Deputy UN High Commissioner for Human Rights,  
Nada Al-Nashif**

contexts where migrants face dire conditions and grave human rights violations, and where access to human rights protection, asylum and other pathways for admission and stay in third countries are extremely limited or non-existent, there may be a lack of free, prior and informed consent as a result that therefore raises human rights concerns.

This report seeks to analyse key human rights risks and protection gaps faced by migrants in Libya in the context of assisted return and reintegration. It is part of a wider effort by OHCHR in seeking to identify, document and analyse human rights violations and protection gaps impacting migrants in Libya and the neighbouring region and to formulate recommendations to relevant governments and other stakeholders aimed at ensuring compliance with international human rights law and standards.

As a result, there is effectively no human rights protection in Libya from the numerous State and non-State actors who continue to abuse and exploit migrants with impunity. There is also a critical gap in the availability of safe and regular pathways for migrants to seek protection of their human rights outside of Libya.

Against this backdrop many migrants feel they are either compelled to take to the sea or to accept assisted return to their country of origin, from which they may end up re-migrating in even more desperate and precarious circumstances.

A defining feature of assisted return initiatives is that they are, in principle, “voluntary” and therefore not accompanied by the due process safeguards and procedural guarantees that would be required under international law if States were seeking to carry out forced return, thus making them faster, cheaper and less onerous to carry out. When assisted return initiatives are employed in humanitarian and other

Migrants in Libya are frequently compelled to accept assisted return to escape abusive detention conditions, threats of torture, ill-treatment, sexual violence, enforced disappearance, extortion, and other human rights violations and abuses. Collectively, these conditions have created a coercive environment that is often inconsistent with free choice.



The report is based on first-hand accounts and information gathered by OHCHR through monitoring, as well as through desk research, meetings with relevant government institutions and other stakeholders, official statistics, reports by national and international organisations, public statements by international and regional human rights mechanisms, and media reports.

Recognising that The Gambia is one of the primary countries of origin for migrants being assisted to return from Libya, in April 2022, an OHCHR monitoring team visited the country. During the visit to The Gambia, OHCHR interviewed 65 migrants that had returned from Libya between 2021 and February 2022.

## KEY FINDINGS

OHCHR found several key challenges and human rights protection gaps faced by migrants in the context of assisted return and reintegration from Libya, including:

### 1. Lack of access to pathways for safe and regular migration.

The report finds that there is no meaningful access to human rights protection for migrants within Libya and extremely limited options for migrants to seek access to protection of their human rights when moving onwards from Libya. Migrants in Libya are overwhelmingly victims of human rights violations and abuses perpetrated by both State and non-State actors. Despite the well-known, widespread and systematic nature of these violations, migrants in Libya overwhelmingly lack access to asylum and other safe and regular pathways, including to third countries based on grounds of international human rights law, as well as compassionate, humanitarian, or other considerations. As a result, migrants are effectively trapped in Libya where they continue to face serious threats to their lives, safety and dignity.

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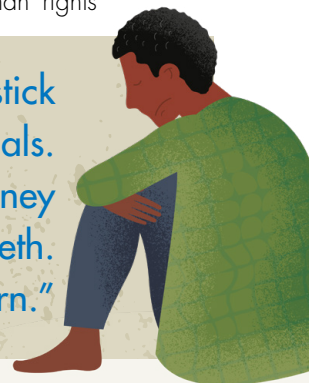
“I had no chance to ask to seek protection in Libya or elsewhere! I was only offered to go back home.”



## 2. Lack of free, prior and informed consent.

Due to the lack of access to protection in Libya and limited pathways out of Libya, the report finds that many migrants, particularly those in Libyan detention centres, are unable to make a truly voluntary decision to return in accordance with international human rights law and standards, including the principle of free, prior and informed consent. Instead, migrants are frequently compelled to accept assisted return to escape abusive detention conditions, threats of torture, ill-treatment, sexual violence, enforced disappearance, extortion, and other human rights violations and abuses. Migrants are also virtually compelled to accept assisted return because they are effectively denied access to safe and regular protection pathways, including asylum. Collectively, these conditions have created a coercive environment that is often inconsistent with free choice.

“They entered the prison with a stick and were beating people like animals. Sometimes they would take your money and good clothes. They broke my teeth. So I accepted return.”



## 3. Returns to unsustainable situations.

Due to the lack of free, prior and informed consent and viable alternative safe and regular pathways for migration onwards from Libya, the report finds that many migrants in Libya are effectively compelled to accept returns to unsafe and unsustainable situations. Based on interviews conducted by OHCHR, most migrants in Libya are being returned to the same conditions which compelled their movement in the first place while facing additional personal, financial and psychosocial burdens as a result of their failed migration project and the severe trauma they experienced in Libya. Such returns are unlikely to be sustainable from a human rights perspective. At the same time, the amount and kind of reintegration assistance provided to individual returnees and their communities appears insufficient to sustainably address the adverse drivers and structural factors that originally compelled their migration, nor to ensure the protection of their human rights in countries of origin. As a result, returnees from Libya face significant difficulties integrating into their countries and communities of origin, and many contemplate re-migrating despite knowing the risks and precarious conditions they are likely to face.

“My life is very hard now. I have no money, no work. I have nobody to help me out.”

I am back to 'phase zero' with only debts and nightmares.”





## RECOMMENDATIONS

The recommendations in this report are directed at Libyan authorities, countries of origin, the African Union (AU) and its Member States, the European Union (EU) and its Member States, United Nations (UN) entities and other stakeholders who have a role in ensuring the effective respect, protection and fulfilment of the human rights of migrants in Libya and the neighbouring region. They seek to provide guidance to ensure that assisted return and reintegration policies and practices are consistent with and uphold international law and standards.

### 1. LACK OF ACCESS TO PATHWAYS FOR SAFE AND REGULAR MIGRATION

#### To the Libyan authorities:

- Take immediate steps to protect the human rights of migrants in Libya, including by decriminalizing irregular entry, stay and exit in Libya; ensuring non-discrimination based on the nationality or migration status of migrants in Libya; undertaking search and rescue operations with the objective to save lives and deliver rescued persons to a place of safety; refraining from dangerous interception practices and the forcible return of migrants to Libya; immediately ending arbitrary detention and releasing all arbitrarily detained migrants in Libya; ensuring migrants in Libya have access to health, housing, decent work and other rights without discrimination; and investigating and ensuring accountability, including access to justice and effective remedy, for all human rights violations and abuses perpetrated against migrants.
- Adopt pathways for admission and stay based on international human rights law, as well as compassionate, humanitarian, or other considerations, including by adopting appropriate administrative and legislative mechanisms to regularize the status of migrants in an irregular situation already on the territory, and ensuring access to civil documentation, including birth registration, for all migrants in Libya.
- Expedite evacuations from Libya to third countries through UNHCR, faith-based organisations, humanitarian organisations and other protection actors in Libya, including on grounds of international human rights law as well as compassionate, humanitarian, or other considerations.
- Ratify all core human rights treaties as well as the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, remove the restriction on UNHCR to only register asylum claims from nine nationalities, and officially recognize and allow UNHCR the full exercise of its mandate in Libya.

#### To the African Union and its Member States:

- Within the AU-EU-UN Tripartite Task Force and other appropriate forums, advocate for expanded safe and regular pathways for admission and stay to third countries for migrants currently in Libya.
- Expand safe and regular pathways for admission and stay to AU Member States for migrants currently in Libya based on grounds of international human rights protection, as well as compassionate, humanitarian, or other

considerations, including but not limited to: family reunification; best interests of the child; victims of trafficking; survivors of torture and ill-treatment; survivors of gender-based violence; survivors of slavery, forced labour and other forms of labour exploitation; migrants subjected to aggravated forms of smuggling; pregnant women and women providing neo-natal care; migrants with health-related needs conditions; and migrants compelled to leave their countries of origin due to violation of economic, social and cultural rights, or in the context of disaster, the adverse effects of climate change or environmental degradation.

**To the European Union and its Member States:**

- Expand safe and regular pathways for admission and stay to EU Member States for refugees and other migrants currently in Libya based on grounds of international human rights protection, as well as compassionate, humanitarian, or other considerations, including but not limited to the grounds outlined above.
- Condition search and rescue funding, technical assistance, coordination and cooperation with the Libyan authorities upon assurances that migrants rescued or intercepted at sea will not be disembarked in Libya but at a designated port of safety.

**To United Nations agencies and other relevant stakeholders:**

- Strengthen human rights-based protection screening and assessment procedures to identify migrants in need of human rights or refugee protection, including migrants in vulnerable situations, and prioritise their referral to UNHCR and other protection actors in Libya for evacuation to third countries on grounds of international human rights law, as well as compassionate, humanitarian, or other considerations, including but not limited to the grounds outlined above.

## 2. LACK OF FREE, PRIOR AND INFORMED CONSENT

**To the Libyan authorities:**

- Immediately put an end to all violations and abuses of migrants' rights, in particular policies and practices which create a coercive environment inconsistent with safe, dignified and voluntary returns and the principle of free, prior and informed consent.

**To the African Union and its Member States:**

- Expand access to consular protection and assistance in Libya for AU nationals, including those arbitrarily detained, ensuring that release from detention is not dependent on migrants accepting assisted return to their country of origin.

**To the European Union and its Member States:**

- Exercise appropriate due diligence, including by ensuring that adequate monitoring mechanisms are in place, to ensure all funding and cooperation on assisted returns fully respect and uphold international human rights law and standards, including the principle of free, prior and informed consent.

**To United Nations agencies and other relevant stakeholders:**

- Ensure all assisted returns strictly adhere to international human rights law and standards, including the principle of free, prior and informed consent.
- Increase advocacy for the release of all arbitrarily detained migrants and devote greater resources to the provision of non-custodial, community-based alternatives to detention from which safe, dignified and voluntary returns are possible.

## 3. RETURNS TO UNSUSTAINABLE SITUATIONS

**To the African Union and its Member States:**

- Ensure that return and reintegration are sustainable by mitigating the risk that returnees face in their countries of origin through the implementation of policies and measures that enable returning migrants to fully enjoy their human rights.
- Prepare plans for sustainable reintegration that include targeted measures that enable returning migrants to, inter alia, have access to justice, social protection, financial services, health-care, education, family life, an

adequate standard of living, decent work, and protection against discrimination, stigma, arbitrary detention and all forms of violence.

- Ensure reintegration assistance and programmes address the needs and rights of individual returnees, including on the basis of age, gender and other factors.
- Establish independent mechanisms to monitor human rights in pre-return, return and post-return processes and guarantee that all allegations of human rights violations and abuses during the process of assisted return are promptly and impartially investigated and that all returned migrants have access to effective complaint mechanisms to ensure their access to justice and effective remedy.

#### **To the European Union and its Member States:**

- Ensure that international cooperation on assisted return and reintegration is not made conditional on measures seeking to restrict or penalize migration or migrants in third countries.
- Assess the human rights impact of assisted return and reintegration policies, practices and cooperation agreements with third countries, exercising due diligence to prevent, mitigate and remedy all reasonably foreseeable human rights violations or abuses by other States and private actors as a direct result of such cooperation.
- Continually monitor the risk of human rights violations as a consequence of assisted return and reintegration policies as part of due diligence efforts and suspend or re-evaluate initiatives when risks of human rights violations are identified.
- Adopt an integrated approach to sustainable reintegration at the individual, community, and structural levels and ensure that funding is directed toward strengthening national systems, including health, education, social protection, and justice.

#### **To United Nations agencies and other relevant stakeholders:**

- In facilitating assisted return and reintegration, seek to ensure migrants are not returned to the same conditions which compelled them to migrate in the first place, including to situations of vulnerability in which they are faced with lack of enjoyment of their human rights.
- Monitor human rights in pre-return, return and post-return processes, to confirm that return and reintegration efforts do not violate human rights norms and standards and that they are sustainable from a human rights perspective.
- Support efforts to ensure that reintegration is sustainable through a human rights-based and integrated approach at the individual, community, and structural levels.



## **LINKS**

Full Report: [available here](#)

Press Release: [available here](#)

Web Story: [available here](#)

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