



ORAL STATEMENT BY AMNESTY INTERNATIONAL

INDEX: AFR 01/8411/2018

62nd Ordinary Session of the African Commission on Human and Peoples' Rights, Nouakchott, Mauritania

Agenda Item 8: Activity Report of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa

Chairperson and Honourable Commissioners,

Amnesty International welcomes this opportunity to address the African Commission on Human and Peoples' Rights on the topic of migration.

Amnesty International recognizes that African states have always borne the primary and disproportionate responsibility in hosting people fleeing persecution in their home countries. However, the organization remains concerned about the human rights implications of the growing number of agreements entered between African states and other governments around migration issues. This statement highlights our concerns specifically with respect to Sudan, Rwanda, Uganda and Libya.

Sudan

In 2011, the European Union (EU) set out a Strategic Framework for the Horn of Africa, which calls for accountable political structures, human rights, conflict resolution, regional security, regulated migration, economic growth and regional cooperation. These objectives speak to some of the problems which push many people in the region to flee their homes or seek better lives. In 2014, the EU set up the EU-Horn of Africa Migration Route Initiative (known as the Khartoum Process) which brings together the EU, African states and regional bodies to tackle irregular migration. Over time, the Khartoum Process appears to have shifted attention and commitment away from addressing structural issues to a narrow migration and security agenda.

The EU is currently providing financial and technical support to Sudan within the context of the Khartoum Process framework, the main objective of which is migration control. The EU's agreement with Sudan makes several mentions of refugee protection but does not include any explicit guarantees on the protection of the rights of refugees, asylum-seekers or victims of human trafficking, nor does it include any monitoring mechanism that ensures irregular migrants' rights are respected. In the absence of effective and independent monitoring mechanism, Amnesty International is concerned with the involvement of the Rapid Support Forces (RSF) in Sudan, a security force which have been implicated in serious human rights violations in the past, including attacking villages, burning and looting homes, torture, rape and murder, in border controls and in the process of stopping and detaining people believed to be irregular migrants.¹ In 2016 alone, RSF intercepted hundreds of people but the fate of the individuals stopped and

¹ See Amnesty International, 24 October 2016, *Human Rights Impacts and Risks Associated with the Khartoum Process, Submission to the UK All-Party Parliamentary Group for Sudan and South Sudan*, p. 3.



held by the RSF remains largely unknown.²

While the RSF claims its intervention is to stop human trafficking, it is likely that some of those who are intercepted are refugees seeking to enter Libya of their own volition or aided by people smugglers.³ Amnesty International believes that victims of trafficking may also be refugees and should be treated as such – being both victims and in need of international protection because of factors related to conditions in their countries of origin.

Amnesty International requests the African Commission on Human and Peoples Rights to call upon the Sudanese government to:

- Ensure respect of the principle of *non-refoulement*;
- Ensure effective protection of refugees, asylum-seekers and victims of trafficking and put in place efficient monitoring mechanisms on their treatment as well as that of irregular migrants ; and
- Use alternative methods to tackle human trafficking rather than relying on the RSF and ensure that those methods are compliant with international human rights laws and standards.

Uganda

Amnesty International has documented the mass deportations of Eritrean and Sudanese asylum seekers from Israel to East Africa which continued until February 2018. We are extremely concerned with the Ugandan government's ongoing cooperation with the State of Israel on this matter, which violates the prohibition of *non-refoulement*, illegal under international law. Testimonies collected by Amnesty International raise serious concerns about the rights of those who have been deported to Rwanda and Uganda, including facing possible risk of forcible returns to their country of origin. Israeli officials provided asylum seekers with \$3500, issued documents and gave verbal assurances to deportees that they will receive a residence permit in Uganda, be allowed to work and be protected them from forcible return to their home country.⁴ However, upon arrival in Uganda, Amnesty International has learnt that officials stripped many of them of their Israeli travel documents and left them with no visa or other document to prove their regular entry into the country. Their irregular migration status into Uganda leaves them at risk of detention and forcible return to their country of origin.

² For instance, in a news clip from Sudanese TV posted on the RSF Facebook page on 7 July 2016, Brigadier General Muhammed Hamdan Dalgo of the RPF said that his forces intercepted 49 Somalis, 74 Ethiopians, 196 Eritreans, 48 Sudanese and one Syrian. See further, 24 October 2016, *Human Rights Impacts and Risks Associated with the Khartoum Process*, Amnesty International, Submission to the UK All-Party Parliamentary Group for Sudan and South Sudan, p. 3.

³ See Amnesty International, See further, 24 October 2016, *Human Rights Impacts and Risks Associated with the Khartoum Process*, Amnesty International, Submission to the UK All-Party Parliamentary Group for Sudan and South Sudan, p. 3.

⁴ See Amnesty International Press Release, 26 March 2018, Israel: Deportation of African asylum-seekers is a cruel and misguided abandonment of responsibility.



The deportations of Eritrean and Sudanese asylum-seekers from Israel to Uganda lack transparency and are illegal under international law as they violate the prohibition of *non-refoulement*. This is the prohibition against transferring anyone to a place where they would be at real risk of persecution and other serious human rights violations, or where they would not be protected against such a transfer later.

Amnesty International requests the African Commission on Human and Peoples Rights to call upon the Ugandan government to:

- Ensure respect of the principle of non-refoulement;
- Immediately cease any co-operation with the Israeli government to carry out illegal deportations of asylum seekers out of Israel; and
- Ensure that all asylum seekers who have been deported to Uganda have access to refugee status determination, are effectively protected and have access to essential services and livelihood opportunities.

Libya

In the last few years, hundreds of thousands of refugees, asylum-seekers and migrants have braved the journey across Africa to Libya, some intending to stay there and some hoping to pass through in an attempt to reach Europe. The EU and its member states have pursued their own goal of restricting the flow of refugees and migrants across the Mediterranean, with little care for the consequences for those trapped in Libya as a result of their actions. Libyan government agencies, who are already responsible for grave human rights violations, have entered into cooperation agreements with EU member states with the proclaimed aim of increasing their capacity to tackle smugglers, carry out search and rescue operations and prevent irregular departures.⁵ In reality, the aim is closing off the migratory route through Libya and across the central Mediterranean. This is trapping hundreds of thousands of women, men, and children, including refugees and asylum-seekers, in a country where they are systematically exposed to abuse and where they have virtually no chance to seek protection.⁶

Libyan law criminalizes irregular entry, stay and exit, which is punishable by a prison sentence, a fine and, ultimately, deportation. Libya has also consistently refused to sign the 1951 Refugee Convention and formalize the presence of UNHCR. This has resulted in mass, arbitrary and indefinite detention of refugees, asylum-seekers and migrants in Libya and has paved the way for horrendous violations to be perpetrated in places of detention. Refugees and migrants remain at the mercy of authorities, militias, and armed groups who often work seamlessly with smugglers for financial gain.⁷ This system for migration management has also facilitated the institutionalization of torture, rape and murder in immigration detention centres.

Amnesty International requests the African Commission on Human and Peoples Rights to call

⁵ See 11 December 2017, *Libya's Dark Web of Collusion: Abuses Against Europe Bound Refugees and Migrants*, *Amnesty International*, p. 6.

⁶ See further 11 December 2017, *Libya's Dark Web of Collusion: Abuses Against Europe Bound Refugees and Migrants*, *Amnesty International*, p. 8.

⁷ See further 11 December 2017, *Libya's Dark Web of Collusion: Abuses Against Europe Bound Refugees and Migrants*, *Amnesty International*, p. 7.



upon the Libyan government to:

- Ensure respect of the principle of non-refoulement;
- Decriminalize irregular entry, stay and exit, and end the policy and practice of mandatory detention of refugees and migrants considered to be in an irregular situation;
- Adopt national asylum legislation that is consistent with international asylum and refugee standards in light of Libya's obligations under the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, which recognizes the right to asylum;
- Sign and ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;
- Respect international and regional human rights commitments towards refugees and migrants, including by taking immediate measures to release all refugees, asylum-seekers and migrants being arbitrarily detained; and
- Expedite steps in carrying out a fact-finding mission to Libya and investigate all allegations of abuse and violations against migrants and refugees.