

Mandates of the Special Rapporteur on trafficking in persons, especially women and children; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on discrimination against women and girls

Ref.: AL LBY 1/2026
(Please use this reference in your reply)

12 June 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on trafficking in persons, especially women and children; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 53/9, 60/8, 54/14, 61/17, 61/35, 61/10 and 59/14.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the situation of over 7400 migrant and refugee women, men and children of predominantly sub-Saharan African origin who have allegedly been subjected to a systematic pattern of arbitrary detention, collective expulsion and trafficking from Tunisia to Libya, involving Tunisian State actors and Libyan State and non-State actors, since at least June 2023 and continuing through February 2026.

According to the information received:

Since at least June 2023 and continuing through February 2026, migrant, asylum seeking and refugee women, men and children of predominantly sub-Saharan African origin have allegedly been subjected to a systematic pattern of arbitrary detention, collective expulsion, refolement and trafficking from Tunisia to Libya, involving Tunisian State actors and Libyan State and non-State actors.

Interception, arrest and detention in Tunisia

It is alleged that Tunisian security forces, including the Tunisian National Guard (GNT), have conducted widespread interceptions at sea and arrests on land, particularly in and around Sfax, targeting individuals on the basis of race and perceived migration status. Victims included women, including pregnant women, families, unaccompanied and separated children, and accompanied children, and persons in need of international protection.

According to these reports, between December 2024 and February 2026, individuals intercepted at sea or arrested on land were transferred to detention facilities –including at the El Ouardia Reception and Orientation Center –without any individualised assessment, legal basis or access to asylum

procedures. Personal belongings, identity documents and international protection documents were allegedly confiscated or destroyed. Detainees reportedly received no information regarding their situation, destination, their rights or opportunities to receive legal aid. Some individuals were reportedly forced to sign documents written in Arabic, without being provided with a translation in a language they understand.

It is further alleged that detainees were subjected to severe physical violence, humiliating treatment, racial insults, invasive body searches, and deprivation of food, water and medical assistance.

Detention at the Tunisian-Libyan border and handover

Information received indicates that groups ranging between 50 and 200 persons at a time, mostly nationals from sub-Saharan African countries, were transferred to desert areas near the Tunisian-Libyan border, including the area surrounding the GNT barracks in El Meguissem. Victims reported being held in open-air cages or hangar-type facilities, sometimes for days, under extreme heat and without adequate sanitation.

According to information received, expulsion operations are routinely carried out during night-time hours. Individuals deprived of liberty are reportedly transported in convoys of buses and cars, compelled to keep their heads lowered, and guarded by officers, who are frequently masked, and accompanied by members of the National Guard, as well as other police units. During transport, the use of physical and psychological violence reportedly intensifies. Detainees are allegedly immobilized, denied any information regarding their situation, and beaten when requesting food, medical attention, or other basic necessities. Certain individuals are reportedly subjected to “exemplary” punishment intended to instill fear and deter any form of resistance. Injured persons are allegedly denied medical care, and one testimony described witnessing a deceased individual being discarded in the desert near the Libyan border. Some accounts further alleged the administration of sedatives mixed with food to suppress resistance, as well as the use of violence to repress protests, including those triggered by searches that escalated into sexual harassment. While some buses reportedly separate single men from families, most groups are transported together. Women and children were reportedly handcuffed using plastic ties, sometimes for extended periods, and transported in overcrowded vehicles, including trucks normally used to transport animals.

This phase of the expulsion process is reportedly primarily overseen by the Tunisian National Guard and often concludes with the transfer of detainees to Tunisian military units operating near the Libyan border. In certain cases, Tunisian National Guard officers reportedly escort detainees directly to the border area and negotiate their handover.

During these operations, women have reportedly been subjected to rape, and men to severe physical assault. Some of the affected individuals were reportedly refugees and asylum seekers registered with UNHCR, or persons holding valid visas permitting their stay in Tunisia.

Migrants, refugees, and asylum seekers are allegedly moved through a chain of interconnected detention sites of varying size and conditions, each bringing them progressively closer to the Libyan border. This system reportedly functions as a logistical pipeline enabling military personnel to detain large numbers of individuals and transfer them in accordance with arrangements made with Libyan buyers. According to information received detainees would be subjected to forced labour, including construction work and the development of detention facilities within military facilities. Detention periods reportedly range from several hours to approximately 30 days.

According to information received violence and torture are systematic. Uniformed personnel, allegedly employ iron bars, batons, tasers, dogs, and warning gunfire to intimidate and assault both men and women. At each detention site, detainees reportedly undergo the same sequence of searches, beatings, and humiliation. Searches reportedly serve not only to sever communication but also to confiscate all remaining belongings. Phones and identity documents are reportedly collected in boxes or bags.

Violence is also reportedly used as a deterrent against any attempt to return to Tunisia and is accompanied by insults. No access to food or medical care is reportedly provided. Deaths on both sides of the border resulting from violence or neglect are also reported, with bodies removed in military vehicles to unknown locations. Information received refers to individuals disappearing during torture sessions, other testimonies mentioned the existence of mass graves near military installations.

Migrant, refugee and asylum seekers are reportedly sold in exchange for money, hashish, fuel, or combinations of these. Uniformed personnel were reportedly consistently present on the Tunisian side, while buyers in Libya reportedly ranged from fully uniformed officials with state vehicles to mixed groups of uniformed and plain-clothes armed men, as well as militia members without uniforms. According to information received there are two main patterns of sale: delayed transfers after detainees were moved through desert camps, and direct handovers immediately after their arrival from Sfax. Some of the exchanges and prices are reportedly fixed prior to departure. In these exchanges at the border individuals are allegedly forced to kneel, remain hooded, or lie on the ground during the transfer. Reported prices ranged from 40 to 300 Tunisian dinars (12-90 euros) per person, depending on group size, composition, and the expected ransom value. Those sold included men, women, including pregnant women, couples, children, including unaccompanied children, with women assigned higher prices.

Negotiations reportedly took place by phone or during visits by Libyan personnel to Tunisian military sites near the border. Tunisian personnel frequently handed over boxes or bags containing detainees' phones, documents, and SIM cards, later used for ransom demands in Libya.

Detention, abuse and exploitation in Libya

Following their transfer, victims were allegedly transported to detention facilities in Libya, including Al Assah, Bir Al Ghanam and Characharah, where they were held under the authority or effective control of Libyan State bodies, militias or armed groups. According to information received, the al-Mabani (Ghout al-Sha'al) and Bir Al Ghanam detention facilities are operated by the Deputy Director of the former Directorate for Combating Illegal Migration (DCIM). In May 2025, the Government of National Unity (GNU) issued a decree renaming the DCIM as the General Administration for Combating Illegal Migration (GACIM), which remains under the authority of the Ministry of Interior. Reportedly, the Al-Assah detention facility falls under the authority of the Border Guards, which operate under the GNU through the Ministry of Interior and the Ministry of Defence.

According to information received, the final place of detention was described as a metal "cage" near or beneath an antenna a few hundred meters from the Tunisian-Libyan border, close to seasonal ponds that flood in winter. Cages are generally used to detain men, while women and children are held in an adjacent facility within the camp. It was also reported that occasionally cages were also used to confine mixed-gender groups.

Testimonies indicate that conditions in these facilities were characterised by systematic torture and ill-treatment, including beatings, denial of food and water, lack of medical care, leading also to miscarriages, and prolonged arbitrary detention. Deaths in detention were also reported, including due to violence, or untreated illness.

Women and girls were reportedly subjected to widespread sexual violence, including rape, sexual assault, and forced nudity, also throughout detention in Libya. Sexual violence was alleged to be perpetrated by uniformed personnel and guards and to occur in the presence of other detainees, including family members and children.

Trafficking for ransom, forced labour and sexual exploitation

Information received indicates that detainees in Libya were commonly held for ransom, the amount of which was decided on the basis of nationality, with families pressured to pay for release. Women whose families lacked the resources to pay were allegedly sold into forced prostitution or forced labour as a condition of release, resulting in prolonged debt bondage. Men were also allegedly sold for labour exploitation. Victims were reportedly transferred from detention facilities to private houses or brothels, such as in Zawia, where they were confined under constant surveillance and compelled to provide sexual services without remuneration. According to information received girls were present in these facilities and children were forced to witness sexual violence.

Women were also reportedly photographed or filmed in detention for the purpose of selection by buyers. Reportedly prices paid for women were

consistently higher than those paid for men. In some cases, women were reportedly resold between facilities or exploitation sites.

While we do not wish to prejudge the accuracy of the information made available to us, we are concerned that the alleged facts raise serious concerns relating to possible breaches of international law, including international human rights law, international humanitarian law, international refugee law, and international criminal law. We are particularly concerned at the possible breach of obligations established in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, ratified by your Excellency's Government on 24 September 2004, specifically positive obligations to identify and protect victims of trafficking in persons enshrined in articles 2 and 6. We would also like to highlight the special obligations to ensure protection of children, and to prevent trafficking of children, as stated in the UN Convention on the Rights of the Child (article 35). We would like to bring to your Government's attention article 6 of the International Convention on the Elimination of all forms of Discrimination against Women (acceded by Libya on 16 May 1989), which provides that States Parties shall take all appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women (Article 6). We also recall CEDAW general recommendation No. 38 on trafficking in women and girls in the context of global migration (CEDAW/C/GC/38), and in particular recommendations regarding situations of conflict and humanitarian emergencies (para 65-69).

We also highlight the positive obligation on States to undertake effective investigations into allegations of trafficking, and to ensure effective access to remedies for trafficked persons.

Regarding the alleged detention of migrants in Al Assah, Bir Al Ghanam and Characharah we would like to refer to articles 6, 7, 9, 10 and 16, read alone and in conjunction with 2(3) of the International Covenant on Civil and Political Rights (ICCPR), which the Government of Libya ratified on 15 May 1970. In particular, we would like to draw your Excellency's Government's attention to article 9.1 of the ICCPR which provides that everyone has the right to liberty and security of person. The enjoyment of the rights guaranteed in the ICCPR is not limited to citizens of States parties but, "must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party" (CCPR/C/21/Rev.1/Add. 13 (2004), para. 10). The detention of migrants should thus be a measure of last resort. The ICCPR further stipulates that all persons deprived of their liberty be ensured the right without delay to control by a court of the lawfulness of the detention (art. 9(4)). In addition, in the particular case of children, the Committee on the Rights of the Child, together with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families explicitly state that, "Any kind of child immigration detention should be forbidden by law and such prohibition should be fully implemented in practice." (CMW/C/GC/4-CRC/C/GC/23, para. 5). We recall your Excellency's Government ratification of the Convention on the Rights of the Child on 15 April 1993 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 18 June 2004.

In this regard, we further underline the absolute and non-derogable obligation to prohibit and prevent torture under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), acceded by Libya on 16 May 1989. The Committee against Torture expressed its concerns at measures imposed or perpetuated for such purposes as deterring persons in irregular situation or their families from seeking international protection, coercing them into withdrawing their requests for asylum, or with a view to extorting money or sexual acts, or for reasons based on discrimination of any kind, including discrimination based on immigration status.. People in an irregular situation must be treated with dignity in all circumstances (articles 1, 2, and 16 of the CAT).

As regards to victims of trafficking and/or held in arbitrary detention, we highlight also the principle of non-punishment, specifically that victims of trafficking in persons should not be detained, charged or prosecuted for activities that are a direct consequence of their situation as trafficked persons, including for illegal entry into, exit out of or stay in States of origin, transit or destination as provided in the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking. We recall recommendations made by the Special Rapporteur on trafficking in persons, especially women and children in her report to the Human Rights Council in 2021 on the Implementation of the non-punishment principle (A/HRC/47/34), as well as recommendations made regarding early identification, referral and protection of victims or potential victims of trafficking in persons in mixed migration movements (A/HRC/38/45), and particularly regarding the establishment of screening procedures carried out by multidisciplinary teams including civil society stakeholders and international organizations and establishment of referral mechanisms (para. 73-78). Additionally, we highlight the obligation of States to exercise due diligence to ensure that trafficked persons are protected from further harm and have access to adequate physical and psychological care.

We are further drawing your Excellency's Government's attention to the absolute and non-derogable prohibition of enforced disappearances which has attained the status of *jus cogens*. Therefore, when allegations of the potential enforced disappearance are made, States have an obligation to search for the disappeared, in this regard, we recall the 2019 Guiding Principles for the Search for Disappeared Persons and, in particular, principles 4, 8 and 13 and article 13 of the Declaration on the Protection of All Persons from Enforced Disappearance. Additionally, the Working Group on Enforced or Involuntary Disappearances has noted¹ the increasing practice of forced returns by States in violation of article 8 of the 1992 Declaration on the Protection of all Persons from Enforced Disappearance and the principle of *non-refoulement*. It further underlined the importance of preventing human rights violations by ensuring procedural safeguards upon detention and during the first hours of deprivation of liberty, including immediate registration, judicial oversight of the detention, prompt notification of family members, and the availability of a defence lawyer of one's choice. Moreover, articles 9 to 12 of the Declaration further spell out the rights of detained persons to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty. Access by competent national authorities to all places of detention must be ensured and any deprivation of liberty be

¹ [OHCHR | A/HRC/48/57; Report of the Working Group on Enforced or Involuntary Disappearances \(2021\) to the UN Human Rights Council on enforced disappearances in the context of transnational transfers](#)

held in officially recognized places of detention. Detainees have the right to be released also in a manner permitting verification of whether their human rights have been fully ensured. The absence of such guarantees increases the risk of enforced disappearance in migration contexts, as highlighted by the Working Group on Enforced or Involuntary Disappearances (A/HRC/36/39/Add.2). Lastly, each State should establish rules and stipulate penalties in the national legislation for officials who refuse to provide information on the detention and to ensure strict supervision, including clear chain of command, of officials responsible for deprivation of liberty and authorized by law to use force and firearms.

We would also like to draw the attention of your Excellency's Government to paragraph 7(c) of Human Rights Council resolution 8/8 of 18 June 2008, which reminds all States that, "Prolonged incommunicado detention or detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person".

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

We are issuing this appeal in order to safeguard the rights of the above-mentioned individuals from irreparable harm and without prejudicing any eventual legal determination.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the measures taken to identify and provide human rights based, victim centered, trauma informed and child and gender sensitive assistance and protection to victims of trafficking, including migrants, asylum seekers and refugees;
3. Please provide information on the measures taken to provide assistance and protection to the migrant, asylum seekers and refugee children allegedly in Al Assah and other unofficial detention centres, and the measures taken to identify child victims of trafficking, and ensure a protective environment for all child migrants, asylum seekers and refugees, including access to psycho-social and medical assistance, safe accommodation, appointment of a guardian, access to lawyers, family reunification, and best interests determination;
4. Please provide information on the access granted to the United Nations and the humanitarian agencies operating in Libya to detention centers to support Libyan authorities in the determination of the needs of migrants,

including of asylum seekers, refugees, stateless persons, and trafficked persons;

5. Please provide information on the access provided to lawyers to places of detention, and the provision of legal assistance to the migrant detainees, including victims of trafficking;
6. Please also provide information on action taken to facilitate and ensure access to effective remedies, including compensation for alleged violations of international law, and guarantees of non-recurrence;
7. Please provide information on the measures and procedures initiated for the investigation and prosecution of the alleged perpetrators of the above referenced alleged violations of international human rights law, international humanitarian law, international refugee law, and international criminal law, and the measures of international cooperation undertaken to ensure accountability for alleged violations;
8. Please provide information on the measures taken to ensure compliance with the international law obligation of *non-refoulement*, including individual assessments of risks of trafficking or re-trafficking, enforced disappearance, or acts tantamount to enforced disappearances perpetrated by non-State actors;
9. Please provide information on the measures taken to ensure victims of trafficking are not subjected to enforced disappearance or to forced labour or sexual slavery, and measures taken to hold perpetrators of such crimes accountable and ensure access to remedies for victims.

This communication, and any response received from your Excellency's Government, will be made public via the communications reporting [website](#) at the 60 days mark. Should Your Excellency's Government respond within 60 days, both the communication and the response, may be published before the 60 days mark. The communications and responses will also be made available in the subsequent periodic report to be presented to the Human Rights Council.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please be informed that a letter on this subject matter has also been sent to the Government of Tunisia.

Please accept, Excellency, the assurances of our highest consideration.

Siobhán Mullally
Special Rapporteur on trafficking in persons, especially women and children

Ganna Yudkivska
Vice-Chair of the Working Group on Arbitrary Detention

Gabriella Citroni
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Gehad Madi
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Ashwini K.P.
Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Claudia Flores
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We wish to draw your Government's attention to obligations included in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol), supplementing the United Nations Convention against Transnational Organised Crime, ratified by your Excellency's Government on 24 September 2004. The Protocol defines trafficking in persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by proscribed means for the purpose of exploitation, which includes, inter alia, sexual exploitation, forced labour or services, or servitude. We would like to make reference to obligations in article 6 of the Palermo Protocol, concerning assistance to and protection of victims of trafficking in persons, to ensure: a) Appropriate housing; (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand; (c) Medical, psychological and material assistance; and (d) Employment, educational and training opportunities.. We highlight the obligation, as stated in article 6(4), requiring that: "Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care."

We would like to bring to your Government's attention article 6 of the International Convention on the Elimination of all forms of Discrimination against Women (ratified by Libya on 18 June 2004), which provides that States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women (article 6). We also recall CEDAW general recommendation No. 38 on trafficking in women and girls in the context of global migration (CEDAW/C/GC/38), and in particular recommendations regarding situations of conflict and humanitarian emergencies (paras. 65-69). We would also like to recall to your Excellency's Government that the Working Group on Discrimination against Women and Girls, in its 2019 thematic report (A/HRC/41/33) noted that not only the causes but also the consequences of deprivation of liberty are gendered, and women and girls experience their confinement in specific ways and are often at risk of heightened gender-based discrimination, stigma and violence.

We also wish to recall article 8 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Libya on 15 May 1970, which prohibits slavery; slavery and the slave-trade in all their forms, servitude and forced or compulsory labour and article 35 of the Convention on the Rights of the Child, ratified by Libya on 15 April 1993, which calls States to "take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form".

We highlight the obligation of States to ensure that return of a victim of trafficking, "shall be with due regard for the safety of that person and for the status of

any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.” (Article 8(2)). We highlight the obligation of non-refoulement stated in article 14(1) of the Palermo Protocol.

Furthermore, we recall that the principle of non-refoulement is also codified in article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. It provides that no State shall expel, return (“*refouler*”) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of being subjected to torture, ill-treatment or other irreparable harm. We recall also article 7 of the International Covenant on Civil and Political Rights, which includes the prohibition of *refoulement*, and general comment No. 20 of the Human Rights Committee, article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), which states at para. 9: “States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement.” We further recall general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, which refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory when there are substantial grounds for believing that there is a real risk of irreparable harm such as that contemplated in articles 6 and 7 of the Covenant. We recall general comment No. 36 (Right to Life), which provides (at para. 23), “The duty to protect the right to life requires States parties to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. Such persons include [...] victims of domestic and gender-based violence and human trafficking. They may also include children, especially [...] unaccompanied migrant children and children in situations of armed conflict, [...] displaced persons, asylum seekers, refugees and stateless persons.”

As an inherent element of the prohibition of torture and other forms of ill-treatment, the prohibition of refoulement under international human rights law (article 3 CAT) is also more expansive than the protections afforded under refugee law insofar as it applies to any form of removal or transfer of persons, regardless of their status or grounds for seeking protection, and is characterized by its absolute nature without any exception. Heightened consideration must also be given to children in the context of return, whereby actions of the State must be taken in accordance with the best interests of the child and States must also consider the particular needs and vulnerabilities of each child, which may give rise to irreparable harm in the country of return².

We further highlight the obligation on the State to establish comprehensive policies, programmes and other measures, to “prevent and combat trafficking in persons” (article 9(1)(a) of the Palermo Protocol).

In addition, we would like to refer to the Recommended Principles and Guidelines on Human Rights and Human Trafficking (“Recommended Principles and

² See for example in CMW/C/GC/4-CRC/C/GC/23 para. 11: “States should adopt solutions that fulfil the best interests of the child, along with their rights to liberty and family life, through legislation, policy and practices that allow children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved and the children’s best interests are assessed, as well as before return”.

Guidelines”), issued by the Office of the High Commissioner for Human Rights in July 2002. In particular, we would like to refer to guideline 2, providing that states should ensure “that trafficked persons are not prosecuted for violations of immigration laws or for the activities they are involved in as a direct consequence of their situation as trafficked persons” and that “trafficked persons are not, in any circumstances, held in immigration detention or other forms of custody”. Reference is further made to guideline 9 recalling the international legal rights of trafficked persons as victims of human rights violations to adequate and appropriate remedies, including compensation. Finally, principle 13 of the Recommended Principles and Guidelines provides that “States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or by non-State actors”.

We highlight the position of the UN Special Rapporteur on trafficking in persons, especially women and children, highlighting objective 10 of the Global Compact for Safe, Orderly and Regular Migration to prevent, combat and eradicate trafficking in persons, and further recommending that states should expand access to regular migration routes and pathways to residence and citizenship for victims of trafficking, and further that: “To prevent trafficking in persons and protect victims of trafficking, States must ensure effective access to international protection, expanded resettlement opportunities, humanitarian visas and family reunification, without discrimination.” (A/77/170, para. 57).

We remind your Excellency’s Government of the ILO Forced Labour Convention (1930) (No. 29), which defines forced labour as all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (art. 2) and by the ILO convention No. 182 on the worst forms of child labour (1999), which includes among worst forms of child labour, all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict (art. 3).

The Slavery Convention defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (article 1(1)). It defines slave trade as including: all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves (article 1(2)). These definitions have served as the basis for the definition of “enslavement” in the Statute of the International Criminal Court as “the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children” (article 7.2(c)). “Enslavement” is also listed as a crime against humanity under the Statute of the International Criminal Court (article 7.1(c)). Under the Statute of the International Criminal Court, sexual slavery is a war crime in both international and non-international armed conflicts (article 8(2)(b)(xxii)-2 and article 8(2)(e)(vi)-2)³. The elements of

³ See Elements of Crimes, Official Records of the Review Conference of the Rome Statute of the International Criminal Court Kampala, 31 May - 11 June 2010 (International Criminal Court publication, RC/11), p. 19 and

crimes for this offence were deliberately drafted to avoid too narrow an interpretation of “sexual slavery”, defining it as the exercise of “any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty” combined with the causing of such person or persons “to engage in one or more acts of a sexual nature”⁴. In relation to the first element of this war crime, the elements of crimes specifies that “it is understood that such deprivation of liberty may, in some circumstances, include exacting forced labour or otherwise reducing a person to servile status” as defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery and that “it is also understood that the conduct described in this element includes trafficking in persons, in particular women and children”⁵.

As sub-Saharan migrants and refugees appear to be particularly affected by the allegations described above, we further recall that the prohibition of discrimination and the right of everyone to equality before the law is enshrined in a variety of human rights instruments, including articles 2 and 26 of the ICCPR,; article 2 of the Convention on the Rights of the Child, and articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), acceded to by Libya on 3 July 1968, and article 14(2) of the Palermo Protocol.

In this connection, we would like to remind your Government of its obligations under ICERD, which defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin [...]” (article 1(1)). In particular, we recall article 2 on the obligation of States to prohibit and eliminate any act or practice of racial discrimination against persons and/or groups by public authorities or any other person, group or organization. Article 5 requires States Parties to guarantee the right of everyone, without distinction, to equality before the law in the enjoyment of their human rights. This includes the right to personal security and protection by the State against violence or bodily harm, regardless of whether harm is inflicted by government officials or by any individual group or institution (article 5(b)). In accordance with article 6, States must not only ensure the effective protection against racial discrimination of everyone within their jurisdiction, but also provide access to remedies and adequate reparation to victims.

We would further like to recall that the Committee on the Elimination of Racial Discrimination, in its general recommendation No. 30 on discrimination against non-citizens, urges States to: ensure equal protection and recognition before the law of non-citizens; take action against racially motivated violence and ensure the security of non-citizens, particularly with regards to arbitrary detention; combat ill-treatment of and discrimination against non-citizens by public officials “by strictly applying legislation and regulations providing for sanctions and by ensuring that all officials dealing with non-citizens receive special training, including training in human rights”; and ensure equal access to effective remedies and adequate reparation (section V).

p. 26.

⁴ See Elements of Crimes, Official Records of the Review Conference of the Rome Statute of the International Criminal Court Kampala, 31 May - 11 June 2010 (International Criminal Court publication, RC/11), p. 6.

⁵ Ibid

We further refer to CEDAW general recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women in which the Committee “reiterate[d] the obligation of States parties to treat women with dignity and to respect, protect and fulfil their rights under the Convention at each stage of the displacement cycle, as well as in the enjoyment of durable solutions, including integration and/or resettlement in receiving States and/or voluntary repatriation to their State of origin.” (CEDAW/C/GC/32, para. 14)

We further underline the absolute obligation to prohibit and prevent torture under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), acceded by Libya on 16 May 1989, and underline the General Assembly resolution 77/209 (2022) “Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law, including international human rights law and international humanitarian law, which must be respected and protected under all circumstances, including in times of international and non-international armed conflict or internal disturbances and tensions or any other public emergency, that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right.”

The Special Rapporteur on Torture indicated that “All varieties of human trafficking activity involve the intentional infliction of severe mental or physical pain or suffering. While the primary purpose of trafficking is exploitation, the infliction of pain and suffering is always instrumentalized for intermediate purposes, such as coercion, intimidation, punishment or discrimination, all of which are defining elements of torture. Should one of these elements be missing, human trafficking generally meets the threshold of other ill-treatment. Therefore, where human trafficking is carried out by or at the instigation or with the consent or acquiescence of State officials, it amounts to torture and ill-treatment as defined in human rights law”. (A/HRC/37/50, para. 33).

Regarding the detention of migrants, in addition to the references made in the communication, we wish to draw the attention of your Excellency’s Government to the Working Group on Arbitrary Detention’s revised deliberation No. 5, in which it emphasizes that any form of administrative detention or custody in the context of migration must be applied as an exceptional measure of last resort, for the shortest period and only if justified by a legitimate purpose, such as documenting entry and recording their claims or initial verification of identity if in doubt. The irregular entry and stay in a country by migrants should not be treated as a criminal offence, and the criminalization of irregular migration will therefore always exceed the legitimate interests of States in protecting their territories and regulating irregular migration flows. Further, any form of detention, including detention in the course of migration proceedings, must be ordered and approved by a judge or other judicial authority. Anyone detained in the course of migration proceedings must be brought promptly before a judicial authority, before which they should have access to automatic, regular periodic reviews of their detention to ensure that it remains necessary, proportional, lawful and non-arbitrary.⁶

⁶ A/HRC/39/45, Annex.

We would also like to draw your attention to article 10 of the ICCPR, which provides that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

We would like to recall the Human Rights Council resolution A/HRC/RES/47/12, which addresses the issue of the human rights of migrants, “deeply concerned about the large and growing number of migrants, especially women and children, including children who are unaccompanied or are separated from their parents, who have lost their lives, have been injured or have gone missing in their attempt to cross international borders, including at sea, and recognizing the obligations that States have to protect and respect the human rights of those migrants, regardless of their migration status, and reaffirming the commitment to take action to avoid the loss of life of migrants, including by preventing human rights violations resulting from pushback practices, in particular collective expulsions and refoulement”.

With regard to the conditions of detention, we would like to draw the attention of your Government to the Standard Minimum Rules for the Treatment of Prisoners (adopted by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). We would also like to draw your Government’s attention to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 (adopted by General Assembly resolution 43/173 of 9 December 1988). The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. This conclusion was reiterated by the Special Rapporteur on Torture explaining that “Any detention regime that, as a matter of deliberate policy or as a consequence of negligence, complacency or impunity, subjects or exposes migrants to treatment or conditions of detention grossly inconsistent with universally recognized standards, most notably the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), is incompatible with the prohibition of torture and ill-treatment, regardless of economic or budgetary considerations”. He further indicated that “the threshold of prohibited ill-treatment generally will be reached sooner with regard to migrants with an irregular status or with other vulnerabilities. Moreover, ill-treatment or grossly inadequate detention conditions can even amount to torture if they are intentionally imposed, encouraged or tolerated by States for reasons based on discrimination of any kind, including based on immigration status, or for the purpose of deterring, intimidating or punishing migrants or their families, coercing them into withdrawing their requests for asylum, subsidiary protection or other stay, agreeing to “voluntary” return, providing information or fingerprints, or with a view to extorting money or sexual acts from them.” (A/HRC/37/50, para. 20).

In its report on Enforced Disappearances in the Context of Migration (A/HRC/36/39/Add.2), the Working Group on Enforced or Involuntary Disappearances found that there is a clear lack of sufficient and qualitative investigations related to the matter the disappearance of migrants, which provokes a clear protection gap. According to the Working Group, impunity and lack of clarification of the facts are among the factors that most affect the relatives of the disappeared. The Working Group, therefore, called on States to adequately investigate any allegation of involvement, collusion or

acquiescence of State authorities in acts, which may end in the disappearance of migrants and to criminalize all acts of enforced disappearances of migrants, which should be punished by appropriate penalties, taking into account their extreme seriousness.