



AN ANALYTICAL STUDY ON THE SECOND LIBYAN WAR (2014) AND ITS EFFECT ON THE RIGHTS OF CHILDREN

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LITERATURE REVIEW: -

- Prof. Omer Karasapan in the article **“Libya’s migrants and crimes against humanity”** the two government of Libyan are in a war between the two governments’ deserted populations and also the articles discuss the improper implementations of the law and the articles also states the problems of the migrants and the attitude of the government towards them the article also discuss the Amnesty International report which talks about the violence and inhuman treatment of towards civilians and asylum seekers the article also stated that according to Ministry of Interior Militias started human trafficking and arrested 540 women some pregnant and 215 children were violently detained but no action was taken against them.
- Mohamed Alalem in the article **“Libyan Government plan for asylum seekers and Refugees”** in this article the author basically talked about the measures that the government should take to resought their matter and the article also mentioned the role of UNHCR and its positive role for the protection of refugee and asylum seekers.
- Katie Kuschminder in the article **“Once a Destination for Migrants”** stated about the African and Middle Eastern migration and also how the Libyan state fell after the death of dictator Muammar Gaddafi the article also recorded the Nigerian women interview about the situation of migrants in Libyan country. The articles also depicted the miseries and torture faced by the migrants and he also discussed the human violation laws violated in the Libyan state.
- Samy Awikeh in the article **“Migration is part of the political bargaining in Libya”** in the article the author discusses the people residing or detained in camps in Libya come from neighbouring countries and the reason they migrate from their place is to seek protection even the article discusses the covid situation that no proper data was found because of lack of adequate medical and statistical staff regardless the migrants suffer from health problems more problematic than covid 19 including malnutrition, kidnapping, sexual assaults and torture.
- MEI Ghamari in the article **“Sustainable Development of Minors in Libyan Refugee Camps”** the article states about the refugee problems in migrants and the health problems the refugee faces on a daily basis the article also states about the field problems faced by the children and how they are deprived of their basic needs and are prone to torture, violence and sexual abuse.

RESEARCH OBJECTIVES: -

- To analyze the situation of Libyan history.
- To understand the situation of children refugees and asylum seekers.



- To understand the international convention and domestic legislations of the Libyan state and its practicality.
- To understand the present situation of Libya and it's the role of its government.

RESEARCH QUESTIONS: -

1. What is the role of the Libyan government to protect the status of refugees and asylum seekers, especially of children?
2. Are the rights of refugees really protected in Libya?
3. What are the present conditions of refugees in Libya?
4. Are international legislation and domestic legislation really protecting refugees and asylum seekers?
5. What is the practical approach to the international conventions in the Libyan state?

ABSTRACT: -

Libyan war was the longest war in history Libya overthrew Muammar Al- Qaddafi's government after that the conflict started doubling up over the territory of Tripoli, Tobruk which led to the war which harmed many innocent people including children. The purpose of the research paper is to examine the applicability of international humanitarian law and was the law principles were followed by the children in the practical sense who had no relation to the war. The paper will also deal with the United Nations Support Mission in Libya (UNSMIL) and whether this mission really safeguarded the

human rights of the children and protected them from warfare. The paper will also argue about the issues and problems which were faced by the refugee children in refugee camps and asylums which are controlled by the ministry of the Department for Combating Illegal Migration (DCIM) and whether the country followed the domestic legislation or international treaties which the state is a signatory to protect its vulnerable group, especially children.

THE HISTORY OF THE LIBYAN WAR:-

Libya is an oil-rich country and it has the world's 9th largest proven reserve of oil it produces 1.2 million barrels of oil per day which is why Libyan has become a major spot of war. After the death of the de facto leader Muammar Al- Quaddafi who had ruled Libya for over 42 years the government of Libyan started spitting up because of instability¹. The 2011 Libyan war which is also called the 17th February Revolution was the civil armed conflict between the years (2011-2014) between the different factions. A nation fragmented and dozens of militias led by multiple warlords scrambled to occupy the power vacuum as a result, Libya turned into a war zone with different militant leaders claiming control over the North African nations. The second phase of the Libyan war is from 2014-2020 there are two governments one is supported and backed by the UN and allied militias considered as a legitimate government that is Government of National Accord (GNA) headed by Sarraj in Tripoli and the other one is Tobruk government

¹ Britannica,
<https://www.britannica.com/topic/history-of-Libya> (last visited on Nov. 23, 2022).



called as Libyan National Army (LNA) which is controlled by general Haftar from Benghazi the LNA is not supported by UN but by other countries like UAE, Egypt, Russia and France support this government and some small states are also controlled by Islamic states but the south area of Libya is not controlled by any governments it is left to local tribal peoples but there to factions and conflicts remain a major issue². The major factions are fighting for:-

- The control of the oil infrastructure
- Governance
- National finances
- Military control

THE HUMANITARIAN COST OF THE LIBYAN WAR: -

Due to the war between the governments, the most vulnerable groups of civilians got hit up and their life became miserable due to the war and crime which came along with the conflict between the two governments. According to the UNICEF Report, the situations of children and civilians have deteriorated and such attacks have caused hundreds of children were being killed and recruited into the fighting more than 150,000 people got displaced and out of them 90,000 of them were children who have been displaced. Over 60,000 refugee and migrant children are in urban areas and these children have limited access to protection as well as basic essential services. The children are lacking in healthcare and nutrition, protection, education, water and sanitation. The main issues which arose are the safety of children, Poor living conditions of children, Violation

of Human rights, and Human Trafficking among the refugee and asylum seekers.

POOR LIVING CONDITIONS IN REFUGEE CAMPS: -

Children in Tripoli, Derna and southern and western parts of the country are the most vulnerable ones and after the conflict between the two governments situations became more vulnerable. The largest cluster of minors was left with the highest activity of paramilitary militias and smuggling groups. The refugee camps and detention centres are controlled by the Department for Combating Illegal Migration (DCIM) but this ministry doesn't have enough authority over the detention centres and one of the officials of this ministry admitted to the UN that in Tripoli 13 detention centres are managed by an armed militia he also said that even they cannot enter their areas because of the risk to their life Even the reports by the government of Libya was incorrect about the children refugee and asylum seekers. In the year 2018, Human Rights Watch researchers found that the detention centres and refugee camps Tripoli, Misrata, and Zuwara were documented inhumane conditions that included severe overcrowding, unsanitary conditions, poor quality food and water that has led to malnutrition, lack of adequate healthcare, and disturbing accounts of violence by guards, including beatings, whippings, and use of electric shocks³. The Human Rights Watch also reported the children and newborns were kept in unsuitable places there were no basic nourishment facilities for children and there were no education facilities. There were

² YouTube, Libya war explained: Key players and affiliations | DW News - YouTube
<https://www.youtube.com/watch?v=IES-MJ68e7E> (Last visited on Nov 15. Dec 2022).

³ Caitlyn Lutfy, Malnourished Children in Refugee Camps and Lack of Connection with Services after US Resettlement, 16, 23-37 (2013).



abuses towards children and mental torture was also reported there even Human Right watch also found out that there were allegations of rape of the minor girls by guards and smugglers⁴.

VIOLATION OF HUMAN RIGHTS:

Militias and armed groups have attacked all the civilians, especially the vulnerable group's women and children and they even don't have basic human rights they are trapped in the cycle of torture and even some of the victim's bodies had marks and bruises that they were tortured before being killed. According to the UN, it said that the children especially girls were beaten raped and starved and the minor girls were forced into prostitution ad work and in the year 2019 many refugees including children arrived in Italy through the Mediterranean smuggling route and died⁵. The militia runs a business through such trafficking. The International Organization for Cooperation and Emergency Aid (IOCEA) reported that the major population of children faced violence, harassment, or aggression during their journey to Italy.

According to the IOCEA survey report, they found that 122 women and child migrants and growing teenage girls were forced to have contraceptive jabs so that they could be raped without being pregnant. Even at the checkpoints, the abuse was happening. Nearly most of the women and children faced sexual abuse multiple times and

⁴Libya's cycle of detention, exploitation, and abuse against migrants and refugees | MSF <https://www.msf.org/libya%E2%80%99s-cycle-detention-exploitation-and-abuse-against-migrants-and-refugees> (last visited on Dec 19, 2022).

in multiple locations. The UNICEF study, on a deadly journal for children, also found that most smugglers take the money and only after that allow them to go which leaves many migrants in debt and abuse. In the report by IOCEA the 15-year-old Nigerian boy told them that the people in the refugee centres and detention centres treat them like chickens, they used to bet them and they didn't provide them food or water. The boy also added that the people were dying there from disease and violence freezing to death.

MENTAL TORTURE OF CHILDREN IN THE REFUGEE CAMPS

As many routes are under the control of smugglers, they treat the migrants and asylum seekers as animals this inhuman treatment, abuse and human trafficking has caused bad impacts on the minds of children according to the report many suicide attempts, aggressive behaviour and sleep disorder has been found between young asylum seekers and refugees in Libya. Even the UNHCR has taken a step forward to help the children but it is not bringing many fruitful results. According to the UNICEF reports in one small room there are about 60 children locked they don't let them out for weeks and starve them without food which is causing mental trauma to the children. They have been excluded from their basic human rights they are treated as slaves and also get tortured by the smugglers in the mid-light they put the children in slavery and don't give

⁵ United Nations Support Mission in Libya Office of the High Commissioner for Human Rights, <https://www.ohchr.org/Documents/Countries/LY/LibyaMigrationReport.pdf> (last visited on Dec 21, 2022).



them pay. The struggle of children is way beyond imagination their rights have been neglected and they have no future and are subject to continuous torture, cruelty and violence their mental health has started degrading which is leading them to depression and mental trauma⁶.

UNITED NATIONS SUPPORT MISSION IN LIBYA AND ITS PRACTICALITY: -

The United Nations support mission in Libya was established in the year 2011 and it was also renewed in the year 2021. This mission focused on the political agenda and provides for dispute resolution between the government through mediation and it also supported the Libyan ceasefire agreement of 2020. The mission also aims at human rights monitoring and inculcating the provisions of the essential services and delivery of humanitarian assistance⁷.

The United Nation support mission in Libya contended that it will secure the protection of refugees and also protect them from illegal detention it also said that it will also combat the excessive use of unwanted lethal force and also to release vulnerable groups from arbitrary arrest especially children and women⁸.

THE LOOPHOLES: -

Although this mission had many provisions for the upliftment of the refugee camps and

detention centres the main issue of implementation remains a question because despite these agreements the two governments failed to unite and much violence and conflicts remained an issue. The cases of illegal detention and problems of refugee and detention centres are still major issues. Migrants and refugees in Libya continued to be routinely subjected to arbitrary detention, and torture, including sexual violence, abduction for ransom, extortion, forced labour and unlawful killings. Perpetrators of these violations and abuses have in an overwhelming number of cases not been held to account, and include State officials, members of armed groups, smugglers, traffickers and members of criminal gangs hundreds of children, were being held without any judicial process in official detention centres run by the Government and in unofficial detention centres controlled by armed groups⁹.

INTERNATIONAL LEGAL FRAMEWORK IN LIBYA: -

Libya is also a party to several international human rights law treaties. Libya is not a signatory to the Convention relating to the status of Refugees, 1967 but the country has ratified the convention governing the specific aspects of refugees, 1969 Problems in Africa which follows the 1967 same definition. But, Libya doesn't have any legislation for asylum seekers. The International Convention on the

⁶ Id at 5.

⁷ Digital library, United Nations Support Mission in Libya :

<https://digitallibrary.un.org/record/3825317?ln=en> (last visited Dec.17, 2022).

⁸ UNSMIL, United Nations Support Mission in Libya

<https://unsmil.unmissions.org/> (last visited on Dec.20, 2022).

⁹ UN Human Rights Council: Renew Libya Fact-Finding Mission's Mandate | Human Rights Watch

<https://www.hrw.org/news/2021/09/21/un-human-rights-council-renew-libya-fact-finding-missions-mandate> (last visited on Dec.21, 2022).



status of refugees clearly states that there should not be any torture, ill-treatment, detention or slavery towards the refugee. Libya is also a party to the seven-core international human rights treaties, although not all of their optional protocols:

- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), was ratified by Libya in 1969.¹⁰
- The International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Libya in 1976
- The International Covenant on Civil and Political Rights (ICCPR), ratified by Libya in 1976
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Libya in 1989
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Libya in 1989
- The Convention on the Rights of the Child (CRC), ratified by Libya in 1993
- The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), ratified by Libya in 2004.

Although Libya has signed many conventions its practicality remains a question the refugees and migrants face still face torture, ill-treatment and violence. According to UNICEF recent reports, many children and infants were detained in Tripoli

which was at immediate risk and around 255 children were among the thousands of migrants and asylum seekers caught up in the arrest even the refugee children in Libya face grave child rights violations including arbitrary detention. UNICEF urged the Libyan authorities to protect children and cease the separation of children from their parents. The Libyan government is also not acting up to this humanitarian crisis even though the authorities are not charged for its people. Human Rights Watch also had an interview with the children's refugees and asylum seekers and reviewed the photos and videos from the asylum seeker it showed a horrible scenario of the refugee camps that how children were tortured with electric shock and were not given the proper food and medical care they weren't provided with the meals and they had no hope for the future. Children were targeted and abused badly and they had severe beatings with wooden sticks.

DOMESTIC LEGISLATIONS OF THE LIBYAN STATE FOR THE PROTECTION OF CHILDREN REFUGEES AND ASYLUM SEEKERS

- On December 11, 1969, post-monarchy Libya adopted a Constitutional Proclamation, intended as a provisional measure until a permanent constitution could be adopted. At this writing, Libya still had no unified constitution but was governed by the proclamation and a series of fundamental laws deemed to have constitutional weight. Taken

without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights.

¹⁰ **Article 5** in compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone,



together, they guarantee many basic human rights, although with notable exceptions, particularly regarding freedom of expression and association¹¹.

- The Constitutional Proclamation provides for the right to work (article 4), the inviolability of homes (article 12), the right to education (article 14), and the right to health care (article 15). Regarding the judiciary, article 27 says the aim of judicial decisions is “the protection of the principles of the community and the rights, dignity and freedom of individuals.” Article 28 guarantees the independence of judges. Article 31 states that individuals are innocent until proven guilty and that they should be provided with a fair defence, as well as freedom from “mental or physical harm.

❖ CONCLUSION: -

The war between the nations is costing its civilians the most many innocent lives is lost and others are living in constant fear of their life and their future at risk many innocent has also been raised by the international peacekeeping force to unite the two government of Libya, for instance, the UN has tried for peace deal popularly known as 5+ 5 Libyan joint military Commission (JMC) but many attempts have been failed to bring peace between them their war is never ending which is paying heavy on its citizens and refugee seekers and asylums and because of this rift crime in the state is increasing sexual exploitation seems to be increasing, affecting Nigerian and Cameroonian women in particular. The number of unaccompanied and separated children travelling alone in Libya is rising, now representing some 14 per

cent of total arrivals in Europe via the Central Mediterranean Route. There is an urgent need to have a proper government in the Libyan state to formulate peace policies and constitute a welfare state free from violence, torture and human trafficking.

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