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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[4 June 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The situation of migrants in and from Libya**

International Educational Development, Inc. (IED) and the Association of Humanitarian Lawyers (AHL) welcome the report of the Special Rapporteur on the human rights of migrants.¹ IED and AHL commend the Special Rapporteur on the thorough quality of the report and especially his attention issues relating to detention of migrants.² We are particularly impressed by the range of solutions he proposes. We are also pleased that the Security Council, in its resolution 2040 of 12 March 2012, extended the mandate of the United Nations Support Mission in Libya (UNSMIL). Operative paragraph 6(b) identifies the situation of migrants as an issue to be addressed.

Our long interest in migrants led us to address, *inter alia*, the issue of migrants in Libya in our written statement A/HRC/19/NGO/104: The situation in Libya. We pointed out the serious violation of the rights of migrants at that time. Such abuse is continuing, and although we have been monitoring the over-all situation since the beginning of the uprising, we point out that the human rights of Libya's migrants require urgent attention.

Libya has long been a country with distinctive migration dynamics. Since the 1980s, Libya has been a popular destination for sub-Saharan migrants.³ Migration routes from Mali, Nigeria, Niger, Chad, Sudan and other countries were established in response to droughts and have remained to the present day.⁴ In the 1990s these migration routes were expanded, leading to the growth of illegal transnational commercial activities in the region and a significant rise in human trafficking. While it is important to emphasize that many different kinds of migrants were and are involved with these migration routes, a majority are illiterate labourers, often seeking seasonal jobs away from their homelands.⁵ These migrants are not seeking a career so much as simply trying to survive for the next few months. Many work in oil fields or, since many are trained in agriculture, they work on farms. These migrants are mostly men who are seldom accompanied by their families.⁶

The impermanent nature of the work leads to great volatility. The population of migrants in Libya has changed with the seasons and with fluctuations in labour markets both in Libya and EU nations such as Italy or France. The situation of migrants in the countries bordering Libya adds to a great deal of instability. During the 1990s Libya's economy was privatized and the nation endorsed an "Open Door" migration policy. Millions of migrants of both sub-Saharan and North African (Egyptians, Algerians and Tunisians) origins settled in Libya.⁷ This cheap labour was, no doubt, good for industry, but it had an unintended consequence. Because Libyans were now competing for jobs with sub-Saharans, anti-migrant sentiment rose. This anger boiled over in the riots of 2000 in Tripoli and Zawiya. The period after these riots was marked by a series of expulsions, both of sub-Saharans and Tunisians. As stated in the EU's report *The Libyan Migration Corridor*:

** Association of Humanitarian Lawyers, an NGO without consultative status, also shares the views expressed in this statement.

¹ AHL researcher Reilly Hurley assisted the preparation of this document.

² A/HRC/20/24, Section II.

³ Sylvie Bredeloup and Olivier Pliez, *The Libyan Migration Corridor*, EU-US Immigration Systems 2011/03, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2011.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

- between 2003 and 2005, nearly 145,000 Sub-Saharan people were reportedly expelled. In 2006, Libya is said to have arrested 32,164 people while 53,842 were repatriated. However, even though each of these expulsion waves seems to be closely linked to Libya's economic situation, they all have their political logic as well.⁸

During the period from 2003 to 2009 Libya came under increased pressure from its neighbors to rein in the rampant transit migration out of Libya and into European and other African countries. This only aggravated the tendency toward expulsion. As is reported above, huge numbers of people were being moved around the region. The figure stating that 32,164 people were arrested is alarming because it seems unlikely that Libya ever had the capacity to properly detain these numbers. We believe that this scale of expulsion and repatriation must have been accompanied by extensive abuse of migrants. Despite the efforts of the Gaddafi government to control the Libyan borders, 37,000 illegal immigrants made the journey from Libya to Sicily in 2008.⁹ In 2009, in response to the financial crisis, the Gaddafi government abandoned its "Open Door" policy and closed its borders. Shortly afterward the Libyan uprising began.

The EU report also states, in pertinent part:

- according to an estimate from the Italian government, between 200,000 and 300,000 people are expected to land on European coasts in the near future, a figure based on the fact that 2.5 million foreign workers are currently living in Libya. Brussels argues for its part that the number of potential migrants lies somewhere between 500,000 and 700,000 people.¹⁰

During the course of the civil war, abuse of sub-Saharan Africans under the pretence that they were foreign mercenaries was widespread. Many thousands of migrant workers were arbitrarily imprisoned by both Gaddafi loyalists and NTC forces.¹¹ Torture and death in ad hoc prisons was and is commonplace. Libya remains ill-equipped to deal with the extra-legal arrests and imprisonment of migrants and it is unlikely that the state of affairs will change until Libya has a legitimate government, a universally ratified constitution and a functioning judicial system. As the Special Rapporteur mentions in his report, one of the main causes of mistreatment of migrants is the lack of any legal framework or precedent, in the host nation, to handle irregular immigration.¹² It is clear that under the Gaddafi government, while there may have been a "policy" on immigration, there was no concrete legal framework. This legal abyss has only widened in the past year. The NTC has little control over its borders and retains only an anemic capacity for processing migrants and facilities are grossly inadequate.¹³

Meanwhile the problem of transit immigration to neighboring countries remains. During the civil war huge numbers of Egyptians and Tunisians fled back to their respective countries. They were followed by Libyans seeking refuge in those countries. The situation at the

⁸ Sylvie Bredeloup and Olivier Pliez, *The Libyan Migration Corridor*, EU-US Immigration Systems 2011/03, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2011.

⁹ Ibid.

¹⁰ Sylvie Bredeloup and Olivier Pliez, *The Libyan Migration Corridor*, EU-US Immigration Systems 2011/03, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2011. (EU Report).

¹¹ Please see our written statement, A/HRC/19/NGO/104, "The situation in Libya".

¹² Op.cit.

¹³ "Libya: Detained Migrants Face Harsh Conditions, Legal Limbo." *All Africa*, all Africa, 3 May 2012. Web. 26 May 2012. <<http://allafrica.com/stories/201205030972.html>>.

Tunisian border became particularly acute in early March of 2011. As stated in an article in *The Seattle Times*:

- Bangladeshis washed themselves with bottles of drinking water and Egyptians fought over bread handed out by aid workers Thursday as thousands fleeing chaos in Libya took refuge in Ras Adjir, a border town that didn't have enough toilets, beds or food to meet the needs of a growing humanitarian crisis.¹⁴

At that time, estimates put the number of people that had crossed the border from Libya into Tunisia at 200,000.¹⁵ Many of them were not Libyans but migrant workers who had nothing to lose by fleeing the country. Libya has a reputation for these kinds of crises and, given the current circumstances, it is a reputation it is likely to retain.

As we look to the future of migrants in Libya, it is important to note that because of the mass exodus of migrants in 2011, the Libyan work force is severely depleted. As the country's industry re-establishes itself there will soon be a demand for labour, and we expect much of that demand will be met by another, perhaps massive, migration into Libya.¹⁶

Conclusion and recommendations

In conclusion, abuse of migrant workers still held in makeshift prisons in Libya occurs daily and shows no signs of coming to an end. Humanitarian crises loom, with the prospect of mass migration both in and out of Libya. For these reasons we urge the Special Rapporteur to monitor the situation of migrants in Libya closely and to make a visit to the country a priority. In this light, we recommend that he consider a visit Libya at the same time he carries out his intended mission to Tunisia. We also recommend that the Special Rapporteur work cooperatively with the Support Mission as it works with the Libyan authorities on the issue of migrants. Finally, we recommend that the issue of Libya's migrants that have fled Libya be part of his investigation into migrants in the Mediterranean region.

¹⁴ Al-Salchi, Hadeel, and John Heilprin. "Libya refugee crisis grows at Tunisia border town." *Seattle Times*. *Seattle Times*, 3 Mar. 2011 . Web. 27 May 2012.

¹⁵ Ibid.

¹⁶ Borsatti, Luciana. "Libya: Tragedy for migrants is not over." *ANSAmid*, 14 May 2012. Web. 27 May 2012.