**The illegalization and deportation of refugees in Tunisia (by Debora Del Pistoia, Glenda Garelli, Martina Tazzioli) (november 2015)**

The condition of asylum seekers and refugees in Tunisia is quite alarming, as the recent deportation to Algeria that we monitored in real-time and we report here below confirms.

Up to now, Tunisia has not an asylum law, yet, despite a project of law has already been drafted and it is currently held by the Ministry of Justice. This makes that even those asylum seekers who got the refugees status from UNHCR Tunisia are then illegalized by Tunisian authorities, and considered as unauthorized migrants living in the country. Hence, it happens very frequently that asylum seekers and statutory refugees as well are arrested in the street and detained in Whardia, a prison, mostly for foreigners, in the periphery of Tunis. Whardia is run by the Tunisian Garde Nationale and is not regulated by any jurisdiction. Usually people are imprisoned and detained without any validation by the court. Whardia can be considered as the black hole of the Tunisian migration management: the number, the detainees, the nationality and the juridical status of the detainees, the average time of detention, and the deportations to Algeria remain unknown and the government refuses to release statistics and data about the prison. On September 1, 2015 for the first time a deportation from Whardia to Algeria has been monitored in real-time, producing evidence about the arbitrary and illegal measures put into place by Tunisian authorities. The migrants deported to Algeria were nine rejected refugees living at Choucha camp, and four other migrants, among which a Cameroonian student who had already paid his flight ticket to go back to Cameroun and who had been stolen of his passport by the police in Whardia. What follows is the reconstruction of the deportation that we succeed in monitoring real-time, recording the phone calls with the deported migrants.

August 24, 2015: Ten rejected refugees from Choucha camp went in front of the delegation of the European Union in Tunis demanding to be resettled in Europe. The EU delegates let the refugees being arrested by the Tunisian Garde Nationale that took them to the police station. There, the police cheated them by saying that a representative of the EU would have come to meet them, while actually the refugees were transferred to the prison of Whardia. The lawyer they were in contact with (from La Maison des Droits et de Migrations) was refused by the Tunisian Home Office to get access to the prison.

September 1, 5;30 am, Tunis: we received a phone call from R., one of the ten arrested refugees. “We are on the police car, we have being deported to the Algerian border, we are..” and then the phone call was interrupted. We immediately started to inform all international organizations in Tunis, such as UNHCR, IOM, The Red Cross, and Tunisian associations as well (Forum tunisien des droits economiques et sociaux) about the underway deportation to Algeria. UNHCR laconically replied that they could not mobilize in support of the deportees because as they were rejected refugees they were “people not of concern”. Only La Maison des droits et des Migrations decided engage in the case. We discovered that one of them, L., was not deported because he was seriously ill, and so he had been left in the prison. Only after about one month L. has been liberated, despite our repeated appeal to the Red Cross and the Croissant Rouge for helping him.

10 am: we received another phone call from R., and at that time we were there with a journalist, in order to record all the phone calls as a proof of the underway deportation. “We are now at the Algerian border, still not crossed it, but the police told us that if we don’t cross on foot they will shoot us”. The voice broke again.

1pm: we called the refugees and R. answered by informing us that “we are now in Algeria, very close to the Algerian police station”. “Can you ask the police where you are exactly, at which border crossing point?”, “they say that here it’s Bouchoucha, in Algeria, not too far from the Tunisian town of Feriana”. Thus, we discovered that they were taken to Algeria through the militarized zone of Mont Chaambi. We lost the traces of the four other migrants deported together with the people from Choucha: we don’t know what happened to them after they crossed the Algerian border.

The nine migrants from Choucha remained at the Algerian crossing point during the night, after being pushed back and forth from the border by the Tunisian and the Algerian police, threatened of being killed by the Tunisian Garde Nationale if they would have come back to Tunisia, while Algerian authorities were saying that the refugees were not allowed to stay in the country. The same day a journalist published an on-line article that opened a political case in Tunisia. Indeed, for the first time a migrant deportation to Algeria was monitored and reported in real-time. In the meanwhile, all Tunisian and international human rights associations and organisations in support of migrants refused to take a position.

September 2, 10 am: we realized that the migrants were sent back to Tunisia: “this morning very early the Algerian authorities pushed us back, we are now in the Tunisian city of Feriana, blocked at the police station”. In the afternoon, while we were thinking how to help them to be released, we received another phone call from R., unexpectedly saying “we have just arrived in Tunis, alone, by collective taxi”. The real-time media attention on the case and the circulation of the news on social networks, led Tunisian authorities to release the deportees, but doing that on the sly, in order not to give too much political relevance to the event. After arriving at the taxi station in Tunis the deportees were left in the street, and their presence was totally ignored both by the authorities and by international organizations.

The deportees have concealed themselves there, while they are blocked in a juridical limbo: as rejected refugees they cannot be resettled in Europe. In Tunisia they have been illegalized and at the same time after the deportation and the threats received by the police, they are not safe in the country; but the option of going back to their country of origin for the most of them is a non-choice. Out of concern, both for Tunisian authorities and for humanitarian actors, the desert of Choucha appears paradoxically as the only free space left for them. During a recorded interview conducted in Tunis with us the day after the deportation, one of the deported migrants reconstructed in detail the whole story, reporting the violence that the police used against them, both in the prison of Whardia and at the border crossing point. They have been threatened by the police many times of being killed if they would have refused to cross the border.

In a report that we published in April 2015, we have reported the testimony given in real-time by a detainee we were in contact with, about the deportation to Algeria of ten Somalian statutory refugees, and of families of Syrian refugees. From different testimonies we gathered from people detained in Whardia we can deduce that when migrants and refugees are taken to Whardia they are threatened of being deported if they do not pay by themselves for a flight ticket to return to their country of origin. This practice of pushing for migrants’ self-deportation confirms that Tunisian authorities try in all manners to push refugees and migrants away from the country. The detention of Syrian citizens into the prison of Whardia happens frequently, as also the Croissant Rouge confirms.

While Whardia is a known black hole in Tunisia - the existence and the location of the prison are not secret – the presence of other possible detention centers for migrants across the country is something that up to now is unknown. According to the report published in 2013 by the High Commissioner on Human Rights of the UN, François Crepeau on Tunisia, there could be 13 secret detention facilities for migrants in the country. The Tunisian Garde National and the Home Office refuse to say if there are other places in which migrants are detained. We know that in the city of Ben Guerdane a barrack of the Garde Nationale has been used for detaining migrants and that in–between Medenine and Ben Guardane IOM is using a warehouse for hosting those migrants rescued at sea by the Tunisian coast guard. Indeed, among the migrants rescued at sea by Tunisian authorities and taken to Tunisia, a selection is made on the basis of the nationality of the people, and some are not even asked by the Croissant Rouge if they want to claim asylum in Tunisia. These migrants are transferred to the center run by IOM waiting for being returned to their countries of origin – although many of them decide to go back to Libya to cross the sea again. However, the fact that secret detention centers exist emerge from conversations with people working in the Croissant Rouge and with migrants as well, but their exact locations are still unknown.

The implementation of an asylum law in Tunisia has been openly supported by UNHCR and the EU, and such a law would avoid at least the arbitrary arrest and detention of statutory refugees in Tunisia. Yet, the ongoing attempt by the EU to externalise the asylum in Tunisia and to fund hosting centers for asylum seekers there shows EU’s exclusive concern for complying with formal standard – the implementation of the asylum law – overlooking instead the effective conditions in which refugees and asylum seekers will be left. The implementation of the asylum law is not a guarantee of the effective measures of protection provided to the refugees – for instance, arbitrary deportations to Algeria could be still used by Tunisian authorities as a speed way for pushing refugees and asylum seekers out of the country.

In addition to this, dozens of people are still at the ex-Choucha camp, that is by now a very dangerous place located a military zone close to the unstable border-post of Ras-Jadir. UNHCR does not even contemplate the existence of those people, who are denied also of the access to the first medical aid. The rejected refugees who are still there demand to be relocated in Europe, as war escapees from Libya and people of humanitarian concern who have been living in the desert since 2011. The externalisation of asylum in Tunisia would multiply situations as the one that happened the 1st of September to the migrants from Choucha deported to Algeria, and the implementation of the asylum law would produce even more similar cases, if this would result into an increase in the number of asylum seekers in Tunisia. The illegality of asylum seekers and refugees in Tunisia is a primary concern, and, however, the legal status is not the only issue. The arbitrary practices of deportation to the Algerian desert and the push back at the frontiers will be more and more frequent if European states will ask Tunisia to manage the asylum claims of people fleeing Libya and will send back asylum seekers to Tunisia coming from third-countries and who are supposed, moreover without proving it, to have transited in Tunisia.