Home Office
UK Border Agency

LIBYA

COUNTRY OF ORIGIN INFORMATION (COI) REPORT

COI Service

19 December 2012

SECURING OUR BORDER CONTROLLING MIGRATION

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Preface

i This Country of Origin Information (COI) Report has been produced by the COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 5 December 2012. The report was issued on 19 December 2012.

ii The Report is compiled wholly from material produced by a wide range of external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The Report aims to provide a compilation of extracts from the source material identified, focusing on the main issues raised in asylum and human rights applications. In some sections where the topics covered arise infrequently in asylum/human rights claims only web links may be provided. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

iv The structure and format of the Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

v The information included in this Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated. Similarly, the absence of information does not necessarily mean that, for example, a particular event or action did not occur.

vi As noted above, the Report is a compilation of extracts produced by a number of information sources. In compiling the Report no attempt has been made to resolve discrepancies between information provided in different source documents though COI Service will bring the discrepancies together and aim to provide a range of sources, where available, to ensure that a balanced picture is presented. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. Reports do not aim to bring consistency of spelling but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term ‘sic’ has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because

they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

viii This Report and the accompanying source material are public documents. All Reports are published on the UKBA website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified are available in electronic form, the relevant weblink has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from COI Service upon request.

ix Reports are published regularly on the top 20 asylum intake countries. Reports on countries outside the top 20 countries may also be produced if there is a particular operational need. UKBA officials also have constant access to an information request service for specific enquiries.

x In producing this Report, COI Service has sought to provide an accurate, up to date, balanced and impartial compilation of extracts of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

Country of Origin Information Service
UK Border Agency
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United Kingdom
Email: cois@homeoffice.gsi.gov.uk
Website: http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's COI material. The IAGCI welcomes feedback on UKBA's COI Reports and other COI material. Information about the IAGCI's work can be found on the Independent Chief Inspector's website at http://icinspector.independent.gov.uk/country-information-reviews/

xii In the course of its work the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at http://icinspector.independent.gov.uk/country-information-reviews/

xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself. The IAGCI can be contacted at:

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Independent Chief Inspector of the UK Border Agency
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Website: http://icinspector.independent.gov.uk/country-information-reviews/

REPORTS ON LIBYA PUBLISHED BETWEEN 5 AND 19 DECEMBER 2012

The Home Office is not responsible for the content of external websites.

Refugee Studies Centre
Forced Migration Review: North Africa and displacement 2011-2012. December 2012
Accessed 17 December 2012

USEFUL NEWS SOURCES FOR FURTHER INFORMATION

A list of news sources with Weblinks is provided below, which may be useful if additional up to date information is required to supplement that provided in this report.

AlertNet (Thomson Reuters) http://www.alertnet.org/thenews/newsdesk/index.htm?news=all
Al-Jazeera http://english.aljazeera.net/indepth/spotlight/libya/
British Broadcasting Corporation (BBC) http://news.bbc.co.uk
Cable News Network (CNN) http://edition.cnn.com/WORLD/?fbid=i0gUtrVnUAy
Canadian Immigration and Refugee Board, National Documentation Packages
http://www2.irb-cisr.gc.ca/en/research/ndp/index_e.htm?id=1140
ECOI.net http://www.ecoi.net/
Integrated Regional Information Networks (IRIN) http://www.irinnews.org/
UNHCR Refworld http://www.unhcr.org/refworld/publisher,UNHCR,COUNTRYPOS,,,0.html

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Background Information

1. GEOGRAPHY

1.01 The official state name is Libya. This was changed from the Great Socialist People's Libyan Arab Jamahiriya on 26 August 2011. (Foreign and Commonwealth Office (FCO), 'Geographical Names and Information', revised January 2012).[1] Libya is the fourth largest country in Africa. It lies on the north coast of Africa, on the Mediterranean Sea, and is bordered by Tunisia, Algeria, Niger, Chad, Sudan and Egypt. It is a low-lying country, much of which is desert. There are mountainous regions in the South and North West and North East. (FCO Country Profile – Libya, 2 April 2012)[2]

1.02 The Central Intelligence Agency (CIA) 'World Factbook, profile of Libya', updated 24 August 2012, estimated that in July 2012 the population was 5,613,380 (including 166,510 non-nationals). It also estimated that the median age was 24.8 years.[3]

1.03 The Encyclopaedia Britannia, in its chapter on Libyan settlement patterns noted:

'Libya's rate of population growth is among the highest in North Africa. The influx of foreign workers into the country since the 1960s accounts for part of this rapid growth, but Libya's annual rate of natural increase (birth rate minus death rate) has also been quite high. In the late 20th century and into the early 21st, death rates steadily declined to substantially below the world average, but birth rates remained relatively high. On the whole, Libya's population is quite young: more than two-thirds of the population is younger than 30 years of age; of that, about one-third is younger than 15. Libya's infant mortality rate is the lowest in continental Africa and far below the global rate, portending continued rapid growth well into the 21st century.' [4]

1.04 The same source continued:

'The two main cities are Tripoli and Banghāzī [Benghazi]. They contain about one-third of the country's entire urban population and about one-fourth of the total population. Tripoli, with a metropolitan population of more than two million people, is the de facto political capital and the most important economic centre. Banghāzī, with its metropolitan area of more than one million people, is the primary city in Cyrenaica. The modern cities have developed around the old city centres (medinas), with satellite towns and villages in surrounding oases. Shantytowns housing recent rural-to-urban migrants are also found near the two cities, although the government has built low-income housing.

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[1] Foreign and Commonwealth Office, Geographical Names and Information, revised January 2012
http://www.fco.gov.uk/resources/en/pdf/publications/geographical-names-and-information
Accessed 3 September 2012

[2] Foreign and Commonwealth Office, Libya Country Profile, 2 April 2012
http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/middle-east-north-africa/libya/?profile=geography Accessed 3 September 2012

[3] CIA World Factbook – Libya, updated 24 August 2012
https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html
Accessed 3 September 2012

[4] Encyclopaedia Britannia, Libya settlement patterns, accessed 4 September 2012. Subscription site, hard copy available on request.

'Other important centres include Gharyān, Al-Khums, Miṣrātah, Tājūrāʾ, Sūq al-Jumʿah, Janzūr, and Al-Zāwiyah in the west and Ajdābiyā, Al-Marj, Al-Bayḍāʾ, Darnah, and Tobruk (Ṭubruq) in the east. These cities are primarily regional administrative and commercial centres with some light industry. Several have petroleum refineries and petrochemical installations.'[5]

1.05 The CIA 'World Factbook, profile of Libya', updated 24 August 2012, stated that 97% of the population was Arab and Berber and the remaining 3% included Greeks, Maltese, Italians, Egyptians, Pakistanis, Turks, Indians, and Tunisians. [6]

[5] Encyclopaedia Britannia, Libya settlement patterns, accessed 4 September 2012. Subscription site, hard copy available on request.
[6] CIA World Factbook – Libya, updated 24 August 2012
https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html
Accessed 3 September 2012

Map

1.06 United Nations Cartographic Section (UNCS) reference map of February 2012:[7]

[7] United Nations Cartographic Section: Libya 2012 http://www.un.org/Depts/Cartographic/map/profile/libya.pdf Accessed 4 September 2012

1.07 Europa World Online, on its Libya country page (accessed 4 September 2012), noted 'Arabic is the official language, although English and Italian are also used in trade. Almost all of the population are Sunni Muslims.'[8]

1.08 The same source also gave details of national public holidays for 2013:

'23 January* (Mouloud, Birth of Muhammad); 17 February (Revolution Day); 1 May (May Day); 5 June* (Leilat al-Meiraj, Ascension of Muhammad); 7 August* (Id al-Fitr, end of Ramadan); 14 October* (Id al-Adha, Feast of the Sacrifice); 23 October (Liberation Day); 4 November* (Muharram, Islamic New Year); 13 November* (Ashoura); 24 December (Independence Day).

'* These holidays are dependent on the Islamic lunar calendar and may vary by one or two days from the dates given.' [9]

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GEOGRAPHIC AND TRIBAL ISSUES

1.09 The International Crisis Group [ICG], in a report of 6 June 2011, entitled 'Popular Protest in North Africa and the Middle East (V): Making sense of Libya', stated:

'Libya's three distinct parts – Tripolitania in the west, Cyrenaica in the east and Fezzan in the south – came together as a united country only in the 1950s. Its divisions are partly geographical. The main towns in the east, west and south are separated by vast expanses of desert, with transport and communications between them limited. For example, there is no railway or motorway – only a highway – connecting the two main cities, Tripoli and Benghazi. The only efficient way to move from one to the other is by air, something far beyond the means of most ordinary Libyans. As a result, many in the east traditionally have felt closer to Egypt than to the west of Libya, a sentiment accentuated by the fact that many Libyan tribes extend into the western regions of their eastern neighbour. In contrast, people from western Libya tend to feel closer to the Maghreb, particularly Tunisia, and – due to old trading links – Europe. Residents of the capital generally consider themselves more outward looking and cosmopolitan than their eastern counterparts; even the Arabic spoken in the two areas differs markedly.

'Strong tribal differences likewise distinguish east from west. Although, as explained above, many tribes extend across regions, tribal structures are more tightly preserved in the east, a reflection of the difficulties successive invading forces and colonisers have had in bringing the eastern hinterlands under their control. The main resistance to Italian invaders occurred in the east, where Libya's best known national hero, Omar Al-Mukhtar, led a guerrilla war. Tribal structures in the east also were sustained thanks to the Sanussi brotherhood – a religious order that established itself in Cyrenaica and enmeshed itself within local tribal structures.'[10]

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[8] Europa World Online (Country Profile: Language, Religion), Subscription only – hard copies available on request. Date accessed 10 May 2011
[9] Europa World Online (Country Profile: Language, Religion), Subscription only – hard copies available on request. Date accessed 10 May 2011
[10] International Crisis Group, Popular Protest in North Africa and the Middle East (V): Making sense of Libya, 6 June 2011

1.10 The Executive Summary and Recommendations of the International Crisis Group report 'Holding Libya Together: Security Challenges after Qadhafi', published 14 December 2011, considered how geographical divisions in the country were demonstrated during the 2011 uprising:

'To much of the world, the NTC [National Transitional Council] was the face of the uprising. It was formed early, spoke with authority and swiftly achieved broad international recognition. On the ground, the picture was different. The NTC was headquartered in the eastern city of Benghazi, a traditional base of anti-regime activity that provided army defectors a relatively secure area of operations, particularly after NATO's involvement. The eastern rebellion was built around a strong kernel of experienced opposition and commanders who found friendly territory in which to defect at relatively low cost and personal risk. But it could only encourage western cities and towns to rise up, not adequately support them. At key times, army components that defected, stuck on the eastern frontlines, by and large became passive observers of what occurred in the rest of the country. In the eyes of many, the rebel army looked increasingly like an eastern, not a truly national force. As for the NTC, focused on obtaining vital international support, it never fully led the uprising, nor could it establish a substantial physical presence in much of the rest of the country.

'In the west, rebels formed militias and military brigades that were essentially autonomous, self-armed and self-trained, benefiting in most instances from limited NTC and foreign government support. Some had a military background, but most were civilians – accountants, lawyers, students or labourers. When and where they prevailed, they assumed security and civilian responsibility under the authority of local military councils. As a result, most of the militias are geographically rooted, identified with specific neighbourhoods, towns and cities – such as Zintan and Misrata – rather than joined by ideology, tribal membership or ethnicity; they seldom possess a clear political agenda beyond securing their area.

'The situation in Tripoli was different and uniquely dangerous. There, victory over Qadhafi forces reflected the combined efforts of local residents and various militias from across the country. The outcome was a series of parallel, at times uncoordinated chains of command. The presence of multiple militias has led to armed clashes as they overlap and compete for power.' [11]

See also Ethnic Groups

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http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/North%20Africa/107%20Popular%20Protest%20in%20North%20Africa%20and%20the%20Middle%20East%20V%20-%20Making%20Sense%20of%20Libya.ashx Accessed 7 June 2011

[11] International Crisis Group, Holding Libya Together: Security Challenges After Qadhafi (Executive Summary and Recommendations), 14 December 2011 http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/North%20Africa/Holding%20Libya%20Together%20-%20Security%20Challenges%20after%20Qadhafi.pdf Accessed 20 December 2011

THE EAST

Islamism

1.11 The ICG, in a report of 6 June 2011, entitled Popular Protest in North Africa and the Middle East (V): Making sense of Libya, stated, 'The east also has been heavily associated with Islamism, its population reputed for its more traditional and socially conservative orientation.' It went on to say:

'It is the region where the Sanussi order was established and flourished… [which] was a revivalist movement that sought to combine the esoteric spiritual teachings of the Sufi Islamic tradition with elements of religious reform…

'In more recent decades, the east also provided most recruits for various Islamist opposition currents, both moderate (such as the Libyan Islamic Group, the local arm of the Muslim Brotherhood) and militantly jihadi (such as the Libyan Islamic Fighting Group). [12]

State policy (under Gaddafi) towards the east

1.12 The same source considered Gaddafi's policy towards the eastern side of Libya:

'From the outset, Qaddafi has been wary of the eastern regions. The feeling is rooted in centuries-old tribal rivalries between the Qadadfa and some of the larger tribes in the east, the eastern region's history of rebellion against colonialism and especially its close association with the monarchy that Qaddafi and his colleagues overthrew. It was exacerbated when the regime uncovered several militant Islamist cells there in the late 1980s; in 1989, security forces rounded up thousands of suspected Islamists whom Qaddafi described as 'more dangerous than AIDS'. Later, in the mid-1990s, after militant groups led an insurgency, the regime arrested thousands and turned the east into a virtual security zone with a heavy security presence.

'This painful history may help to explain easterners' belief that Qaddafi's regime has kept their region in a perpetual state of underdevelopment as punishment for its rebelliousness and starved of funds as investment focused almost exclusively in the north west. Local residents have complained that infrastructure was so poor that raw sewage was pumped straight into Benghazi's main lake, where families' picnic, and that, despite the country's vast oil wealth, some eastern residents have been forced to live in small shanty towns. After the 2011 uprising broke, a local historian in Benghazi said, "the whole city has been neglected for more than 30 years.… The money goes to Tripoli. I guess we are used to it". In fact, however, shanty towns are to be found in many areas of Libya; the east has no monopoly. And the statistical evidence, such as it is, does not really bear out easterners' claims of suffering discriminatory treatment where public investment is concerned.

[12] International Crisis Group, Popular Protest in North Africa and the Middle East (V): Making sense of Libya, 6 June 2011 http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/North%20Africa/107%20Popular%20Protest%20in%20North%20Africa%20and%20the%20Middle%20East%20V%20-%20Making%20Sense%20of%20Libya.ashx Accessed 7 June 2011

'Nonetheless, the conviction that they have suffered discriminatory treatment has contributed to some (and possibly many) easterners' strong resentment at what they consider, rightly or wrongly, is their status as second-class citizens…

'Aware of these currents of opinion, the regime has sought in the past few years to focus more attention on the east. Aside from releasing Islamist detainees, Saif Al-Islam [Gaddafi] promised a major eco-friendly tourism zone in the Jebel Akhdar (Green Mountains) as well as development projects. But, due to administrative and bureaucratic delays, wrangling within the regime and, most importantly, lack of political will, none of these projects materialised.' [13]

See also Ethnic groups: Tribal and regional divisions

TRANSPORT

Roads

1.13 The Economic Intelligence Unit's 2008 Country Profile on Libya, stated, 'Libya has an extensive and reliable network of about 25,000 km of tarmac roads. Most major towns and villages, including the desert oases, are accessible by car… The country's most important road link is the 1,822-km coastal road from Tunisia through Libya, via Tripoli and Benghazi, to the Egyptian border. A second major artery runs from the coastal road at Tripoli down to Sebha in the south.'[14]

Railways

1.14 The same report added, 'There has been no rail service in Libya since 1964, when the line between Benghazi and Barce (Al Marj) was abandoned.' [15]

International airports

1.15 The Foreign and Commonwealth Office Travel advice to Libya updated 5 October 2012, noted, 'The airports in Tripoli and Benghazi are open and there are numerous commercial flights including to and from Europe. Direct UK flights by British Airways started on 1 May and Afriqiyah Airways on 3 July 2012.'[16]

For information about control of Tripoli airport see Militia groups para 10.04

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[13] International Crisis Group, Popular Protest in North Africa and the Middle East (V): Making sense of Libya, 6 June 2011http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/North%20Africa/107%20Popular%20Proest%20in%20North%20Africa%20and%20the%20Middle%20East%20V%20-%20Making%20Sense%20of%20Libya.ashx Accessed 7 June 2011

[14] Economic Intelligence Unit, 2008 Country Profile on Libya 21 November 2008. Accessed 18 July 2011 Subscription only.

[15] Economic Intelligence Unit, 2008 Country Profile on Libya 21 November 2008. Accessed 18 July 2011 Subscription only.

[16] FCO, Travel Advice to Libya, 3 December 2012 http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/middle-east-north-africa/libya Accessed 16 January 2012

2. ECONOMY

2.01 The Central Intelligence Agency (CIA) 'World Factbook, profile of Libya', updated 24 August 2012, gave details of the economy:

'The Libyan economy depends primarily upon revenue from hydrocarbons, which contribute about 95% of export earnings, 65% of GDP [gross domestic product], and 80% of government revenue. Substantial revenue from the energy sector coupled with a small population give Libya one of the highest per capita GDPs in Africa, but little of this income flowed to the lower orders of society. Libya in the past five years made progress on economic reform as part of a broader campaign to reintegrate the country into the international fold… The service and construction sectors, which account for roughly 20% of GDP, expanded over the past five years and could become a larger share of GDP after political volatility subsides. Climatic conditions and poor soils severely limit agricultural output, and Libya imports about 75% of its food. Libya's primary agricultural water source remains the Great Manmade River Project, but significant resources will be needed in desalinization to meet growing water demands.' [17]

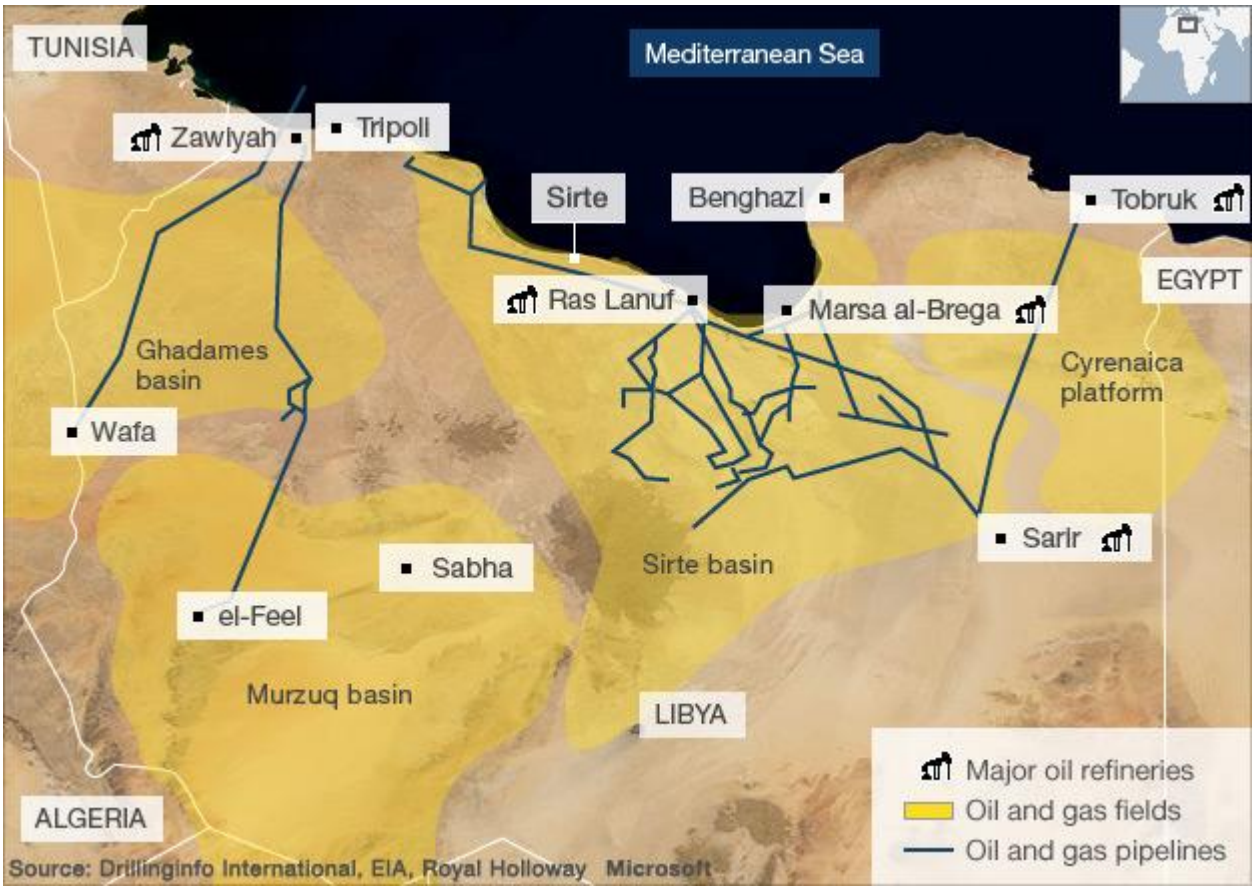
2.02 The Economist Intelligence Unit, in its August 2012 Country Report on Libya, stated:

'We estimate that real GDP contracted by 27.9% in 2011 owing to the effects of the civil war on oil production and exports. The pace of the recovery in oil output since the end of the conflict has surpassed expectations. Concerns about restarting production from older fields have proven to be unfounded and production has increased steadily, reaching 15m barrels/day (b/d). However, there is a risk of disruptions to production as witnessed in early July when output reportedly fell by 300,000 b/d owing to political protests. We expect growth to rebound to 34.4% in 2012 and to average 9.9% a year over the remainder of the forecast period.

'Global demand for Libyan crude oil could be boosted by the halt of Iranian oil supplies to EU member states in July. However, Libyan and Iranian oil have different properties and so will be difficult to substitute. Oil prices will experience some volatility over the forecast period owing to a high geopolitical risk premium and the downside risks associated with the possible collapse of the euro zone.' [18]

2.03 The BBC News, Key maps of Libya, accessed 4 September 2012, shows that 'The Sirte basin is responsible for most of Libya's oil output. It contains about 80% of the country's proven oil reserves, which amount to 44 billion barrels, the largest in Africa.'

[17] CIA World Factbook – Libya, updated 24 August 2012
https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html
Accessed 3 September 2012
[18] Economist Intelligence Unit, Country Report: Libya, August 2012. Subscription only, hard copy available on request.



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2.04 The NOREF (Norwegian Peacebuilding Resource Centre) report, 'Balanced on a knife-edge: the future of Libya's new state', published September 2012, noted:

'Although the Arabian Oil Company, which handles oil in the Eastern Sirtica Basin and in Cyrenaica, has recently threatened to break away from the National Oil Company, as part of the threat of a Cyrenaican project for autonomy, the general attitude inside Libya is resolutely opposed to such initiatives. The real problem in the immediate future, of course, is security. Without it, foreign oil and oil service companies will not return. Nonetheless, ENI [Italian multinational oil and gas company] a major operator in Libya, is back and this will encourage others to join it, especially now the Qaddafi regime is gone and the political operating environment seems far more welcoming after the successful outcome of the electoral process.' [20]

2.05 The United States Department of State, Country Report on Human Rights Practices 2011, Libya, published 24 May 2012, stated:

'The minimum wage was 250 dinars (approximately $200) per month. Although some public sector employees, such as professors, received pay increases in recent years, a freeze imposed more than a decade before continued to depress earnings. The Qadhafi

[19] BBC News, Key Maps of Libya http://www.bbc.co.uk/news/world-africa-12572593 , Accessed 5 December 2012
[20] NOREF, Balanced on a knife-edge: the future of Libya's new state, September 2012. http://www.peacebuilding.no/var/ezflow_site/storage/original/application/5e0dd27504ad1372948624338c50ae0d.pdf Accessed 4 December 2012

government paid an additional pension of 90 dinars ($72) for a single person, 130 dinars ($104) for a married couple, and 180 dinars ($144) for a family of more than two. The interim government generally continued these payment practices, except when wages were frozen for periods during the conflict. The government heavily subsidized rent and utilities, and government workers received an additional 130 dinars ($104) per month for food staples during the year. One-third of Libyans lived below the poverty line.' [21]

INFLATION

2.06 The Economist Intelligence Unit, in its August 2012 Country Report on Libya, noted that new official data for the first quarter of 2012 showed that prices accelerated by an average of 19.5%.[22]

CURRENCY AND EXCHANGE RATES

2.07 Reuters, in a report of 13 January 2012 entitled Libyan central bank starts withdrawing old currency, stated:

'Libya's central bank has started withdrawing old currency in an apparent attempt to restore liquidity into the country's banking system after it found that the vast majority of funds are being kept outside banks.

'"One of the biggest implications in the economy is the increase of the percentage of money in the market outside the banks which is in excess of 15 billion dinars ($12 billion) or 96 per cent of available money," Saddeq Omar Elkaber, governor of the central bank told reporters on "The bank has started printing a new Libyan currency to replace exist (sic) notes," he added.

'ElKaber said that the central bank has set a timeline for withdrawing the old currency starting with the fifty dinar note, the highest value banknote…This measure is an indication that the Central Bank wants to return confidence to Libya's banking system, which suffered severely during the civil war.'[23]

2.08 The Economist Intelligence Unit, in its August 2012 Country Report on Libya, stated:

'The Libyan dinar [LD] is pegged to the SDR [IMF's (International Monetary Fund) special drawing rights] and tightly managed. In 2011 international sanctions prevented the Central Bank from selling foreign reserves, which resulted in a parallel market, with the dinar trading at two-thirds below its official value, according to the IMF. The Fund's latest report states that the Central Bank bought the equivalent of US$3bn between December 2011 and March 2012 (equivalent to 25% of currency in circulation), eliminating the black market. The peg to the SDR meant that the official rate

[21] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 11 September 2012
[22] Economist Intelligence Unit, Country Report: Libya, August 2012. Subscription only, hard copy available on request.
[23] Reuters, Libyan central bank starts withdrawing old currency, 13 January 2012 http://www.reuters.com/article/2012/01/13/withdraw-currency-libya-idUSL6E8CD43320120113 Accessed 16 January 2012

appreciated against the dollar, averaging LD1.22:US$1 in 2011. Libya's stock of billions of dollars of foreign reserves will provide ample support for the currency. The Central Bank has indicated that the exchange rate will be fixed against the SDR for up to three years.' [24]

2.09 XE.com (accessed 14 November 2012) stated that the exchange rate was 1.98 Libyan Dinar per GB £. [25]

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3. HISTORY

EARLY HISTORY TO 1911

3.01 The Foreign and Commonwealth Office, Country Profile of Libya, reviewed 2 April 2012, stated, 'The Arabs conquered North Africa in the seventh century AD. In the following centuries, most of the indigenous peoples adopted Islam and the Arabic language and culture. The Ottoman Turks conquered the area in the 16th century. The provinces of Cyrenaica (now eastern Libya), Tripolitania (west) and Fezzan (south) remained part of their empire - although at times virtually autonomous - until Italy invaded in 1911.' [26]

ITALIAN OCCUPATION

3.02 The same source continued:

'[Following their invasion in 1911] Italian control over territory outside Tripoli remained weak until the late 1920s and resistance subsided only after the execution of Omar Mukhtar in 1931.

'In 1934, Italy adopted the name 'Libya' (used by the Ancient Greeks for all of North Africa, except Egypt) as the official name of the colony. Libyan resistance to Italian occupation between the two World Wars was led by the Sanussiya religious brotherhood. Its head, Sidi Idris al-Senussi, was recognised by the Italians as Emir of Cyrenaica, but had lived in exile in Egypt since 1922. He returned to Libya in 1942, where he was subsequently invited to become Emir of Tripolitania. From 1943 to 1951, Tripolitania and Cyrenaica were under British administration; the French controlled Fezzan. Under the terms of the 1947 peace treaty with the Allies, Italy relinquished all claims to Libya.' [27]

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[24] Economist Intelligence Unit, Country Report: Libya, August 2012. Subscription only, hard copy available on request.
[25] XE.com http://www.xe.com/ucc/convert/?Amount=1&From=GBP&To=LYD Accessed 14 November 2012
[26] The Foreign and Commonwealth Office, Country Profile of Libya, reviewed 2 April 2012 http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/middle-east-north-africa/libya/?profile=history Accessed 11 May 2012
[27] The Foreign and Commonwealth Office, Country Profile of Libya, reviewed 2 April 2012 http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/middle-east-north-africa/libya/?profile=history Accessed 11 May 2011

SECOND WORLD WAR

3.03 'Libya: A Country Study', edited by Helen Chapin Metz, Washington: GPO for the Library of Congress, 1987', in the chapter 'The Desert War', noted:

'North Africa was a major theatre of operations in World War II, and the war shifted three times across the face of Cyrenaica, a region described by one German general as a "tactician's paradise and a quartermaster's hell" because there were no natural defense positions between Al Agheila and Al Alamein to obstruct the tanks that fought fluid battles in the desert like warships at sea, and there was only one major highway on the coast along which to supply the quick-moving armies… Late in October [1942] the Eighth Army, under the command of General Bernard Montgomery, broke through the Axis lines at Al Alamein in a massive offensive that sent German and Italian forces into a headlong retreat. The liberation of Cyrenaica was completed for the second time in November [1942]. Tripoli fell to the British in January 1943, and by mid-February the last Axis troops had been driven from Libya.'[28]

3.04 The International Committee of the Red Cross, in a news release of 6 April 2011, entitled 'Libya: unexploded munitions pose major risk for civilians', noted, 'Libya's struggle against anti-personnel and anti-tank mines dates back to the Second World War.'[29]

3.05 Ian Martin, the UN Secretary-General's Special Representative for Libya stated in an interview of 6 August 2012, 'Libya has a colossal problem of mines and unexploded ordnance. It actually has a Second World War problem.' [30]

1949 UNDER KING IDRIS UNTIL THE MILITARY COUP OF SEPTEMBER 1969

3.06 The Foreign and Commonwealth Office, Country Profile of Libya, reviewed 2 April 2012, continued:

'On 21 November 1949, the UN [United Nations] General Assembly passed a resolution stating that Libya should become independent before 1 January 1952. Sidi Idris represented Libya in the subsequent UN negotiations. When Libya declared its independence on December 24, 1951, it was the first country to do so through the United Nations. Libya was proclaimed a constitutional and hereditary monarchy under the King Idris I (formerly Sid Idris).

'The discovery of significant oil reserves in 1959 and the subsequent income from petroleum sales enabled what had been one of the world's poorest countries to become

[28] US Library of Congress: Libya: A Country Study, edited by Helen Chapin Metz, 1987 http://countrystudies.us/libya/24.htm http://countrystudies.us/libya/24.htm Accessed 3 September 2012

[29] Libya: unexploded munitions pose major risk for civilians, 6 April 2012 http://www.icrc.org/eng/resources/documents/news-release/2011/libya-news-2011-04-06.htm Accessed 3 September 2012

[30] UN News Centre, Interview with Ian Martin, Secretary-General's Special Representative for Libya, 6 August 2012 http://www.un.org/apps/news/newsmakers.asp?NewsID=64 Accessed 3 September 2012

extremely wealthy, as measured by per capita GDP. King Idris ruled the Kingdom of Libya until he was overthrown in a military-led coup on 1 September 1969.' [31]

1 SEPTEMBER 1969 – 2011 LIBYA UNDER COLONEL MUAMMAR AL QADHAFI [AKA GADDAFI]

3.07 The same source continued:

'The new regime, headed by the Revolutionary Command Council (RCC), abolished the monarchy and proclaimed the new Libyan Arab Republic. Col. Muammar Al Qadhafi emerged as leader of the RCC and eventually as de facto head of state.

'The ideological basis of Qadhafi was his own political philosophy, the Third Universal Theory, as set out in his 'Green Book'. Drawing heavily on Islam, socialism and Bedouin tradition, the Third Universal Theory called for a system of direct rule by the people through a series of committees or 'Jamahiriya'. Qadhafi intended this as an alternative to capitalism and communism, arguing that it is applicable to all countries.

'An early objective of the Qadhafi regime was the withdrawal of all foreign military installations from Libya. Following negotiations, British military bases at Tobruk and nearby El Adem closed in March 1970, and U.S. facilities at Wheelus Air Force Base near Tripoli closed in June 1970. That July, the Libyan Government ordered the expulsion of several thousand Italian residents. By 1971, libraries and cultural centres operated by foreign governments were closed. Libya claimed leadership of Arab and African revolutionary forces and sought active roles in various international organisations. In the late 1970s, Libyan embassies were re-designated as "people's bureaus", and aided by Libyan religious, political, educational, and business institutions overseas, exported Qadhafi's revolutionary philosophy abroad.

'In March 1979, Qadhafi renounced virtually all his positions in government and thereafter became known by the title "Leader of the Revolution and Supreme Commander of the Armed Forces." There were at least six failed coup plots during Qadhafi's period in power.'[32]

3.08 Europa World Online in its Libyan Country Profile, historical content, accessed 11 May 2011, observed:

'The Arab Socialist Union (ASU) was established in June 1971 as the country's sole political party. People's Congresses and Popular Committees were formed, and an undertaking was made to administer the country in accordance with Islamic principles. The General National Congress of the ASU (which comprised members of the RCC, leaders of the People's Congresses and Popular Committees, and of trade unions and professional organizations) held its first session in January 1976; it was subsequently restyled the General People's Congress (GPC).

'In March 1977 the GPC endorsed constitutional changes, recommended by Qaddafi, whereby the official name of the country was changed to the Socialist People's Libyan

[31] The Foreign and Commonwealth Office, Country Profile of Libya, reviewed 2 April 2012 http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/middle-east-north-africa/libya/?profile=history Accessed 11 May 2011
[32] The Foreign and Commonwealth Office, Country Profile of Libya, reviewed 2 April 2012 http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/middle-east-north-africa/libya/?profile=history Accessed 11 May 2011

Arab Jamahiriya. Power was vested in the people through the GPC and its constituent parts. The RCC was dissolved, and a General Secretariat of the GPC (with Qaddafi as Secretary-General) was established. The GPC elected Qaddafi as Revolutionary Leader of the new state. The Council of Ministers was replaced by a General People's Committee, initially with 26 members—each a secretary of a department.

'In March 1979 Qaddafi resigned from the post of Secretary-General of the General Secretariat of the GPC to devote more time to 'preserving the revolution'. The creation in early 1984 of the post of Secretary for External Security and of an office, attached to the Secretariat for Foreign Liaison, to 'combat international terrorism', combined with repressive measures to curb the activity of dissidents, apparently reflected Qaddafi's increasing sensitivity to the growth of opposition groups—principally the National Front for the Salvation of Libya (NFSL), which he accused foreign governments of fostering. In 1986 the country's official name was changed to the Great Socialist People's Libyan Arab Jamahiriya.'[33]

3.09 For more detailed information about Gaddafi's political system see the Carnegie Endowman for International Peace's briefing on Libya, 2008.[34]

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The Green Book

3.10 Freedom House, in its report published 12 May 2011, Freedom in the World 2011 - Libya, noted, 'In the early years of his rule, al-Qadhafi published a multivolume treatise, the Green Book, in which he expounded his political philosophy and ideology – a fusion of Arab nationalism, socialism, and Islam… It is illegal for any political group to oppose the principles of the 1969 revolution, which are laid out in the Green Book, although market-based economic changes in recent years have diverged from the regime's socialist ideals.'[35]

The Men of the Tent

3.11 The International Crisis Group, in a report of 6 June 2011, entitled Popular Protest in North Africa and the Middle East (V): Making sense of Libya noted:

'Qaddafi's informal network of advisers and trusted confidants sometimes referred to as Rijal al-Khaimah ('the Men of the Tent'), has been a key feature of the regime since the revolution. This inner circle comprises members of Qaddafi's own family and of his particular branch of the Qadadfa tribe. Important figures from the family in this circle include his cousins, Ahmed Qadhaf Al-Dam, who has long been responsible for relations with Egypt, and Ahmed Ibrahim, the former Deputy Secretary of the General People's Congress and current head of the World Centre for Research and Studies on the Green Book.

[33] Europa World Online (Country Profile: Historical Context), Subscription only – hard copies available on request. Date accessed 10 May 2011
[34] Carnegie Endowman for International Peace, 2008 Briefing on Libya. www.carnegieendowment.org/files/Libya_APS.doc Accessed 3 September 2012
[35] Freedom House, Freedom in the World 2011 – Libya, 12 May 2011 http://www.unhcr.org/refworld/country,,,,LBY,,4dcbf517c,0.html Accessed 16 May 2011

'This network also comprises key individuals who carried out the revolution with Qaddafi and belonged to the original Revolutionary Command Council…Others within this network consist of loyal individuals whose personal connections to Qaddafi often date back to before the revolution.

'This group has seen relatively little new blood and thus operates rather like an old boys' club. The principal exceptions have been Qaddafi's sons, who have grown in importance as they have come of age.' [36]

The 1996 Abu Salim Prison Massacre

3.12 Human Rights Watch, in its 2011 World Report: Libya, published 24 January 2011, stated:

'The authorities have not made public any account of the June 1996 Abu Salim prison massacre in which 1,200 prisoners were killed, nor have they held anyone responsible. On September 6, 2009, the acting secretary of defense established a seven-judge investigation panel, headed by a former military tribunal judge, to conduct an investigation. The panel's final report was due in March 2010, but it remains unpublished at this writing. Libyan authorities offered compensation of 200,000 dinars (US$162,000) to families who agree to relinquish all legal claims, but most of the victims' families in Benghazi, Libya's second-largest city, refused to accept compensation on those terms and continued to call for criminal accountability. In June families reported that local authorities and security officials were pressuring them to relinquish their compensation claims.'[37]

3.13 The BBC News in a report of 28 September 2011, 'Libyan "prison massacre grave" revives painful memories', describes how a mass grave, possibly containing those killed at the prison, had been discovered:

'The discovery of what is believed to be a mass grave for more than 1,200 prisoners killed at Tripoli's Abu Salim jail in 1996 has evoked painful memories for those who have waited years to learn the fate of loved ones, the BBC's Rana Jawad reports from Tripoli.

'The site is a massive, arid plot of land scattered with dry shrubs that stretches out behind the outer concrete walls of Tripoli's Abu Salim prison - a place long associated with the horrors of incarceration. Some recently uncovered bone fragments are strewn in several locations.

'It is here that officials think some 1,270 prisoners were buried after what is known as the Abu Salim massacre, one of the darkest chapters of Col Gaddafi's rule.'[38]

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[36] International Crisis Group, Popular Protest in North Africa and the Middle East (V): Making sense of Libya, 6 June 2011http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/North%20Africa/107%20Popular%20Proest%20in%20North%20Africa%20and%20the%20Middle%20East%20V%20-%20Making%20Sense%20of%20Libya.ashx Accessed 7 June 2011

[37] Human Rights Watch, World Report 2011: Libya, 24 January 2011 http://www.hrw.org/en/world-report-2011/libya Accessed 31 May 2011

[38] BBC News, Libyan 'prison massacre grave' revives painful memories, 28 September 2011 http://www.bbc.co.uk/news/world-africa-15058755 Accessed 12 December 2011

3.14 The United Nations Department of Public Information, in an media release of 4 November 2011, called Activities of the Secretary-General in Libya on 2 November [2011], noted, 'The Secretary-General then visited a mass-grave site near the capital and met with the survivors and families of victims of a massacre that had been carried out by the Khamis Brigade on the eve of their retreat from Tripoli. The victims were summarily executed in a warehouse adjacent to the brigade's headquarters by hand grenades and automatic weapons fire. The building was also set on fire.' [39]

The rise to prominence of Saif al-Islam Gaddafi

3.15 Europa World Online in its Libyan Country Profile, recent developments, accessed 11 May 2011, described the rise of Colonel Gaddafi's son Seif (Saif al-Islam Gaddafi):

'In October 2009 Col Qaddafi asked the country's senior administrators to find an official role not limited to a four-year mandate for Seif al-Islam in order to allow him to continue the implementation of his reform programme. The following day it was announced that Seif al-Islam would be appointed as co-ordinator of social and popular committees, a role which elevated Qaddafi's son to the second most powerful position in the Libyan leadership. The decision was widely interpreted as the formal approval by the Libyan authorities of Seif al-Islam as the successor to his father.

'In December 2009, in a move widely viewed as an attempt by Libya to open up to the west, Seif al-Islam's Human Rights Association published a report detailing wide-ranging examples of the use of torture, wrongful imprisonment and other human rights abuses, and criticizing the Libyan state's dominance of the media.'[40]

See also Annex A: Chronology of major events and the capture of Saif al-Islam Gaddafi and his forthcoming trial para 3.35.

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ANTI-GADDAFI UPRISING

3.16 The Human Rights Watch World Report 2012 – Libya, released on 22 January 2012 and covering events of 2011, gave a summary of the uprising:

'On February 15, 2011, anti-government protests began in Libya's second-largest city, Benghazi, following popular uprisings in neighbouring Tunisia and Egypt. The protests were triggered by the arrests of government critics, including a lawyer representing the families of an estimated 1,200 prisoners who had been killed at Tripoli's Abu Salim prison in 1996.

'Government forces responded by arresting and attacking peaceful demonstrators in Benghazi and other eastern cities. The government used excessive force when protests spread to the western cities of Tripoli, the capital, Misrata, Zawiya, Zuwara, and Zintan. Human Rights Watch documented the government's lethal use of live fire on peaceful

[39] UN Dept Public Information, Activities of the Secretary-General in Libya on 2 November, 4 November 2011 http://www.un.org/News/Press/docs/2011/sgt2817.doc.htm Accessed 14 December 2011

[40] Europa World Online (Country Profile: Recent Developments), Subscription only – hard copies available on request. Date accessed 10 May 2011

protesters, as well as the arrest and disappearance of hundreds of people suspected of involvement in anti-government demonstrations.

'The international response to Gaddafi's crackdown was swift. On February 25 the United Nation Human Rights Council condemned "gross and systematic" violations in Libya and called for the creation of a commission of inquiry. The next day the UN Security Council unanimously passed Resolution 1970, imposing an arms embargo, sanctions on Gaddafi and key members of his family and government, and referring the situation in Libya to the International Criminal Court (ICC). The resolution gave the ICC jurisdiction over war crimes and crimes against humanity committed in Libya from February 15. In June ICC judges authorized arrest warrants for crimes against humanity against three suspects: Muammar Gaddafi, his son Saif al-Islam, and Gaddafi's intelligence chief and brother-in-law Abdullah Sanussi. Muammar Gaddafi died on October 20 …

'Faced with violent government repression, the uprising rapidly evolved into an armed conflict, especially after opposition forces seized arms from abandoned government military depots in eastern Libya. On March 17, as Gaddafi's military forces closed in on Benghazi, the key opposition stronghold, the UN Security Council passed Resolution 1973 imposing a no-fly zone over Libya and authorizing the use of "all necessary measures"—with the exception of an occupation force—to protect civilians. This led to NATO's Operation Unified Protector, with a mandate to protect civilians, which prevented Gaddafi forces from retaking Benghazi and eastern Libya. The NATO mission expanded over time beyond its mandate to give air support for anti-Gaddafi forces. France, Qatar, the United Arab Emirates, and possibly other governments provided weapons and training to opposition fighters. Qatar later said it had deployed hundreds of its own forces on the ground.' [41]

3.17 The International Crisis Group, in a report of 6 June 2011, entitled 'Popular Protest in North Africa and the Middle East (V): Making sense of Libya', stated:

'Much remains to come to light about the way in which the anti-Qaddafi rising began. It is widely supposed that the protests started on 15-16 February and that the initial locus of the revolt was Benghazi and certain other towns in the east of the country. The first impetus came from a call broadly circulated on internet and social networking sites to demonstrate on a "Day of Rage", 17 February, the anniversary of the demonstrations against the Danish cartoons of the Prophet which took place in 2006 and degenerated into riots in which ten demonstrators were killed by security forces and scores were injured. It has been suggested that what triggered the demonstrations in 2011 was the regime's repressive attempts to pre-empt them, notably by arresting a well-known lawyer and human rights activist, Fathi Terbil, in Benghazi on 15 February.

'That the regime sought to pre-empt the "Day of Rage" protests is clear. But this initially took the form of a political manoeuvre rather than repression, for Qaddafi himself called for a rally against the government on 17 February in what seems to have been, once again, an attempt to co-opt popular unrest by placing himself at its head and channelling it into demonstrations that targeted government officialdom rather than his own authority and the regime as a whole. Terbil apparently was arrested on a quite separate

[41] Human Rights Watch, World Report 2012 – Libya, 22 January 2012 http://www.hrw.org/sites/default/files/reports/wr2012.pdf Accessed 23 January 2012

matter…News of his arrest triggered a small protest in Benghazi on 16 February, and several protesters were arrested.

'Subsequent Western media coverage has identified this incident with the explicitly anti-regime demonstrations that got under way in the days that followed and has encouraged the perception that the anti-Qaddafi movement originated in the east. But, as informed Libyan sources told Crisis Group, "a big misconception is that the Libyan uprising was organised in the east; in fact, the online protest calls originated from Libyans abroad, in Switzerland and the United Kingdom"…

'In addition to security measures, the regime deployed other means to pre-empt the protest movement, including mobilising supporters in pro-regime rallies. In addition, Qaddafi warned tribal leaders not to allow their youth to engage in protests and toured the country, seeking to show a more sympathetic face by listening to popular demands. Despite this, once demonstrations began in Benghazi, they quickly spread to other eastern towns, including Derna, Tobruk and Al-Baida, while security and military personnel in the region either fled or joined them…

'Like the regime itself, many observers expected Libyans in the west of the country to follow the example of the east. Indeed, although the west has fared better under Qaddafi, the grievances of easterners are not unique; to a large degree, they are shared in Tripoli and other western towns. Yet, although some of these did in fact rise up, the protests in the capital were on a relatively small scale…

'Determination to hold on at all cost was a reason why Qaddafi resorted to brutal violence against protesters, including firing at unarmed civilians during funerals for those killed by the regime. There also have been largely uncorroborated reports, especially on Al Jazeera television, that the regime attacked hospitals, destroyed blood banks, raped women and executed the injured. Qaddafi's regime has long been cited by international human rights groups as employing brutal techniques against those who have dared to challenge it.

'At the same time, much Western media coverage has from the outset presented a very one-sided view of the logic of events, portraying the protest movement as entirely peaceful and repeatedly suggesting that the regime's security forces were unaccountably massacring unarmed demonstrators who presented no real security challenge. This version would appear to ignore evidence that the protest movement exhibited a violent aspect from very early on. While there is no doubt that many and quite probably a large majority of the people mobilised in the early demonstrations were indeed intent on demonstrating peacefully, there is also evidence that, as the regime claimed, the demonstrations were infiltrated by violent elements. Likewise, there are grounds for questioning the more sensational reports that the regime was using its air force to slaughter demonstrators, let alone engaging in anything remotely warranting use of the term 'genocide'. That said, the repression was real enough, and its brutality shocked even Libyans. It may also have backfired, prompting a growing number of people to take to the streets…

'Qaddafi's special security forces, which have always been far stronger than the regular army, are dominated by the leader's family and tribe, plus those allied tribes (such as the Magarha) that have remained loyal to the regime. As such, their fate is almost entirely enmeshed with that of Qaddafi and his regime, and they are likely to defend the regime to the last. Similarly, there is little reason to expect Qaddafi's inner circle to force

him out; for the most part, they have known him since his schooldays, and their power is derived from their personal connection to him. Again in contrast to Tunisia and Egypt, there does not appear to be an institution capable of forcing Qaddafi out and preserving the state while overseeing some kind of transition process.' [42]

3.18 The Human Rights Watch 'World Report 2012 – Libya', released on 22 January 2012 and covering events of 2011 commented on the armed conflict:

'From February until August, when Tripoli fell, Gaddafi forces arrested thousands, if not tens of thousands, of people across the country, including anti-government protesters, suspected government critics, and people alleged to have provided information to international media and human rights organizations. Many of those arrested were fighters, but many others were civilians, including doctors, journalists, and people caught in areas where fighting took place. The Gaddafi government provided no information regarding how many people it had arrested, where they were being held, or the charges they faced. Detainees who were released from government custody during and after the conflict reported frequent torture, including beatings with wooden sticks and plastic pipes, and the use of electric shock. Some prisoners apparently died from the abuse or the subsequent lack of medical care.

'In the fighting, government forces repeatedly launched indiscriminate attacks with mortars and GRAD rockets into civilian-inhabited areas, especially in Misrata and towns of the western mountains. The coastal city of Misrata suffered a two-month siege with near daily attacks that killed scores of civilians and for a while blocked delivery of humanitarian aid. Human Rights Watch confirmed the government's use in Misrata of mortar-fired cluster munitions in residential areas, and the use of "parachute" anti-vehicle mines fired by GRAD rockets.

'The government laid thousands, perhaps tens of thousands, of antipersonnel and anti-vehicle landmines in various parts of Libya, including in Ajdabiya, Brega, Misrata and the western mountains. Human Rights Watch confirmed the use of five types of landmines in six separate locations, which will likely endanger civilians for many years. The Brazilian T-AB-1 antipersonnel landmine appears to have been the most frequently used mine; its low metal content makes the mine more difficult to detect and clear.' [43]

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3.19 The BBC News 'Timeline: Libya', updated 21 October 2012, provided a brief overview of the conflict:

'2011 February - Arrest of human rights campaigner sparks violent protests in eastern city of Benghazi that rapidly spread to other cities. Authorities use aircraft to attack protestors. Many Libyan diplomats resign in protest. Gaddafi insists that he will not quit, and remains in control of the capital, Tripoli.

[42] International Crisis Group, Popular Protest in North Africa and the Middle East (V): Making sense of Libya, 6 June 2011 http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/North%20Africa/107%20Popular%20Protest%20in%20North%20Africa%20and%20the%20Middle%20East%20V%20-%20Making%20Sense%20of%20Libya.ashx Accessed 7 June 2011

[43] Human Rights Watch, World Report 2012 – Libya, 22 January 2012 http://www.hrw.org/sites/default/files/reports/wr2012.pdf Accessed 23 January 2012

'2011 March - UN Security Council authorises a no-fly zone over Libya and air strikes to protect civilians, over which NATO assumes command. London conference of world powers, European Union and Arab League calls on Col Gaddafi to quit.

'Backed by extensive NATO air raids, Libyan rebels initially capture territory but are then forced back by better-armed pro-Gaddafi forces. Rebels ask West for arms.

'Foreign Minister Moussa Koussa flies to Britain in protest at attacks on the rebels. Other senior figures defect in subsequent weeks.

'2011 May - International Criminal Court seeks arrest of Gaddafi for crimes against humanity following 'widespread and systematic attacks' on civilians.

'2011 August - Rebels swarm into Col Gaddafi's fortress compound in Tripoli, six months after the uprising began. With only a few remaining strongholds under his control, Col Gaddafi goes into hiding. His wife and three of his children flee to neighbouring Algeria.

'2011 August-September - Several foreign embassies re-open in Tripoli after shutting as unrest grew earlier in the year.

'African Union joins 60 countries which have recognised the NTC as the new Libyan authority.

'2011 20 October - Col Gaddafi is killed. Three days later, the NTC declares Libya to be officially 'liberated' and announces plans to hold elections within eight months.

'2011 November - Saif al-Islam, the fugitive son of former Libyan leader Muammar Gaddafi, is captured. He is the last key Gaddafi family member to be seized or killed. The transitional government says he will be put on trial.

'2012 January - Clashes erupt between former rebel forces in Benghazi in sign of discontent with the pace and nature of change under the governing NTC. The deputy head of the NTC, Abdel Hafiz Ghoga, resigns in attempt to draw some of the criticism. Later in the month, clashes break out between NTC militiamen and armed locals in the former Gaddafi stronghold of Bani Walid.

'UN officials say former rebel militias hold more than 8,000 Gaddafi supporters in secret detention centres, amid reports of torture.'[44]

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Rebel fighters

3.20 The Financial Times, in a report of 20 March 2011, entitled 'Q&A: Who are the Libyan rebels?', stated:

'**Who are the Opposition?**

[44] BBC News, Timeline: Libya http://www.bbc.co.uk/news/world-africa-13755445 Accessed 4 September 2012

Libya, one of the region's most closed societies, is very different to its North African neighbours, with no established opposition groups, civil society groups or strong state institutions after 41 years of Colonel Gaddafi's oppressive rule. The uprising was also far more violent than in Egypt or Tunisia, with security forces repeatedly using live fire in a bid to crush the protests while civilians responded with their own attacks on military bases. These factors meant that when the regime's hold on the east was broken, there was no clear leadership in the so-called liberated areas. In an effort to fill the vacuum, lawyers, academics, businessmen and youths who participated in the 'February 17th revolution' formed committees to organise themselves and run cities and towns…

'**Who are the rebel fighters?**
The opposition's disorganisation and lack of clear leadership structures has been at its most conspicuous with its fighting forces. Army, air force, and naval personnel defected to the opposition, but their strength and capacity, as well as who led them, has often been unclear. When Col. Gaddafi's forces launched counter-offensives in the east, most of the rebel fighters were young volunteers in looted uniforms who careered into battle in pick-up trucks with virtually no training. The defected army units, officers said, supported them with arms and some volunteer officers, but there was no mass movement of the professional soldiers as army officers spoke of shoring up the defences of territory under opposition control…'[45]

UN resolution 1973 (2011)

3.21 The United Nations Security Council, in a news release of 17 March 2011, entitled 'Security Council Approves "No-Fly Zone" over Libya, Authorizing "All Necessary Measures" to Protect Civilians, by Vote of 10 in Favour with 5 Abstentions', stated:

'Demanding an immediate ceasefire in Libya, including an end to the current attacks against civilians, which it said might constitute "crimes against humanity", the Security Council this evening imposed a ban on all flights in the country's airspace — a no-fly zone — and tightened sanctions on the Qadhafi regime and its supporters.

'Adopting resolution 1973 (2011) … the Council authorized Member States, acting nationally or through regional organizations or arrangements, to take all necessary measures to protect civilians under threat of attack in the country, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory — requesting them to immediately inform the Secretary-General of such measures…

'The Council stressed the need to intensify efforts to find a solution to the crisis that responded to the legitimate demands of the Libyan people, noting actions being taken on the diplomatic front in that regard. It further demanded that Libyan authorities comply with their obligations under international law and take all measures to protect civilians and meet their basic needs and to ensure the rapid and unimpeded passage of humanitarian assistance.

'In that connection, the Council specified that the flight ban would not apply to flights that had as their sole purpose humanitarian aid, the evacuation of foreign nationals,

[45] FT, Q&A Who are the Libyan Rebel Fighters? 20 March 2011
http://www.ft.com/cms/s/0/5bfb98b0-52fd-11e0-86e6-00144feab49a.html#axzz1O2IdzPx8
Accessed 1 June 2011

enforcing the ban or other purposes "deemed necessary for the benefit of the Libyan people"'.[46]

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NATO military intervention

3.22 Reuters, in a report of 31 October 2011 entitled 'In Tripoli, NATO chief hails "free Libya"', stated:

'NATO took over the mission on March 31, based on a United Nations mandate that set a no-fly zone over Libya and permitted foreign military forces, including NATO, to use "all necessary measures" to protect Libyan civilians.

'That mandate was terminated last Thursday [27 October 2011], despite a request for the U.N. Security Council to wait for the NTC to decide if it wanted NATO help to secure its borders.

'The mission was criticized by some countries, notably Russia and China, which, after co-sponsoring the U.N. resolution authorizing intervention in Libya, accused NATO of overstepping its mandate to protect civilians.

'NATO allies have been keen to see a quick conclusion to a costly effort that has involved more than 26,000 air sorties and round-the-clock naval patrols at a time when budgets are under severe strain because of the global economic crisis…

'Fourteen NATO members and four other states provided naval and air forces, but only eight NATO nations took part in combat missions. Some big NATO states, notably Germany, had opposed the intervention.'[47]

3.23 NATO's Victory in Libya: The Right Way to Run an Intervention, in foreign Affairs, Vol 91, No 2, March/April 2012, gives more details on the NATO mission.[48]

3.24 The report of the UN Human Rights Council 'International Commission of Inquiry on Libya', released on 2 March 2012 noted, 'NATO conducted a highly precise campaign with a demonstrable determination to avoid civilian casualties. For the most part they succeeded. On some limited occasions the Commission confirmed civilian casualties and found targets that showed no evidence of military utility. The Commission was unable to draw conclusions in such instances on the basis of the information provided by NATO and recommends further investigations.' [49]

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[46] UN Security Council, Approves 'No-Fly Zone' over Libya, Authorizing 'All Necessary Measures' to Protect Civilians, 17 March 2011 http://www.un.org/News/Press/docs/2011/sc10200.doc.htm Accessed 7 June 2011
[47] Reuters, In Tripoli, NATO chief hails 'free Libya', 31 October 2011 http://www.reuters.com/article/2011/10/31/us-libya-idUSTRE79S34620111031 Accessed 11 January 20112
[48] NATO's victory in Libya: The Right Way to Run an Intervention, March/April 2012 http://www.aco.nato.int/resources/site631/saceur/documents/Daalder_Stavridis_final.pdf
[49] UNHCR, International Commission of Inquiry on Libya, 2 March 2012 http://www.unhcr.org/refworld/topic,4565c2254a,4565c25f593,4ffd19532,0,,,.html Accessed 18 September 2012

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War crimes

3.25 The UN News Service, in a news release of 1 June 2011, 'Libyan Government forces and opposition committed war crimes - UN panel', stated:

'A United Nations-ordered panel investigating human rights abuses in Libya says that both Government forces and the opposition have committed war crimes during the weeks of fighting following the uprising against the regime of Colonel Muammar al-Qadhafi.

'The three-member International Commission of Inquiry, dispatched by the UN Human Rights Council, submitted its findings to the 47-member body in Geneva today. The report comes as concern grows about the worsening humanitarian situation in the North African country, including dwindling food stocks, and as diplomatic efforts to help resolve the crisis continue.

'The commission "has reached the conclusion that crimes against humanity and war crimes have been committed by the Government forces of Libya,"

'"The commission received fewer reports of facts which would amount to the commission of international crimes by opposition forces; however, it did find some acts which would constitute war crimes."

'The acts falling under crimes against humanity include murder, imprisonment, torture, persecution, enforced disappearance and sexual abuse, which the report stated were committed by Government forces "as part of a widespread or systematic attack against a civilian population."

'Serious violations of international humanitarian law committed by Government forces amounting to war crimes include intentionally directing attacks against protected persons and targets such as civilian structures, medical units and transport.

'The commission said it had received, but was unable to verify, individual accounts of rape. "It notes, however, that sufficient information was received to justify further investigation to ascertain the extent of sexual violence, including whether cases were linked to incitement by the command of either side."

'Further investigation is also warranted, it stated, with regard to the use and recruitment of child soldiers, the use of excessive force by Government forces against demonstrators, arrests and detentions that were carried out in a "blanket" fashion, and a "pattern of enforced disappearances."

'The commission also found that torture and other forms of cruel, inhuman or degrading treatment were committed by both the Government and opposition forces in violation of obligations under international human rights law and humanitarian law.

'The team, led by Professor Cherif Bassiouni, an Egyptian jurist and war crimes expert, calls on the Government to immediately cease acts of violence against civilians in violation of international humanitarian and human rights law, and to conduct "exhaustive, impartial and transparent" investigations into all alleged violations.

'It also calls on the National Transitional Council, the umbrella group representing the opposition, to conduct similar investigations into alleged violations, and to ensure the immediate implementation of applicable international humanitarian and human rights law.' [50]

3.26 In a further press release on 8 June 2011, entitled 'Evidence emerging of use of rape as tool of war in Libya - ICC prosecutor', the UN News Service stated:

'Investigators with the International Criminal Court (ICC) are gathering evidence that the Libyan leadership is using rape as a tool of war and repression and had even acquired large quantities of drugs for its soldiers in an apparent bid to make them more likely to commit sexual assault, the court's prosecutor said today.

'"We have information to confirm that it was a policy in Libya to rape those who were against the Government," Luis Moreno-Ocampo, the ICC Prosecutor told reporters at United Nations Headquarters. "We are getting some information that [Libyan leader Muammar al-] Qadhafi decided to [use] rape. Rape is a new aspect of the repression," said Mr. Moreno-Ocampo…

'Mr. Moreno-Ocampo said at the time that his office had gathered direct evidence detailing the orders issued by Mr. Qadhafi, the role of Saif Al Islam Qadhafi in recruiting mercenaries, and the participation of intelligence chief Abdullah Al Sanousi in attacks against demonstrators.

'In his press conference today, Mr. Moreno-Ocampo said a rape charge is likely be added to the previous ones, once the investigations are completed and after the judges have made a ruling on the first set of charges.'[51]

3.27 The International Criminal Court, in a press release of 27 June 2011, entitled 'Pre-Trial Chamber I issues three warrants of arrest for Muammar Gaddafi, Saif Al-Islam Gaddafi and Abdualla Al-Senussi', stated:

'Today, 27 June 2011, Pre-Trial Chamber I of the International Criminal Court (ICC) issued three warrants of arrest respectively for Muammar Mohammed Abu Minyar Gaddafi, Saif Al-Islam Gaddafi and Abdullah Al-Senussi for crimes against humanity (murder and persecution) allegedly committed across Libya from 15 February 2011 until at least 28 February 2011, through the State apparatus and Security Forces.

'The Chamber, composed of Judges Sanji Mmasenono Monageng (Presiding), Sylvia Steiner and Cuno Tarfusser, considered that there are reasonable grounds to believe that the three suspects committed the alleged crimes and that their arrests appear necessary in order to ensure their appearances before the Court; to ensure that they do not continue to obstruct and endanger the Court's investigations; and to prevent them from using their powers to continue the commission of crimes within the jurisdiction of the Court.

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[50] UN News Service, Libyan Government forces and opposition committed war crimes - UN panel, 1 June 2011 http://www.un.org/apps/news/story.asp?NewsID=38578&Cr=libya&Cr1 Accessed 6 June 2011

[51] UN News Service, Evidence emerging of use of rape as tool of war in Libya - ICC prosecutor, 8 June 2011 http://www.unhcr.org/refworld/country,,,,LBY,,4df2111b2,0.html Accessed 13 June 2011

'The situation in Libya was referred to the ICC Prosecutor by the United Nations Security Council, through the unanimous adoption of Resolution 1970 on 26 February 2011. The Security Council decided, under Chapter VII of the United Nations Charter, that 'the Libyan authorities shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution' and, while recognizing that States not party to the Rome Statute have no obligations under the Statute, the Security Council urged all States and concerned regional and other international organisations to cooperate fully with the Court and the Prosecutor.

'On 3 March 2011, the ICC Prosecutor decided to open an investigation and requested, on 16 May 2011, the issuance of the arrest warrants.'[52]

3.28 The UN News Service, in a news release of 9 June 2011, 'Ban calls for continued aid to Libyan civilians as crisis continues', stated, 'Libya presented a written report to the commission saying that no widespread and systematic violations of human rights had taken place under the orders of the Libyan authorities and denying widespread and systematic attacks against civilians, torture and other violations."'[53]

3.29 The Human Rights 'Watch World Report 2012 – Libya', released on 22 January 2012 and covering events of 2011, noted, 'Three days after Gaddafi's death, Human Rights Watch found 53 bodies of apparent Gaddafi supporters outside the Mahari Hotel in Sirte, where rebel forces from Misrata had been based. Some victims had their hands bound behind their backs; they all seemed to have been shot at that location. The NTC [National transitional Council] said it will investigate.' [54]

3.30 The Independent, in a report of 19 January 2012, 'Nato accused of war crimes in Libya', noted:

'An independent report published by Middle Eastern human rights groups says there is evidence that war crimes and human rights violations were committed by all the participants – Nato, rebel forces and those loyal to Colonel Gaddafi – in last year's Libyan uprising.

'The report, published today by the Arab Organisation for Human Rights together and the Palestinian Centre for Human Rights with the International Legal Assistance Consortium, follows extensive fact-finding work carried out by law and war crimes experts. While the document stresses that findings are not conclusive, it adds weight to growing concerns about violations committed by all sides in the conflict.'[55]

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[52] The International Criminal Court, Press release: Pre-Trial Chamber I issues three warrants of arrest for Muammar Gaddafi, Saif Al-Islam Gaddafi and Abdualla Al-Senussi, 27 June 2011 http://www.icc-cpi.int/NR/exeres/D07229DE-4E3D-45BC-8CB1-F5DAF8370218.htm Accessed 28 June 2011

[53] The UN News Service, Ban calls for continued aid to Libyan civilians as crisis continues, 9 June 2011 http://www.unhcr.org/refworld/country,,,,LBY,,4df727b92,0.html Accessed 14 June 2011

[54] Human Rights Watch, World Report 2012 – Libya, 22 January 2012 http://www.hrw.org/sites/default/files/reports/wr2012.pdf Accessed 23 January 2012

[55] The Independent, Nato accused of war crimes in Libya, 19 January 2012 http://www.independent.co.uk/news/world/africa/nato-accused-of-war-crimes-in-libya-6291566.html Accessed 23 January 2012

3.31 The Report of the Independent Civil Society Fact-Finding Mission to Libya, released January 2012, gave full details of the evidence it has collated that led to the above conclusions.[56]

For detailed information about the areas of conflict during the uprising see Section 9 of the COIS Country Report on Libya: Background and Security Situation, published 25 July 2011.

See also Security forces: Human rights abuses committed by both sides during the uprising.

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Death of Gaddafi and end of the conflict

3.32 Reuters, in a report of 26 October 2011, entitled Gaddafi killed in hometown, Libya eyes future, noted:

'The deaths of Gaddafi and his son Mo'tassim after both were captured wounded but alive on Thursday [20 October 2011] and the grisly public display of their decomposing bodies in a Misrata meat locker have made the NTC's Western backers uneasy about Libya's prospects for stable government and respect for the rule of law.

'Gaddafi and Mo'tassim were buried in a secret desert location on Tuesday to prevent their graves becoming a shrine for any remaining followers in the oil-rich North African state.

'Under pressure from Western allies, the NTC promised on Monday to investigate how Gaddafi and his son were killed. Mobile phone footage shows both alive after their capture. The former leader was seen being mocked, beaten and abused before he died, in what NTC officials say was crossfire…

'The treatment of others who supported Gaddafi and fought alongside him was now an issue, said U.S. Assistant Secretary of State for Near Eastern Affairs Jeffrey Feltman.

'"This is a test. The NTC has repeatedly said that they will distinguish themselves from the Gaddafi regime in terms of the respect of human rights and the rule of law," he told a news conference in Morocco. "Now is the time for them to begin actions that will help them reinforce these words."

'Emerging from 42 years of often brutal one-man rule, many Libyans are savouring the end of eight months of bitter civil war won with NATO's backing and are unconcerned about how Gaddafi met his end and how his body was treated afterwards…

'Hatred of Gaddafi unified his disparate opponents, who will likely now tussle for power during a planned transition to democracy in a nation riven with regional and tribal rivalries.'[57]

[56] The Report of the Independent Civil Society Fact-Finding Mission to Libya. [Arab Organisation for Human Rights, Palestinian Centre for Human Rights, International Legal Assistance], January 2012 http://www.pchrgaza.org/files/2012/FFM_Libya-Report.pdf

3.33 The Human Rights Watch 'World Report 2012 – Libya', released on 22 January 2012 and covering events of 2011, noted, 'On October 20, after weeks of fierce fighting in Sirte, NTC forces captured Muammar Gaddafi and his son Muatassim. Video footage strongly suggests that they were executed in custody. The NTC said it will form a commission of inquiry to examine the deaths.' [58]

3.34 The Human Rights Watch report, 'Death of a Dictator: Bloody Vengeance in Sirte', released on 17 October 2012, details the final hours of Muammar Gaddafi's life and the circumstances under which he was killed. Human Rights Watch stated that 'It presents evidence that Misrata-based militias captured and disarmed members of the Gaddafi convoy and, after bringing them under their total control, subjected them to brutal beatings.'[59]

For details of the Declaration of Liberation on 23 October 2011 and the new transitional cabinet see Chapter 6 Political System

Capture of Saif al-Islam Gaddafi and his forthcoming trial

3.35 The BBC News reported on 19 November 2011, 'A commander of the Zintan militia, Wisam Dughaly, said Saif al-Islam had been captured along with several aides as they tried to smuggle him out to neighbouring Niger… He was taken by fighters near the southern town of Obari and flown to the city of Zintan in the north. Saif al-Islam told a journalist he was well.' [60]

3.36 Human Rights Watch, in a report of 21 December 2011 entitled 'Libya: Ensure Gaddafi Son's Access to Lawyer' stated:

'The Zintan Military Council, which has physical custody of Gaddafi, allowed Human Rights Watch 30 minutes with the detainee in private.

'"Saif al-Islam Gaddafi says he is getting good food and medical care – he had no complaints about the physical conditions of his detention," said Fred Abrahams, special adviser at Human Rights Watch, who conducted the visit. "His main concern was the lack of access to family and to a lawyer who can help his case."

'Al-Hasadi told Human Rights Watch that he would allow Gaddafi access to a lawyer as soon as the government prepared a secure detention facility in Tripoli where Gaddafi could be held without risk of attack, either by those wishing to free him or by those

[57] Reuters, Gaddafi killed in hometown, Libya eyes future, 26 October 2011 http://www.reuters.com/article/2011/10/20/us-libya-idUSTRE79F1FK20111020 Accessed 11 January 2012
[58] Human Rights Watch, World Report 2012 – Libya, 22 January 2012 http://www.hrw.org/sites/default/files/reports/wr2012.pdf Accessed 23 January 2012
[59] Human Rights Watch, Death of a Dictator: Bloody Vengeance in Sirte, 17 October 2012 http://www.hrw.org/sites/default/files/reports/libya1012webwcover_0_0.pdf Accessed 22 October 2012
[60] BBC News, Gaddafi's son Saif al-Islam captured in Libya, 19 November 2011 http://www.bbc.co.uk/news/world-middle-east-15804299 Accessed 23 January 2012

wishing him harm. The prosecutor's office is working to prepare such a location, he said…'[61]

3.37 The report went on to consider the difficulties surrounding the trial of Saif:

'The International Criminal Court (ICC) has issued an arrest warrant for Saif al-Islam Gaddafi for crimes against humanity committed in Libya starting on February 15. The ICC investigation was authorized under United Nations Security Council Resolution 1970. The resolution requires Libya to cooperate with any ICC investigation into serious crimes committed in Libya, including the surrender of ICC suspects.

'Libya's general prosecutor, as well as the justice minister, prime minister, and chairman of the National Transitional Council (NTC), all told Human Rights Watch that they are determined to try Gaddafi in Libya. The Libyan government has hired a law firm in London to represent its interests before the ICC, senior officials said.

'If Libya wishes to try Gaddafi domestically for crimes within the ICC's arrest warrant, it must challenge the ICC's jurisdiction through a legal submission to the court. Libya would have to show that it is genuinely able and willing to prosecute Gaddafi's case in fair and credible proceedings. In addition, the Libyan proceedings must encompass the same conduct as in the case before the ICC. The ICC judges would review the challenge and determine whether the Libyan proceedings make it unnecessary for the ICC to hear the case.

'If Libya argues that surrendering Gaddafi to the ICC would interfere with an ongoing domestic investigation or prosecution for a different case, then it may postpone surrendering him for a period of time agreed upon with the court…

'On what basis the Libyan authorities will proceed remains unclear. In a decision by the ICC Pre-Trial Chamber on December 6, the judges noted that the chamber had received, through the ICC Office of the Prosecutor, a letter allegedly from the NTC. Referring to article 94 of the ICC treaty, the letter said the NTC will postpone the execution of the ICC's request for the arrest and surrender of Saif al-Islam Gaddafi, and that it would discuss the matter with the court. Article 94, unlike the ICC treaty's provisions on the admissibility of a case, provides for postponing the execution of a request in light of ongoing investigation or prosecution.

'The ICC judges, in their December 6 decision, requested further information from the Libyan authorities regarding Gaddafi's status, including whether and when Libya intends to surrender him to the court. Libya has until January 10, 2012, to file submissions on the issues outlined by the ICC judges.'[62]

3.38 The NOREF (Norwegian Peacebuilding Resource Centre) report, 'Balanced on a knife-edge: the future of Libya's new state', published September 2012, commented on the visit of four ICC members to Saif al-Islam in June 2012:

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[61] Human Rights Watch, Libya: Ensure Gaddafi Son's Access to Lawyer, 21 December 2011 http://www.hrw.org/news/2011/12/21/libya-ensure-gaddafi-son-s-access-lawyer Accessed 11 January 2012

[62] Human Rights Watch, Libya: Ensure Gaddafi Son's Access to Lawyer, 21 December 2011 http://www.hrw.org/news/2011/12/21/libya-ensure-gaddafi-son-s-access-lawyer Accessed 11 January 2012

'Four representatives of the ICC, including his putative defence counsel, were detained when they visited him in June on the grounds that they had engaged in espionage, and were only released after protracted negotiations involving the ICC, the NTC and Zintani representatives. The incident was highly embarrassing, because it revealed the comparative impotence of the authorities in Tripoli and the revolutionary refusal to respect the immunity enjoyed by representatives of the ICC. Neither aspect augurs well for Saif al-Islam's eventual trial and both highlight some of the problems Libya is facing over transitional justice in wake of the civil war.' [63]

3.39 A Reuters news report of 9 September 2012 noted:

'The trial of Muammar Gaddafi's son Saif al-Islam will be delayed by five months to include any relevant testimony obtained via the interrogation of Libya's former spy chief who was arrested last week, the prosecutor general office said on Sunday.

'Government officials said in August Saif al-Islam's trial on charges of war crimes - the most high-profile prosecution of a figure from his late father's entourage to date - was due to begin in September [2012].

'But the arrest on Wednesday of Abdullah al-Senussi, the former spy chief known as "Gaddafi's black box", has pushed that date back, postponing a trial a lawyer from the International Criminal Court (ICC) has already said is unlikely to be fair.

'"We were ready to try Saif al-Islam this month but after bringing back Senussi to Libya, new information will come to light which will delay the trial for at least five months," Milad al-Zintani, lawyer at the prosecutor general's office, told a news conference.'[64]

See also The International Criminal Court report of 8 June 2012 'Situation in Libya in the case of the Prosecutor v. Saif-Islam Gaddafi and Abdullah Al-Senussi' and Chapter 11 The Judiciary

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4. RECENT DEVELOPMENTS (JULY – DECEMBER 2012)

OVERVIEW

4.01 The Encyclopaedia Britannica in its chapter, 'Libya Revolt of 2011', accessed 3 September 2012, noted:

'The TNC [National Transitional Council] struggled to establish a functional government and exert its authority in the months that followed the fall of the Qaddafi regime. Local rebel militias that had fought autonomously during the uprising, especially those in

[63] NOREF, Balanced on a knife-edge: the future of Libya's new state, September 2012. http://www.peacebuilding.no/var/ezflow_site/storage/original/application/5e0dd27504ad1372948624338c50ae0d.pdf Accessed 4 December 2012

[64] Reuters, Gaddafi son's Libya trial to be delayed by five months: official, 9 September 2012. http://www.reuters.com/article/2012/09/09/us-libya-saif-trial-idUSBRE8880F720120909

western Libya, were reluctant to submit to an interim government formed in eastern Libya with little input from the rest of the country and were suspicious of some TNC officials' past ties to the Qaddafi regime. The militias refused to disarm, and skirmishes between rival militias over territory were common.' [65]

JULY 2012 ELECTION

4.02 The UN News Service, in a press conference of 9 July 2012, noted:

'The top United Nations envoy in Libya today [9 July 2012] said the country's weekend election - its first free poll in almost half a century - was an "extraordinary achievement" and praised electoral authorities for organizing them efficiently…

'"The mood in Libya is extremely positive with people taking enormous pride in having voted after nearly half a century and in how well they organized this vote for themselves," the Secretary-General's Special Representative and head of the UN Support Mission in Libya (UNSMIL), Ian Martin, told reporters at UN Headquarters in a video-conference…Mr. Martin highlighted the fact that the African Union, European Union, and Carter Centre, which fielded election observers, all made positive preliminary statements praising Libya's High National Election Commission, not just for its transparency but for its flexibility given some security threats in eastern parts of the country.

'"It was really the will of the people that prevailed in the determination of voters to protect their own polling centres, and the Commission then kept them open to allow people an opportunity to vote" Mr. Martin said.

'Some 2.7 million people in the North African nation registered to vote for members of the new National Congress, which will be tasked with drafting a new constitution for Libya. More than 3,000 candidates ran for office, including more than 600 women.'[66]

4.03 The BBC News, in a report of 18 July 2012, gave details of the results of the election:

'Results from Libya's first elections since the overthrow of Col Gaddafi have shown gains for an alliance of parties seen as broadly secular.

'The National Forces Alliance, led by ex-interim Prime Minister Mahmoud Jibril, has won 39 out of 80 seats reserved for political parties. The Muslim Brotherhood's party has gained 17.

'The 200-member General National Assembly will also include dozens of independent candidates.' [67]

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[65] Encyclopaedia Britannica, Libya Revolt 2011, http://www.britannica.com/EBchecked/topic/1766291/Libya-Revolt-of-2011/300038/Revolt-and-aftermath-in-Libya-2011-12

[66] UN envoy praises Libyan election, highlights challenges faced by new government, 9 July 2012. http://www.un.org/apps/news/story.asp?NewsID=42428&Cr=libya&Cr1 Accessed 12 September 2012

[67] BBC News, Libya election success for secularist Jibril's bloc, 18 July 2012. http://www.bbc.co.uk/news/world-africa-18880908 Accessed 12 September 2012

4.04 The Economist, in an article of 15 September 2012, 'Libya: Despite everything, it's still a success', stated:

'The most striking outcome of the congressional election in July was the relative failure of the Islamists, whose main party, Justice and Construction, allied to the Muslim Brotherhood, got only 17 out of the 80 seats elected by proportional representation on party lists, whereas a coalition of secularists, liberals and milder Islamists won 39. An Islamist party including Abdel Hakim Belhaj that was lavishly financed by Qatar got no seats at all. It may, however, take a while to identify the congress's overall ideological hue because 120 of its 200 members are independents elected on individual slates, usually without advertising a religious or informal party affiliation.

'Some ugly xenophobic traits, however, have also become apparent. The outgoing ruling council decreed that no candidate for prime minister should have either a foreign passport or a foreign spouse, thus forcing a series of prominent returnees either to withdraw their candidacy or to disavow a second nationality.' [68]

4.05 The NOREF (Norwegian Peacebuilding Resource Centre) report, 'Balanced on a knife-edge: the future of Libya's new state', published September 2012, noted:

'Nonetheless, a good start has been made to the process of constitutional governance in Libya. On August 8th 2012, two days later than it had promised, the NTC formally handed over power to the new GNC. In its first official act, the GNC elected a speaker, making a choice that may speak volumes for the way in which governance will be conducted in future. The body selected Mohamed Mugharieff, the former Libyan ambassador to India until he defected in 1980 to become the founder of the Libyan National Salvation Front, the foremost opposition group to the Qaddafi regime in exile thereafter. Although he has always been regarded as close to moderate Islamists, he was not the choice of any of the Islamists in the new GNC, nor indeed was he the candidate of Jibril's NFA, thus confirming the GNC's independence from formal party political positions. It is expected, however, that the new premier will be a partisan of the NFA, another indicator of the degree to which Libya's Islamists remain marginalised as democratic governance emerges in Libya.' [69]

See also Chapter 6: Political system and Chapter 15: Political affiliation.

NATIONAL CONGRESS'S ELECTION OF PRIME MINISTER AND GOVERNMENT MINISTERS

4.06 The BBC News, on 14 October 2012, reported on the election of a new prime minister:

'Libya's national congress has elected a new prime minister, Ali Zidan.

'Mr Zidan, an independent, won 93 votes - a majority among those present. He beat a candidate favoured by the Justice and Construction party - which is linked to the Muslim Brotherhood. The president of the national assembly, announcing his victory, asked Mr Zidan to propose a cabinet within two weeks.

[68] The Economist, Despite everything, it's still a success, 15 September 2012 http://www.economist.com/node/21562944 Accessed 12 November 2012
[69] NOREF, Balanced on a knife-edge: the future of Libya's new state, September 2012. http://www.peacebuilding.no/var/ezflow_site/storage/original/application/5e0dd27504ad1372948624338c50ae0d.pdf Accessed 4 December 2012

'The previous PM, Mustafa Abu Shagur, was dismissed a week ago after failing to form a government.

'Mr Zidan was a career diplomat for Colonel Muammar Gaddafi before defecting in 1980 and joining the opposition in exile.' [70]

4.07 Reuters, in a report of 1 November 2012, 'Libya congress approves new government amid protests', stated:

'Libya's national assembly approved new Prime Minister Ali Zeidan's proposed government on Wednesday after rejecting his predecessor's line-up, but members still queried the suitability of several nominations.

'In a reminder of the volatility still plaguing Libya a year after Muammar Gaddafi's ouster, the General National Congress cut its session short soon after the vote as security forces fended off protesters outside.

'The assembly had met on Tuesday to vote but its session was postponed after protesters, opposed to some of the ministerial nominations, stormed the building. Some protesters said some of the nominees had past links with the Gaddafi regime…

'Some ministers come from the liberal National Forces Alliance and the Muslim Brotherhood's political wing, the Justice and Construction Party, the two biggest parties in congress. Others are independents.

'Aware of Libya's sharp regional tensions, Zeidan said he had tried to strike a geographic balance among his 27 ministers.

'He nominated Ali Aujali, Libya's ambassador to the United States, as foreign minister; Mohammed al-Barghathi, who served in the Libyan air force, as defence minister; and Abdelbari al-Arusi, from the western town Zawiyah, as oil minister.' [71]

4.08 The Libya Herald, in an article of 16 November 2011, noted that several ministers had been disbarred:

'The process by which officials are vetted by the Integrity Commission for public office in Libya is "fraught with problems" and "far too broad and vague", a leading rights organisation has said.

'The damning critique by Human Rights Watch follows the Integrity Commission's announcement that four ministers in Ali Zeidan's new government had failed to meet its required criteria, whilst four more remained under investigation.

'The four ministers to have been disbarred were Interior Minister Ashour Suleiman Shuwail, Electricity Minister Ali Mohammed Muhairiq, Higher Education Minister Abdulasalm Bashir Duabi and Congressional Affairs Minister Muaz Fathi Al-Khoja.

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[70] BBC News, Ali Zidan elected Libya's new prime minister, 14 October 2012. http://www.bbc.co.uk/news/world-africa-19943593 Accessed 22 October 2012

[71] Reuters, Libya congress approves new government amid protests. 1 November 2012. http://www.reuters.com/article/2012/11/01/ozatp-libya-government-idAFJOE8A000920121101 Accessed 14 November 2012

'To date, the detail of the Integrity Commission's rulings has not been made public.

'The Integrity Commission was established on 4 April 2012 by Regulation No 26 of the National Transitional Council and is mandated to investigate any person seeking high political office for ties with the Qaddafi regime or evidence of criminal wrongdoing.

'In addition to having had to join the revolution before 20 March 2011, under no circumstances may people in the following categories, among others, hold public office in Libya according to the Regulation:

'•Members or commanders of the Revolutionary Guards;

•Members of the Revolutionary Committees;

•Student association directors after 1976;

•Those who were "known for glorifying the regime of Muammar Qaddafi or his call for the ideas of the Green Book [Qaddafi's political philosophy], whether through various media or public speeches;"

•Those who "stood against the February 17 Revolution" by means of incitement, aid, or collusion;

•Those who were convicted of corruption or stealing public funds;

•Those who participated in any capacity in the imprisonment and torture of Libyans during the rule of the former regime;

•Those who committed or participated in hostile acts against Libyans in the opposition, whether abroad or in Libya;

•Those who seized private property or participated in seizing property during the previous regime;

•Those who were involved in stealing public funds or enriched themselves on behalf of the Libyan population, or who accumulated wealth in Libya or abroad in an illegal manner;

•Those who had commercial dealings with the sons of Muammar Qaddafi or his close associates;

•Those who formerly held positions of leadership that directly related to the sons of Muammar Qaddafi, and their institutions;

•Recipients of awards or money from the former regime by illegal means;

•Those who obtained an academic degree on a subject related to the Qaddafi's Green Book or Third Universal Theory.' [72]

[72] Libya Herald, Integrity Commission denounced. 16 November 12 http://www.libyaherald.com/2012/11/16/human-rights-watch-denounces-integrity-commission-following-disbarring-of-zeidan-ministers/ Accessed 3 December 2012

For details of all the government ministers see Annex C – Prominent people.

OUTBREAKS OF VIOLENCE

4.09 The Economist, in an article of 15 September 2012, 'Libya: Despite everything, it's still a success', stated:

'In the past few weeks Salafists have also attacked shrines in Tripoli, the capital, and elsewhere in Libya that have been venerated for centuries by Sufis, who practise a mystical form of Islam that many puritans consider idolatrous. One such shrine, honouring al-Shaab al-Dahmani, was in full view of the Radisson Blu Hotel, a favourite venue for visiting foreign bigwigs and prominent Libyans. What astonished them was that the destroyers of the shrine were allowed, over a period of 48 hours, to pillage and bulldoze the site without the ministry of interior or its police apparently lifting a finger to stop them.

'This suggests either that the extreme Islamists typified by the Salafists have friends in high places protecting them or that the government and its security arm, however well-intentioned, is too feeble or disorganised to deal robustly with them. Either way, it is unlikely to encourage investment or reassure sceptics that security in the country is under control.

'Indeed, a further disquieting aspect of the new Libya is the continuing ability of local militias, especially in places such as Misrata and Zintan that bore the burden of the battle against Qaddafi, to ignore the writ of the central government. Moreover, tribal and ethnic tensions on the fringes of the country and in remote southern cities such as Sebha and Kufra, continue to provoke periodic outbreaks of violence that stir bad blood and deter investors.' [73]

Attack on US Consulate, Benghazi

4.10 The BBC Timeline, updated 21 October 2012, noted:

'[The] US ambassador and three other Americans are killed when armed men storm the consulate in Benghazi [on 11 September 2012]. The US believes Islamist armed groups used protests against a film produced in the US that mocks the Muslim prophet Muhammad as cover for the attack. Crowds in Benghazi drive out the Ansar al-Sharia and other militias from the city and the nearby Islamist stronghold of Derna, prompting head of state Mohammed Magarief to vow to disband all illegal militias.' [74]

4.11 The Telegraph, in an article of 2 December 2012, highlighted the possible involvement of Al-Qaeda:

'The leaders of Al-Qaeda in the Islamic Maghreb (AQIM), the North African offshoot of the mainstream organisation, are making a concerted effort to link up with Ansar al-Sharia.

[73] The Economist, Despite everything, it's still a success, 15 September 2012 http://www.economist.com/node/21562944 Accessed 12 November 2012
[74] BBC News, Timeline: Libya http://www.bbc.co.uk/news/world-africa-13755445 Accessed 12 November 2012

'The CIA believes Ansar al-Sharia was behind the September 11 attack on the US consulate in which four people died, including US Ambassador Christopher Stevens.

'AQIM leaders are also attempting to establish ties with other Libyan Islamist groups in the hope of establishing an al-Qaeda fiefdom there similar to the one it has created in nearby Mali.

'Intelligence officials say that leaders of the AQIM movement have been travelling regularly to the desert town of Ghat in south-western Libya, close to the border with Niger.

'Their aim is to establish a foothold in Libya from which to launch attacks against Western targets, as well as gaining access to the large stockpiles of weapons – including Russian-made anti-aircraft missiles – that were looted by Libyan rebels during the fall of Colonel Muammar Gaddafi's regime at the end of last year.' [75]

Fighting in Bani Walid

4.12 The UN News Service, in a news release of 22 October 2012, entitled 'Libya: UN chief alarmed by fighting in Bani Walid, calls for peaceful resolution to conflict' noted:

'United Nations Secretary-General is alarmed by the fighting in and around the Libyan city of Bani Walid, and in particular the reports indicating growing civilian casualties due to indiscriminate shelling, according to his spokesperson…

'"The Secretary-General reminds all parties of their obligations under international humanitarian law and calls on all the Libyan authorities and those in Bani Walid to begin immediately a process to resolve the Bani Walid stand-off peacefully", the spokesperson added in a statement issued on Sunday evening.

'According to media reports, Libyan army forces have launched a full-scale assault against the town, accusing it of being controlled by supporters of the former dictator Muammar al-Qadhafi, who was overthrown in 2011 after decades of autocratic rule.

'The small city was one of the last to fall to rebels groups during last year's conflict, and some are said to consider it a shelter for regime loyalists and criminal gangs. Fierce fighting has reportedly raged in the town over recent days.' [76]

4.13 Human Rights Watch, in a report of 24 October 2012, 'Libya: Residents of Bani Walid at Risk', added:

'The number of victims from the fighting and indiscriminate shelling in Bani Walid remains unclear. Doctors at the hospital there told Human Rights Watch that at least seven people not associated with any armed group had been killed and 60 wounded between the start of the siege in late September and October 18. That number rose as

[75] The Telegraph, Al-Qaeda 'intensifying efforts to establish new base in Libya' http://www.telegraph.co.uk/news/worldnews/al-qaeda/9717206/Al-Qaeda-intensifying-efforts-to-establish-new-base-in-Libya.html Accessed 3 November 2012

[76] UN News Services, Libya: UN chief alarmed by fighting in Bani Walid, calls for peaceful resolution to conflict, Accessed 12 November 2012 http://www.un.org/apps/news/story.asp?NewsID=43348&Cr=Libya&Cr1=

the attacking forces began a major assault on October 19, causing thousands of Bani Walid residents to flee.

'According to the Libyan official news agency, at least 22 people were killed in the fighting. Journalists and human rights monitors have not been allowed into the town to confirm that figure.

'Armed groups in Bani Walid have tried to defend the town, and media reported ongoing fighting on the outskirts as of October 24…

'Bani Walid, about 170 kilometers southwest of Tripoli, is home to Libya's largest tribe, the Warfalla. Many consider Bani Walid a pro-Gaddafi town, though one militia from the Warfalla fought against Gaddafi in last year's revolt and has participated in the current siege. In 1993, a group of Warfalla was among those who staged a failed attempt to overthrow Gaddafi.

'Bani Walid officials have said that the population is loyal to Libya's new government. But they say that they refuse to surrender people wanted for crimes before or during the 2011 conflict in which Gaddafi was ousted until Libya has a functioning judicial system and hundreds of Warfalla members held without charge are released from detention, especially in Misrata. Bani Walid and Misrata have a history of antagonistic relations…

'The tension over the fighting in Bani Walid has spread to other parts of Libya. In Benghazi on October 21, angry protesters ransacked the Libya Al Hurra TV station, claiming the station had broadcast misleading news about Bani Walid justifying the attacks. In Tripoli on October 21, people supporting Bani Walid protested in front of the General National Congress, and some apparently tried to enter the building. Guards dispersed the demonstration by shooting into the air.'[77]

See also para 19.05: Tribal and regional divisions

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5. CONSTITUTION

5.01 Europa World Online in its 'Libya country profile, constitution and government', accessed 4 September 2012, noted, 'Following the installation of the opposition National Transitional Council as the de facto administration in August 2011, all constitutional documents promulgated under Qaddafi's rule were suspended and an interim Constitutional Declaration was issued in its place.' [78]

5.02 Tunisia.live.net in a report of 11 August 2011, entitled 'NTC Announces Constitutional Declaration', noted:

[77] HRW, Libya: Residents of Bani Walid at Risk, 24 October 2012 http://www.hrw.org/news/2012/10/24/libya-residents-bani-walid-risk Accessed 12 November 2012

[78] Europa World Online (Country Profile: Constitution and Government), Subscription only – hard copies available on request. Date accessed 10 May 2011

'On Wednesday, August 10th, the National Transitional Council (NTC) issued the first Libyan 'Constitutional Declaration' of the post-Gadhafi period, including 37 articles.

'Mr. Abdul Hafeez Goukha, Vice President of the NTC and the official spokesman for the Council, said in a press conference yesterday that the NTC finished the constitutional declaration of the transition phase. Dr. Salwa Aldeghaily, responsible for Legal Affairs in the Council, also spoke at the press conference.

'Goukha explained that the constitutional declaration includes a set of principles. The first contains general provisions and public rights, and the second include the fundamental operation of the interim government during the transitional phase after the removal of the Gadhafi regime.

'He explained that the new constitution includes 37 articles, and that the system of the transitional government during the transitional period is ruled by the articles 17 to 30. The transitional phase will take about 20 months, 8 months under the NTC and 12 months under a General National Assembly.

'Each member of the NTC signed the constitutional declaration and pledged that they would have no role in the presidential or parliamentary elections to come.

'Dr. Salwa Aldeghaily explained that Article 30 of the Constitutional Declaration requires the formation of a national government within 30 days of liberation — the term for Gadhafi's defeat. By 90 days after liberation, election laws will be announced, and a high commission for elections should be formed. Libyans then elect a new General National Assembly within 240 days of liberation. The Assembly will consist of 210 members. It will be responsible for choosing a temporary head of government and drafting and passing laws to manage the country's affairs.

'After its formation, the Assembly will have 30 days to select the temporary head of government and within 60 days it must submit a constitution for a popular referendum. If approved by the Libyan people, the constitution becomes law, and if the people reject it, the Assembly will be given another 30 days to restore the constitution. After the approval of the constitution, the Assembly has 30 days to pass electoral laws for a presidential election within 180 days. The role of the interim head of government finishes when the elected president takes office.'[79]

5.03 The Official website of the NTC, under the heading 'A vision of a democratic Libya', undated, stated:

'The interim national council will be guided by the following in our continuing march to freedom, through espousing the principles of political democracy. We recognise without reservation our obligation to:

'1. Draft a national constitution that clearly defines its nature, essence and purpose and establishes legal, political, civil, legislative, executive and judicial institutions. The constitution will also clarify the rights and obligations of citizens in a transparent manner, thus separating and balancing the three branches of legislative, executive and judicial powers.

[79] Tunisia.live.net NTC Announces constitutional Declaration, 11 August 2011 http://www.tunisia-live.net/2011/08/11/the-ntc-issues-the-constitutional-declaration-for-the-transitional-period/ Accessed 12 December 2011

‘2. Form political organisations and civil institutions including the formation of political parties, popular organisations, unions, societies and other civil and peaceful associations.

‘3. Maintain a constitutional civil and free state by upholding intellectual and political pluralism and the peaceful transfer of power, opening the way for genuine political participation, without discrimination.

‘4. Guarantee every Libyan citizen, of statutory age, the right to vote in free and fair parliamentary and presidential elections, as well as the right to run for office.

‘5. Guarantee and respect the freedom of expression through media, peaceful protests, demonstrations and sit-ins and other means of communication, in accordance with the constitution and its laws in a way that protects public security and social peace.

‘6. A state that draws strength from our strong religious beliefs in peace, truth, justice and equality.

‘7. Political democracy and the values of social justice, which include:

‘a. The nation’s economy to be used for the benefit of the Libyan people by creating effective economic institutions in order to eradicate poverty and unemployment – working towards a healthy society, a green environment and a prosperous economy.

‘b. The development of genuine economic partnerships between a strong and productive public sector, a free private sector and a supportive and effective civil society, which over stands corruption and waste.

‘c. Support the use of science and technology for the betterment of society, through investments in education, research and development, thus enabling the encouragement of an innovative culture and enhancing the spirit of creativity. Focus on emphasising individual rights in a way that guarantees social freedoms that were denied to the Libyan people during the rule of dictatorship. In addition to building efficient public and private institutions and funds for social care, integration and solidarity, the state will guarantee the rights and empowerment of women in all legal, political, economic and cultural spheres.

‘d. A constitutional civil state which respects the sanctity of religious doctrine and condemns intolerance, extremism and violence that are manufactured by certain political, social or economic interests. The state to which we aspire will denounce violence, terrorism, intolerance and cultural isolation; while respecting human rights, rules and principles of citizenship and the rights of minorities and those most vulnerable. Every individual will enjoy the full rights of citizenship, regardless of colour, gender, ethnicity or social status.

‘8. Build a democratic Libya whose international and regional relationships will be based upon:

‘a. The embodiment of democratic values and institutions which respects its neighbours, builds partnerships and recognises the independence and sovereignty of other nations. The state will also seek to enhance regional integration and international co-operation through its participation with members of the international community in achieving international peace and security.

'b. A state which will uphold the values of international justice, citizenship, the respect of international humanitarian law and human rights declarations, as well as condemning authoritarian and despotic regimes. The interests and rights of foreign nationals and companies will be protected. Immigration, residency and citizenship will be managed by government institutions, respecting the principles and rights of political asylum and public liberties.

'c. A state which will join the international community in rejecting and denouncing racism, discrimination and terrorism while strongly supporting peace, democracy and freedom.'[80]

5.04 The Economist Intelligence Unit's August 2012 Libya country report stated:

'The GNC [General National Congress] must decide on how to press ahead with drafting Libya's new constitution. There remains speculation about how the 60-member constitutional committee will be formed. The GNC may yet choose to overturn a previous NTC commitment to fresh elections to decide committee membership. The GNC must also define the powers of the new president and vote for his deputies in the coming days.' [81]

5.05 The Middle East Channel, in an article of 5 September 2012, 'Libya's Constitution Controversy', considered the difficulties facing the constitutional committee:

'After widely applauded elections, Libya is preparing to draft its first democratic constitution after more than 40 years of Muammar al-Qaddafi's dictatorship. A 60-person committee will draft the constitution and reckon with key social issues facing Free Libya, including national identity and human rights, state and religion, and the distribution of political and economic power. The committee must frame a state in a country once characterized by weak social or political organization.

The process by which the constitution will be written is unclear. The National Transitional Council (NTC) - which served as Libya's interim parliament after the ouster of Qaddafi until the July 7 election of the General National Congress (GNC) - had proliferated a constitutional declaration to govern the transitional phase. The declaration called for the congress to appoint 60 experts to a constitutional committee, 20 from each of Libya's three historical provinces in the west, east, and south. But the NTC amended the declaration the week prior to the election, stating that the members of the constitutional committee would be elected rather than appointed.

'While the overall number and 20-20-20 makeup of the committee is likely to stand, the question of appointment versus election is yet unsettled. The amendment is legally dubious due to its proximity to the election, and elected members of congress can overrule decisions made by the unelected NTC. Because an election would wrest the power from members of congress who are expected to hold the power of appointment, it is likely that they will overturn the NTC decision in the coming weeks.

'The congress will consider other questions about the drafting process. The NTC declaration called for the committee to draft a new constitution within 60 days of its first

[80] A vision of a democratic Libya (undated) http://www.ntclibya.org/english/libya/ Accessed 12 December 2011
[81] Economist Intelligence Unit, Country Report: Libya, August 2012. Subscription only, hard copy available on request.

meeting, and for a national referendum within 30 days after that. This timeline is unrealistic (Egypt's constitutional declaration allows for six months and the Tunisian constituent assembly, which has no legal time limit, may produce a constitution after about a year) and would allow for virtually no public input. Civil-society groups are preparing to lobby the congress to extend this timeline, and some in congress might push for congressional approval before the draft constitution is submitted to referendum.

‘Some Libyan lawyers and politicians favor a short timeline in part because they consider Libya's 1951 constitution - drafted with significant assistance from the United Nations - a solid basis for the new document. The constitution established a monarchy, but still it is seen to include good human-rights protections and strong national institutions.

‘Others believe that the 1951 constitution may be a poor starting point for the modern document. The 1951 constitution does not account for fundamental changes in Libyan political economy of the past 60 years. It constitution created a chronic imbalance of power and eventually failed because it did not account for the distribution of wealth after oil was discovered in 1959. The 1963 amendments to the constitution eviscerated the federal system, creating wide social instability and opening the door to Qaddafi's coup d'état six years later.

‘Indeed, the distribution of political and economic power is one of the most important issues that will face today's constitutional committee. The 1951 constitution established a federal system with three sub-national governments, each with specific executive and legislative branches and the authority to levy taxes. The 1963 amendments abandoned the federal model. After the revolution, Qaddafi established what he called a jamahariya, a Byzantine system of overlapping jurisdictions that allowed him to emerge as the sole national authority. The administration was centralized in Tripoli to the extent that residents of Benghazi (Libya's second city, 600 miles away) had to travel to the capital to renew their passports. Defining a method of ensuring both administrative and political representation in Libya's government will be one of the key puzzles facing the constitutional committee.

‘The protection of human rights is another priority. Libyans expect their new constitution to safeguard certain rights, but the debate of which rights will be contentious. Some women's advocacy groups, for example, are lobbying for equal-protection clauses, and more specifically the right to pass citizenship to their children and claim equal inheritance benefits to male relatives - rights long denied to them in Libya. Rights of ethnic and linguistic minorities are also in question, including access to citizenship, recognition of official languages, and the right of return for internally displaced persons. The mechanisms by which rights will be protected and the extent to which the government will be able to lawfully curtail rights - for public safety, for example - will also be important.

‘The debate over the relationship between state and religion is becoming tenser after recent attacks by self-proclaimed Salafis against Sufi mosques. The major political parties in the recent election all agreed that Islamic law school be mentioned as at least one of the sources of law in the constitution, but the extent to which members of the

committee will deploy interpretations of Islamic principles to other constitutional features - such as the judicial system or human rights - will be controversial.'[82]

See Chapter 6: Political system for information about the General National Congress.

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6. POLITICAL SYSTEM

6.01 The Encyclopaedia Britannica, in its chapter, 'Libya: Revolt in 2011' noted, 'Elections to choose the members of a 200-seat assembly tasked with writing a new constitution were held in July 2012 in spite of occasional outbursts of violence caused by local and regional power struggles. The National Forces Alliance, a secular party led by Mahmoud Jibril, a former TNC official and interim prime minister, won the largest number of seats.'[83]

6.02 The Economist Intelligence Unit, in its August 2012 Country Report on Libya, stated:

'Political uncertainty will remain high in the short term as the new administration faces the daunting task of building a new system of governance. The situation should become more stable after a permanent government takes office following a parliamentary election, which is scheduled for mid-2013. The Economist Intelligence Unit expects that the transition timetable will slip, however, as the administration struggles to re-establish security and political rivalries impede effective decision-making. The success of the transition process will also depend on the government's commitment to wealth distribution and its ability to restore the state's capacity to provide Libyans with basic goods and services. Failure to meet high public expectations would probably lead to renewed unrest over the forecast period.

'The National Transitional Council (NTC) handed power over to the new interim parliament, the General National Congress (GNC) on August 8th [2012]. A day later, the GNC elected Mohammed al-Magariaf, the founder of the National Front for the Salvation of Libya (now the National Front Party), an exiled opposition movement during the Muammar Qadhafi era, as its interim president. The National Forces Alliance (NFA), a moderate coalition of political parties, civil society organisations and independent political figures, holds 39 seats in the 200-member GNC. The NFA is headed by Mahmoud Jibril, who served as prime minister in the NTC's first government. Bucking the regional trend, Islamist parties fared poorly at the election, with the Muslim Brotherhood-affiliated Justice and Construction Party coming a distant second with just 17 seats. Although the NFA has won the largest number of seats allocated to political parties, it is more difficult to judge the political affiliations of independent candidates, who have been allocated 120 of the 200 seats.

[82] The Middle East Channel, 'Libya's Constitution Controversy5 September 2012. http://mideast.foreignpolicy.com/posts/2012/09/05/libyas_constitution_controversy Accessed 12 November 2012

[83] Encyclopaedia Britannia – subscription site, accessed 4 September 2012, hard copy available on request.

'Mr Jibril has stressed the need for an inclusive approach, calling on Libya's political parties to form a broad coalition government. The NFA alone comprises at least 58 political parties, and although Mr Jibril's initiative might help to alleviate existing political and societal divisions, consensus decision-making is likely to hamper institutional effectiveness. Should Mr Jibril succeed in forming a broad coalition, ideological divisions between political parties are likely to resurface, resulting in frequent impasses that could eventually lead to the break-up of the coalition government.'[84]

6.03 The UN News Centre, in a news release of 9 August 2012, 'UN welcomes Libya's transfer of power to newly elected National Congress', stated:

'The United Nations today [9 August 2012] welcomed Libya's peaceful transfer of authority from the National Transitional Council to the newly elected National Congress, and reiterated its continuous support to assist the North African country in its peaceful transition.

'"I warmly congratulate the Libyans on this peaceful and democratic transfer of power, which is not only a first for this country but an inspiration for others," said the Special Representative of the Secretary-General for Libya, Ian Martin. "It reflects the people's confidence in their political process. It is a profound break with the past and a great leap forward on the road to a democratic and accountable State."

'On 7 July, some 2.7 million Libyans headed to the polls to vote for members of the new National Congress. Over 3,000 candidates ran for office, including more than 600 women. The election was conducted in a largely peaceful manner, receiving praise from international observers and the Security Council.' [85]

See also Chapter 4: Recent developments – July 2012 election

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[84] Economist Intelligence Unit, Country Report: Libya, August 2012. Subscription only, hard copy available on request.
[85] UN News Centre, UN welcomes Libya's transfer of power to newly elected National Congress, 9 August 2012 http://www.un.org/apps/news/story.asp?NewsID=42652&Cr=libya&Cr1= Accessed 4 September 2012

Human Rights

7. INTRODUCTION

7.01 The International Crisis Group report of 14 September 2012, 'Divided we stand: Libya's enduring conflicts', gave, in the Executive Summary, an analysis of Libya post conflict:

'Colonel Qadhafi's bloody end and the collapse of Libya's police and armed forces left in its wake an armed population with 42 years worth of pent-up grievances. Qadhafi's longstanding divide-and-rule strategy set communities against one other, each vying for a share of resources and the regime's favour. Some towns grew wealthy thanks to connections with the ruling elite; others suffered badly. Meanwhile, the security apparatus at once fomented, manipulated and managed intra-communal conflicts. Once the lid was removed, there was every reason to fear a free-for-all, as the myriad of armed groups that proliferated during the rebellion sought material advantage, political influence or, more simply, revenge. This was all the more so given the security vacuum produced by the regime's precipitous fall.

'A measure of chaos ensued, but up to a point only. Communal clashes erupted across the nation both during and after the 2011 conflict. Tensions that had long been left simmering on the back burner came to a boil, aggravated by the diverging positions various communities took vis-à-vis Qadhafi's regime. That most of the fighting ended relatively quickly owes in no small measure to the efforts of local leaders, revolutionary brigades and the variety of civilian and military councils that took it upon themselves to keep the country whole. The ad hoc security patchwork registered significant and even surprising success. But it is no model; even as it manages to contain conflicts, it simultaneously fuels them. Some armed groups cannot resist the temptation to target foes and settle scores; battle for political and economic influence; evade accountability; and entrench geographic and community rivalries.'[86]

7.02 The Foreign and Commonwealth Office, in its quarterly update (30 June 2012) to the report on Human Rights and Democracy: Libya', originally published April 2012, stated:

'Libya continues to work towards establishing itself as a democratic state, but a variety of human rights concerns remain. Continuing security incidents, including fighting around Kufra and Sebha, have impeded the effective enjoyment and protection of human rights over the last three months. The causes include historical tribal tensions, general criminality and in some cases, an ethnic dimension. We continue to have concerns over the treatment of minority groups, including the Tebu, Tuareg, Tawergha and sub-Saharan Africans.'[87]

7.03 Human Rights Watch, in its 'World Report 2012: Libya' (covering events of 2011), published 22 January 2012, stated:

[86] International Crisis Group, Divided we stand: Libya's enduring conflicts, 14 September 2012. http://www.crisisgroup.org/en/regions/middle-east-north-africa/north-africa/libya/130-divided-we-stand-libyas-enduring-conflicts.aspx

[87] FCO, Human Rights and Democracy 2011: Libya, quarterly update, 30 June 2012. http://fcohrdreport.readandcomment.com/human-rights-in-countries-of-concern/libya/quarterly-updates-libya/# Accessed 5 September 2012

'2011 was a dramatic year for Libya. A popular uprising and government crackdown led to an armed revolt, NATO intervention, and the death of a dictator who had amassed a deplorable human rights record over 42 years. At this writing Libya's new interim leadership, the National Transitional Council (NTC), was struggling to rein in the many militias and local security forces across the country, secure unguarded weapons, and build a new Libya based on independent institutions and the rule of law. A weak criminal justice system, torture and mistreatment of detainees, and revenge attacks against Gaddafi officials and supporters were pressing concerns, as was the apparent execution of Libyan leader Muammar Gaddafi, his son Muatassim, and dozens of his supporters.'[88]

7.04 Human Rights Watch, added, in a news release of 18 June 2012, 'Torture and illegal detention are an ongoing national crisis that Libya's future leaders need to address.' [89]

7.05 Amnesty International, in its May 2012 report, 'Libya: Rule of law or rule of militias?', noted, 'The new General National Congress and the provisional government it appoints face the monumental task of building a country based on respect of human rights and the rule of law. Particularly important is the reining in of the militias, holding them to account for abuses, and establishing strong national institutions able to provide justice and redress. Failure to do this will sow the seeds of a deeper human rights crisis in the future.'[90]

7.06 The report went on to say:

'Among other things, Amnesty International is calling on the new Libyan authorities to implement the following recommendations as a matter of urgency:

- Publicly admit the scale and gravity of human rights abuses, unequivocally condemn them and make clear their intention to bring to justice all perpetrators – regardless of rank or affiliation.

- Establish and implement without delay a disarmament, demobilisation and reintegration process that complies with human rights standards. It must include an independent vetting mechanism to prevent integration into the army, police and security forces of militia members or other individuals who are reasonably suspected of having committed or participated in crimes under international law or other human rights abuses, pending investigation and prosecution.

- Take concrete measures, in conformity with international human rights standards, to ensure the prompt cooperation of all militias in the disarmament, demobilisation and reintegration and vetting processes.

[88] Human Rights Watch, World Report 2012: Libya. http://www.hrw.org/world-report-2012/world-report-2012-libya Accessed 5 September 2012
[89] Human Rights Watch, Libya: Candidates Should Address Torture, Illegal Detention, 18 June 2012 http://www.hrw.org/news/2012/06/18/libya-candidates-should-address-torture-illegal-detention Accessed 5 September 2012
[90] Amnesty International, Libya: Rule of law or rule of militias? May 2012. http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 5 September 2012

- Lift immunity from prosecution for crimes under international law and other serious human rights abuses, and ensure that those reasonably suspected of abuses are removed from positions where they can repeat them, pending investigation and prosecution.

- Ensure that all detainees are treated humanely and held only in official detention centres, and that the lawfulness of their detentions is promptly reviewed by a judge, in line with internationally recognized standards. Detainees must either be charged with a recognizably criminal offence and promptly brought to trial in fair proceedings, or released. In particular, ensure that no statements extracted under torture are accepted as evidence.

- Ensure that prompt investigations are carried out into all known or reported cases of unlawful killings and torture or other ill-treatment, and where there is sufficient admissible evidence; bring suspects to justice in fair trials.

- Ensure that people who have been forcibly displaced are allowed to promptly return to their homes, that their safety is guaranteed, and that they receive redress, including compensation and assistance to rebuild their homes and their lives.' [91]

7.07 The NOREF (Norwegian Peacebuilding Resource Centre) report, 'Balanced on a knife-edge: the future of Libya's new state', published September 2012, noted:

'Less than a year after Libya's autocratic regime was toppled, many observers, particularly in Europe, still express pessimism over the country's chances of charting a stable transition from conflict to an effective state and democracy. The fact that all public institutions were either dismantled or corrupted by the previous regime, which fell in a chaotic civil war shaped by geographic divisions and external intervention – giving rise in the process to an estimated 350 militia groups – has generated extremely complex conditions for state-building.

'Given the lack of pre-existing institutions, it is difficult to see how a fragmented population with strong tribal loyalties in a country with a significant presence of armed factions can construct a state without risking a descent into chaos. However, the peaceful outcome of elections in July, the promise of a new constitution and, not least, the flow of revenues to state coffers through renewed oil and gas production suggest that the country's new rulers may benefit from far more benign conditions than initially expected.'[92]

7.08 The Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya [UNSMIL]', published 30 August 2012, noted, in the 'Human rights, transitional justice and rule of law' section:

'Members of civil society have taken an increasingly active role in promoting a human rights culture, including in monitoring and speaking out against abuses of detainees and other violations. The demand for capacity-building and skills training by civil society

[91] Amnesty International, Libya: Rule of law or rule of militias? May 2012. http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 5 September 2012

[92] NOREF, Balanced on a knife-edge: the future of Libya's new state, September 2012. http://www.peacebuilding.no/var/ezflow_site/storage/original/application/5e0dd27504ad1372948624338c50ae0d.pdf Accessed 4 December 2012

groups with regard to basic human rights remains high. From March to July, UNSMIL conducted a countrywide programme of basic training in human rights monitoring and documentation, including in Ajdabiya, Al Khums, Azawiyah, Benghazi, Bayda, Misratah, Sabha, Tripoli, Tobruk, Zintan and Zuwarah.' [93]

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8. SECURITY FORCES

Because the militia groups have not been fully absorbed into government controlled forces and also provide quasi security this chapter should be read in conjunction with chapter 10: Non-government armed forces. In some cases the distinction between government and militia controlled forces is blurred.

OVERVIEW

8.01 The International Crisis Group report of 14 September 2012, 'Divided we stand: Libya's enduring conflicts', in the Executive Summary, analysed the security situation post conflict:

'Until now, central authorities have acted chiefly as bystanders, in effect subcontracting security to largely autonomous armed groups. They had a reason: the army and police were in disarray, suffering from a deficit in personnel and equipment; officers and soldiers had either defected, fled, been killed or jailed. The rebels who rose up against Qadhafi were much better armed and – both suspicious of remnants of the old regime and pleased with their newfound power – unwilling to either surrender their autonomy or come under state control. Yet, it would be wrong to see the parallel military and police forces that emerged as having done so against the central authorities' wishes. Rather, and although they were set up by revolutionary brigades themselves, the Libyan Shield Forces and Supreme Security Committee – the former operating parallel to the army, the latter to the police – were authorised and encouraged to take action by the ruling National Transitional Council, which viewed them as auxiliary forces without which the state simply could not secure the country.' [94]

8.02 The International Institute for Strategic Studies, Armed Conflict Database, in its 'Military and Security Developments: Libya, January – March 2012', noted:

[93] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

[94] International Crisis Group, Divided we stand: Libya's enduring conflicts, 14 September 2012. http://www.crisisgroup.org/en/regions/middle-east-north-africa/north-africa/libya/130-divided-we-stand-libyas-enduring-conflicts.aspx Accessed 26 October 2012

'Libya continued in its efforts to form national security services. On 15 February [2012], Libya's chief of staff Yousef al-Manqush said that 5,000 militiamen had signed up for the new national army and encouraged more to do so. Additionally, about 400 former fighters finished their training to join the police services. On 4 March, the first class of former rebel fighters absorbed into the national army graduated in Tripoli. The number of existing security forces is unclear due to conflicting information from different officials. On 10 March, Libya's Interior Minister Fawzi Abdel Al said that the police force numbered 25,000 and was able to provide security. Both France and Sudan have offered support to Libya to develop and train its security forces.' [95]

8.03 The same source in its April – June 2012 section stated:

'While the government is gradually integrating various militias into government security forces, it faces many obstacles and the progress is not advancing according to the expectations of the general population. Centrally-controlled security forces are also finding it more difficult to assert their authority in peripheral regions that are further from urban centres such as Tripoli, Misrata and Benghazi. In such areas it is often revolutionary forces that are in charge of security situation.' [96]

8.04 The Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya [UNSMIL]', published 30 August 2012, noted, in the section on Public Security:

'UNSMIL has worked with the Libyan authorities and liaised with international partners in an initiative to develop Libya's first defence white paper. The white paper will serve to identify the main risks and threats facing Libya, lay out the principal military tasks, doctrine and vision, and tackle issues of civilian democratic oversight, overall command and control, and the basic structure of the armed forces, including their relationships with the Ministry of Defence and the legislature. To this end, UNSMIL facilitated two strategic planning workshops, in May and July, with Libyan and international experts, including the Deputy Prime Minister, the Minister of Defence, the Chief of Staff, the Deputy Minister of the Interior, senior defence staff and representatives of other ministries. The exercise, which is intended to be carried forward by the new Government with extensive consultation, including with civil society, has become a catalyst for Libya's defence and security sector reform efforts.' [97]

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[95] International Institute for Strategic Studies, Armed Conflict Database, Military and Security Developments April-June 2012. Accessed 5 September 2012. Subscription site, hard copy available on request.
[96] International Institute for Strategic Studies, Armed Conflict Database, Military and Security Developments April-June 2012. Accessed 5 September 2012. Subscription site, hard copy available on request.
[97] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

POLICE

8.05 Jane's Sentinel Security Assessment of Libya, in its section on Security and Foreign Forces, updated 15 May 2012, noted, '…the new transitional authorities [are] yet to constitute replacement forces, agencies and organisations.' [98]

8.06 Reuter's, in a report of 15 January 2012, noted, 'Twenty-four hours after Libya's police force opened its doors for the thousands of militia members to join its ranks, only 100 had signed up, signalling the long road the government faces to bring the unruly militias to heel.'[99]

8.07 The International Crisis Group report of 14 September 2012, 'Divided we stand: Libya's enduring conflicts, in its section on 'The Fledgling State' noted:

'Defeated or not, and enemy or not, the former police – and, more broadly, the former security services and bureaucracy – still had a heartbeat. Newly appointed ministers and officials from the ranks of long-term exiles, opposition activists and rebel military coordinators faced the task of dealing with a bureaucracy that, mere weeks prior, had served Qadhafi's regime. They needed to create a defence ministry from scratch; face armed forces that were not used to civilian oversight and authority; and contend with an interior ministry that had ties to the former regime's police force and security services.

'Struggles between ministers and bureaucracy existed across the board… Aware of this tug-of-war, revolutionary brigades were reluctant to cede power to ministries or former state security forces. In December 2011, in an effort to assert control and reduce the armed groups' influence, the NTC set up the Warriors' Commission, an inter-ministerial body under the prime minister's authority. Its goal was to register all fighters still mobilised, channel them into training programs and, eventually, toward employment in the labour, interior and defence ministries. A supplementary objective was to provide the executive with greater understanding of the brigades and their intentions, thereby filling a large gap in their knowledge. The commission, headed by Mustafa Sigizly, handed out forms to the brigades through the intermediary of local civilian and military councils. Amid some resistance and confusion, most brigades and councils ultimately agreed to distribute them.

'The Warriors' Commission soon was overwhelmed with submissions by several hundred thousand unemployed youth, who all claimed to be revolutionaries…Efforts to defraud or take advantage of the system notwithstanding, the commission provided a bureaucratic mechanism for guiding hundreds of thousands of unemployed citizens toward work in the army and police. It also supplied brigade leaders with much-needed training and education…

'The interior ministry took bold, early action that promised much. It quickly recognised that the police needed wholesale reform but, more urgently still, needed to regain the public's confidence… It set up a temporary body, the Supreme Security Committee (SSC), designed to swiftly absorb revolutionary brigades under its own command…

[98] Janes's Sentinel Country Risk Assessments: Libya, updated 15 May 2012. Subscription only, hard copies available on request.
[99] Reuter's, Slow start for Libya drive to disband militias, 15 January 2012, http://af.reuters.com/article/sudanNews/idAFL6E8CF0AK20120115?pageNumber=2&virtualBrandChannel=0 Accessed 8 February 2012

Indiscipline also was rife. In May and June 2012, journalists and human rights NGOs criticised SSC units for beatings and arbitrary detention… By late April, the deputy minister said, "the main obstacle slowing down development of police and interior ministry forces is the brigades – it's really the brigades". Ministers adjusted the program to focus on recruiting individuals rather than whole brigades, but by then the damage largely had been done. The SSC's mandate was extended in July 2012, but key issues such as the length of extension and what should come next are all under discussion.

'By the time the General National Congress (GNC) was formed in August 2012, the SSC apparently had cemented its role within the security apparatus.' [100]

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ARMED FORCES

8.08 Jane's Sentinel Security Assessment of Libya, in an assessment of the armed forces, posted 17 August 2012, noted:

'Military reform within the armed forces will initially be driven by the acquisition of new equipment, although this will only be possible after the National Transitional Council (NTC) has decided on the status of both Ghadaffi-era forces and the so-called National Liberation Army of Libya, also known as the Free Libya Army that were ultimately responsible for the military defeat of the old regime. The NTC also have to take into consideration the proliferation of militia groups, large and small, that do not necessarily see themselves as owing loyalty to any central authority, but rather to more local allegiance, whether to a clan or tribe. As a result of these significant, but far from insurmountable challenges, structural and operational changes are both strong possibilities in the process of re-creating a new national army.'[101]

8.09 Jane's Sentinel Security Assessment of Libya, in its section on the armed forces' chain of command also noted:

'There remains a great deal of uncertainty as to who will hold what positions in the high command of Libya; how the command and control structure may change; and, if the structure of the Armed Forces is reorganised, when this will take place. As things stand, one of the stated aims of the National Transitional Council (NTC) is the, "Supervision of the Military Council to ensure the achievement of the new doctrine of the Libyan People's Army in the defence of the people and to protect the borders of Libya."'[102]

8.10 Reuters in a news report of 3 January 2012 stated:

'Libya's transitional authority on Tuesday named Yousef al-Manqoush, a retired general from a bastion of rebels who overthrew Muammar Gaddafi, as the new armed forces chief in the first significant move to build a new Libyan military…

[100] International Crisis Group, Divided we stand: Libya's enduring conflicts, 14 September 2012. http://www.crisisgroup.org/en/regions/middle-east-north-africa/north-africa/libya/130-divided-we-stand-libyas-enduring-conflicts.aspx

[101] Janes's Sentinel Country Risk Assessments: Libya, Assessment of Armed Forces updated 25 January 2012. Subscription only, hard copies available on request.

[102] Janes's Sentinel Country Risk Assessments: Libya, Chain of Command - Armed Forces updated 17 August 2012. Subscription only, hard copies available on request.

'To help reinstate law and order, the interim government plans to include thousands of former rebels in the military, police and other civilian jobs. Some militia chiefs say they would only cede command of their fighters if an organized military and security apparatus were in place.

'Manqoush's appointment by National Transitional Council [TNC]chairman Mustafa Abdel Jalil could pave the way toward forming a structured military. But it is not clear yet whether he would be accepted by militia commanders as the head of the armed forces.

'His prospects could be boosted, however, by the fact that he hails from Misrata, home to a number of powerful militias that helped topple the Libyan dictator.'[103]

8.11 A report of 4 March 2012 by AFP, entitled 'Libya army graduates first Tripoli-trained troops', gave more information about the new army recruits:

'The Libyan national army on Sunday graduated its first batch of soldiers drawn from the ranks of former rebels in the capital of Tripoli, a military officer said.

'"This is the first military unit formed by the national army in Tripoli," Colonel Omar Abdullah said of the graduating class of 225 troops. "It is a symbol of revolutionaries being streamlined into a system with a mission of protecting the state," he added, gesturing to the men in khaki.

'The national army in Libya, which has been refashioning itself after the toppling of slain dictator Moamer Kadhafi's regime in October, is trying to recruit and train former rebel fighters. "Our doors are open to all revolutionaries," the colonel told AFP.

'The newly established 23 of October brigade takes its name from the date when the now ruling National Transitional Council of Libya declared "liberation" of the country from Kadhafi's 42-year-old rule.

'The unit received four months of training in military drills and security measures, including the protection of important personalities, self-defence and disarming opponents, a graduate said.'[104]

8.12 The International Crisis Group report of 14 September 2012, 'Divided we stand: Libya's enduring conflicts', in its section on 'The Fledgling State' considered that the difficulties faced by the army were similar to those faced by the police:

'Similar tensions between revolutionary civilian brigades and Qadhafi-era commanders plagued the army and defence ministry. Chief of Staff Yusuf al-Manqoush was appointed on 2 January 2012, following difficult negotiations between revolutionary forces, the army and NTC. He inherited "an army of all chiefs and no Indians". It had few fighting soldiers, and many of its senior officers were advanced in years. A significant number of its western divisions had fought for Qadhafi, and its members subsequently had been killed or imprisoned; members of eastern divisions, though they defected early on, largely stayed clear of the front lines. The rebels widely distrusted those who

[103] Reuters: Libya names new head of armed forces, 3 January 2012 http://www.reuters.com/article/2012/01/03/us-libya-chief-of-staff-idUSTRE8021DB20120103
[104] AFP, Libya army graduates first Tripoli-trained troops, 4 March 2012. http://www.google.com/hostednews/afp/article/ALeqM5iP3ObApnnHvJZIGDeY47WxuZeDsg?docId=CNG.8d087f5e687ad7e1e42670025c8fca98.231 accessed 5 September 2012

remained in the army. The defence minister, Osama al-Juweili, was put in charge of a ministry that had not existed prior to the revolution, and lines of authority vis-à-vis the chief of staff were unclear. The two competed with one another but also with the de facto authority of deputies and commanders in the fragmented military and with revolutionary brigades, military councils and armed groups outside it.

'As with the interior ministry and the SSC, the defence ministry's initial approach – after an early attempt to dissolve armed groups failed miserably – was to register armed groups as quickly as possible and work with local military councils. But unlike the interior ministry, neither the army nor ministry created a separate corps to accommodate brigades. Instead, Osama Juweili gave official accreditation and identification cards to the military councils, revolutionary brigades and other armed groups across the country. He did so seemingly with only scant investigation into their origins or orientation and apparently no effort or capacity to integrate them under a single command structure. As an incentive, the ministry began responding to fighters' demands for payment, offering each who registered with it and with the army a one-time payment of 2400LD (just over €1500), an amount that rose to 4000LD (just over €2500) for those with families. Again as with the SSC, oversight was absent and unit commanders had almost total freedom to do as they wished with the money…

'In the tug-of-war between Manqoush and Juweili, the chief of staff was aided by the lack of clarity in the defence minister's and government's authority over the army; as a result, he effectively bypassed the minister. Even so, he still had to contend with an enfeebled and dysfunctional army and, with that in mind, set out to "reshuffle and try to bring together into battalions remains of the old army". At the core of his effort were Benghazi-based army units, special forces and the navy and air force, most of whom had defected in the first week of the revolution. In early April, the government declared certain conflict areas military zones and placed them under army control, with Manqoush assigning army commanders to each. However, despite appearances and the army's best efforts to present an image of authority, these military zones never genuinely came under the control of a single force. Instead, as mentioned, a variety of heavily-armed actors (military councils as well as civilian and armed groups) vied for influence. Among them, army officers typically were the weakest and least-equipped. Having lost much of its capacity, with a large amount of weapons in civilian and revolutionary brigades' hands, the army had to shore up its own depleted stocks through various means, including by purchasing or borrowing them from rebel brigades and arms dealers on the black market. Strategic infrastructure, oil fields and borders remained outside its control and morale palpably low.

'As a result, whenever military zones were imposed – which occurred only once all-out inter-communal conflict had broken out – Manqoush had to rely on revolutionary brigades, the only actors potentially capable of reining in warring communities. Like the defence minister, he developed pragmatic relations with the most prominent revolutionary leaders so he could count on their support in major communal conflicts or other violent disruptions, with the better-armed revolutionary brigades doing initial crisis response at army request. Under this arrangement, brigades nominally accepted Manqoush's authority while retaining de facto autonomy. This negotiated system was formalised in the relationship between the state and the Libyan Shield Forces. As with the SSC, it would be wrong to see the parallel structure as having emerged squarely against the central authorities' wishes. Rather, and although set up by revolutionary brigades outside the purview of the army and police services, the two in some ways

were implicitly encouraged by the state and accepted as auxiliary forces without which the state simply could not secure the country.' [105]

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Agency for Border Security and Strategic Installations

8.13 The United Nations Security Council 'Report of the Secretary-General on the United Nations Support Mission in Libya', published 1 March 2012, stated, 'Border security and management is a key Government priority. Government representatives have emphasized the importance of strengthening the newly created Agency for Border Security and Strategic Installations Protection within the Ministry of Defence, which currently intends to absorb some 16,000 revolutionary fighters into five brigades to protect Libya's borders.' [106]

8.14 The Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya [UNSMIL]', published 30 August 2012, noted, in the section on 'Public Security':

'In view of prevailing Libyan and international concerns over the smuggling of arms and drugs, human trafficking and illegal migration and the spread of transnational organized crime throughout the Sahel, the protection of Libya's southern border remains a top national security priority. A Government decision late in February to develop an integrated southern border action plan with clear command and control responsibilities has yet to be implemented. UNSMIL continued to work with Libyan stakeholders and international experts to promote the development of an operational concept for border management with a view to galvanizing bilateral and multilateral assistance and minimizing the risk of fragmentation in the security sector. The integrated border management assessment recently completed by the European Union is expected to contribute to this exercise.' [107]

For details on military service, conscription and conscientious objection see Military Service.

8.15 The United States Department of State, 'Country Report on Human Rights Practices: Libya 2011', published 24 May 2012, noted, 'Following the fall of Qadhafi, fighting forces and militias largely outside the command of the interim government or the TNC

[105] International Crisis Group, Divided we stand: Libya's enduring conflicts, 14 September 2012. http://www.crisisgroup.org/en/regions/middle-east-north-africa/north-africa/libya/130-divided-we-stand-libyas-enduring-conflicts.aspx Accessed 26 October 2012

[106] United Nations Security Council 'Report of the Secretary-General on the United Nations Support Mission in Libya', 1 March 2012 http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/129 Accessed 18 September 2012

[107] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

filled the security vacuum and some reportedly violently abused detainees and prisoners.'[108]

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HUMAN RIGHTS VIOLATIONS BY THE SECURITY FORCES

Arbitrary arrest and detention

8.16 The Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya', published 30 August 2012, noted, in the section on 'Human rights, transitional justice and rule of law ':

'Conflict-related detentions remained a major challenge in post-electoral Libya. Some 3,000 of an estimated 7,000 detainees are currently held in facilities run by the Ministry of Justice. A further 2,600 are held by military councils or supreme security committees and are therefore under some degree of State authority. This has made little difference to the plight of many who remain under the guard of revolutionary brigades and are vulnerable to mistreatment. Most have yet to be charged or released. UNSMIL continues to impress upon the Government that detaining persons outside a legal framework, in some cases for more than 10 months, is in serious breach of international human rights standards. The Mission has presented the Ministry of Justice with a strategy to fulfil its responsibility to address conflict-related detentions and has provided training to prosecutors in screening detainees. While the Ministry is implementing a more systematic approach to screening, its capacity in prison administration remains limited. UNSMIL is coordinating a framework for international assistance to build the capacity of the judicial police, which is responsible for prison administration.' [109]

For details of the law on arrest and detention, see Arrest and detention – legal rights.

Torture

8.17 The same report continued:

'Cases of mistreatment or torture continued to surface during the reporting period. UNSMIL uncovered three deaths at the facilities of the Supreme Security Committee of Misratah, all of which occurred on 13 April as a direct result of torture. Assurances from Libyan officials that incidents of torture or mistreatment would be investigated and perpetrators duly punished have not been translated into effective action. UNSMIL continued to urge the Libyan authorities to address those cases, including through robust inspections of known facilities, the identification and closure of unknown facilities and investigations into cases of torture. In some instances, the Ministry of the Interior and/or local supreme security committees and military councils have conducted investigations and taken disciplinary action. The prosecutor's office in Misratah has

[108] USSD Country Report on Human Rights Practices: Libya, 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 10 September 2012

[109] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

opened a file on the deaths in custody and investigations are continuing. The head of the Supreme Security Committee of Misratah was dismissed following investigations conducted by the Ministry of the Interior into the deaths on 13 April of the three detainees referred to above.' [110]

8.18 The BBC News, in a report of 28 January 2012, called 'Libya prisoners make new torture allegations', noted:

'New evidence has emerged that supporters of the former Libyan leader, Col Gaddafi, have been tortured while in detention. The BBC has been told by inmates at a jail in Misrata that they were beaten, whipped and given electric shocks. The head of the city's military council has dismissed the allegations. United Nations human rights chief Navi Pillay has called on Libya's transitional government to take full control of all prisons…

'Earlier this week the medical charity Medecins Sans Frontieres said it was suspending its work in one Misrata detention centre because of an alarming rise in torture cases…Prison officials say they are powerless to stop inmates being taken away for torture 'The torture is being carried out by officially recognised military and security entities as well as by a multitude of armed militias operating outside any legal framework,' a spokesman for London-based Amnesty International said on Friday.

'The people running the Misrata detention centre told the BBC they were aware of inmates being taken away to be tortured, but were powerless to stop it. Many detention centres are controlled by militias unaccountable to the government.

'Navi Pillay expressed concern on Friday about the treatment of prisoners, but especially sub-Saharan Africans who the militias assume to have been fighting for Col Gaddafi. 'There's torture, extrajudicial executions, rape of both men and women,' she told the Associated Press news agency.'[111]

8.19 Human Rights Watch, in a press release of 3 February 2012, noted, 'A Libyan diplomat who served as ambassador to France died less than 24 hours after he was detained by a Tripoli-based militia from the town of Zintan, Human Rights Watch said today. Dr. Omar Brebesh, who was detained on January 19, 2012, appears to have died from torture.'[112]

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HUMAN RIGHTS ABUSES COMMITTED BY BOTH SIDES DURING THE UPRISING

8.20 In emergency session, the Human Rights Council on 25 February 2011 established the International Commission of Inquiry on Libya and gave it the mandate "to investigate all alleged violations of international human rights law in Libya, to establish the facts and

[110] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

[111] BBC News, Libya prisoners make new torture allegations, 28 January 2012 http://www.bbc.co.uk/news/world-africa-16771372 Accessed 8 February 2012

[112] HRW Press release 3 February 2012, http://www.hrw.org/news/2012/02/02/libya-diplomat-dies-militia-custody Accessed 8 February 2012

circumstances of such violations and of the crimes perpetrated and, where possible, to identify those responsible, to make recommendations, in particular, on accountability measures, all with a view to ensuring that those individuals responsible are held accountable". The Report of the International Commission of Inquiry on Libya (when link accessed click on further link on right hand side of screen), published 2 March 2012, concluded that:

'…international crimes, specifically crimes against humanity and war crimes, were committed by Qadhafi forces in Libya. Acts of murder, enforced disappearance, and torture were perpetrated within the context of a widespread or systematic attack against a civilian population. The Commission found additional violations including unlawful killing, individual acts of torture and ill-treatment, attacks on civilians, and rape.

'The Commission further concluded that the thuwar (anti-Qadhafi forces) committed serious violations, including war crimes and breaches of international human rights law, the latter continuing at the time of the present report. The Commission found these violations to include unlawful killing, arbitrary arrest, torture, enforced disappearance, indiscriminate attacks, and pillage. It found in particular that the thuwar are targeting the Tawergha and other communities.'[113]

See also Recent Developments: war crimes

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9. MILITARY SERVICE

The General National Congress has not yet made any announcement about conscription.

CONSCRIPTION

9.01 The Library of Congress, Country Profile: Libya, dated April 2005, observed that 'Libya has selective conscription for 3–4 years.' The report went on to say, 'The Compulsory Military Service Statute of 1978 made all eligible males between the ages of 17 and 35 subject to a draft commitment of three years of active service in the army or four years in the air force or navy. A 1984 statute mandated compulsory military training for all Libyans coming of age, whether male or female, to achieve total mobilization of the population in the event of national emergency.'[114]

9.02 War Resisters' International, in its report into conscription in Libya, updated 7 August 1998, added:

'Compulsory military service exists alongside the military training in the People's Militia, the reserve force.

[113] UNHRC, Report of the International Commission of Inquiry on Libya, 2 March 2012 http://www.ohchr.org/EN/NewsEvents/Pages/LibyaReport.aspx Accessed 14 November 2012
[114] The Library of Congress, Country Profile, Libya, April 2005 http://memory.loc.gov/frd/cs/profiles/Libya.pdf Accessed 16 May 2011

'After performing military service, all men between 18 and 35 are subject to a few weeks of compulsory military training every year. Between the ages of 45 to 55 men are supposed to get trained in specific defence tasks. After 55, they become Moudjahidine in the coast guard or in the Jamahiriyan Guard.

'Not much is known about the actual recruitment into the armed forces. Considering the size of the armed forces and the potential of conscripts, it can be concluded that only a small proportion of conscripts is actually recruited.

'According to Amnesty International in 1985, recruitment often takes the form of press-ganging youth into the armed forces.' [115]

9.03 The Coalition to Stop the Use of Child Soldiers in its Global Report 2008 - Libya, published 20 May 2008, stated, 'According to Libya's Second Periodic Report to the Committee, national service was compulsory for "medically fit" men aged between 18 and 35.'[116]

9.04 The report also noted:

'On accession to the Optional Protocol in October 2004, Libya declared that the required legal age for volunteering to serve in the armed forces was 18. This followed concern expressed in 2003 by the UN Committee on the Rights of the Child over the Mobilization Act No. 21 of 1991, which "allows for persons of 17 years to, among other things, engage in combat" and the Committee's call for the law to be amended so that under-18s were not deployed as active combatants in wartime. However, amendments to the 1991 Act to raise the age of conscription from 17 to 18 were not believed to have been made.' [117]

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During the 2011 uprising

9.05 The Daily Telegraph, in an article of 15 April 2011, entitled 'Libya crisis: Gaddafi using schoolboy conscripts on front line', reported on young conscripts being forced to fight against the rebels during the current uprising in Libya:

'Col Muammar Gaddafi is using schoolboy conscripts as young as 15 in his battle to regain the besieged town of Misurata according to young government troops captured by rebels.

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[115] War Resisters' International, Libya – conscription, 7 August 1998 http://www.wri-irg.org/programmes/world_survey/reports/Libya Accessed 16 May 2011

[116] The Coalition to Stop the use of child Soldiers, Global Report 2008-Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=486cb113c&skip=0&coi=LBY&querysi=conscription&searchin=fulltext&display=10&sort=date Accessed 14 June 2011

[117] The Coalition to Stop the use of child Soldiers, Global Report 2008-Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=486cb113c&skip=0&coi=LBY&querysi=conscription&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

'The teenagers are told they are going on training exercises until they reach the front lines, when they are given rifles and told by officers they will be shot if they retreat or desert.

'Two badly-wounded teenage fighters shown to The Daily Telegraph said they were told Misurata had been overrun by drug addicts, Islamic militants and Egyptian invaders. One said his own side had opened fire on his own teenage detachment when they later fled from the rebels.

'In the past week, the conscripts have been thrust into fighting along the strategic "heavy road" connecting the Benghazi to Tripoli highway with the commercial port ten miles away at Ghasr Ahmad.

'Umran, a 17-year-old from near Tripoli, said he had spent two years at a military school only to leave and work in a shop in November. He was recalled to barracks 'for more training' as soon as the February 17 uprising began and kept for 40 days without access to the radio or television.

'He said: "I was given a rifle and we were told we were going to shoot targets on an exercise. Then we found ourselves in Misurata. There were 90 of us, aged 15 to 19. We were told we had to cleanse Misurata. There were invaders from Egypt and we had to fight against them. We said we didn't want any part in it and requested to leave. They refused and some tried to run off and officers fired on them."'[118]

9.06 A Reuters article of 5 May 2011, 'Fear of crackdown, conscription haunts Libyan capital noted', 'One Tripoli resident said families had been warned that the army may call men between 18 and 40 years old to fight. The army has yet to enforce conscription, the resident said, but some families were already thinking of sending their sons abroad.' [119]

9.07 The International Federation for Human Rights, in a report released on 10 March 2011, Colonel Qaddhafi forces enrolment of African migrants in his army, noted:

'Thousands of migrants would have been forced to join the army and are being used as front line fighters or simple human shield for Libyan soldiers in street fights as happened in the city of Zawiya on March 6, 2011. Eyewitness reported a score of Africans seen marching on the front line to protect the advancing Libyan troops loyal to Colonel Qaddhafi and most of the casualties were regrettably in their ranks. 'The life of African migrants in Libya is under real threat. The Security Council, which has the responsibility of maintaining international peace and security and the protection of civilian population, must urgently interfere with the Government of Libya to immediately stop such practice that is, not only immoral, but also violates the basic migrant's rights as guaranteed by

[118] The Daily Telegraph, Libya crisis: Gaddafi using schoolboy conscripts on front line, 15 April 2011 http://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/8453737/Libya-crisis-Gaddafi-using-schoolboy-conscripts-on-front-line.html Accessed 7 June 2011

[119] Fear of crackdown, conscription haunts Libyan capital, 7 May 2011 http://www.trust.org/alertnet/news/feature-fear-of-crackdown-conscription-haunts-libyan-capital/ Date accessed 7 June 2011

international law' declared Sliman Bouchuiguir, secretary General of LLHR (Libyan League for Human Rights).' [120]

9.08 Al-Jazeera in a report of 9 April 2011, entitled 'Migrants forced to fight for Gaddafi', noted:

'Among the reports of atrocities occurring in Libya are claims from African migrants that they were abducted and forced to fight with Gaddafi's forces.

'Nearly all migrants from sub-Saharan Africa, who arrive at the desert refugee camp in Tunisia, have fled in fear of violent reprisals by Libyans who accuse them of being mercenaries. The extent to which Gaddafi's military has used foreign mercenaries, or press-ganged migrants into fighting, remains unclear.

'A former Nigerian police officer, who had worked in Libya for eight years as a technician, alleges he was abducted in mid-March at a military checkpoint in Tripoli, along with other men from Ghana, Mali and Niger, before being taken to a military centre.' [121]

See Section 27 for more information about foreign refugees and migrants

CONSCIENTIOUS OBJECTION

9.09 War Resisters' International, in its report into conscription in Libya, updated 7 August 1998 noted, 'The right to conscientious objection is not legally recognised and there is no provision for a substitute service…Refusing to perform military service is punishable by three years' imprisonment and deprivation of civil rights for 10 years.' The report went on to say that there was no information available as to how this was managed in practice. [122]

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10. NON-GOVERNMENT ARMED FORCES

Because the militia groups have not been fully absorbed into government controlled forces and also provide quasi security this chapter should be read in conjunction with chapter 8: Security forces. In some cases the distinction between government and militia controlled forces is blurred

[120] International Federation for Human Rights, Colonel Qaddhafi forces enrolment of African migrants in his army, 10 March 2011 http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4d7a060b2&skip=0&coi=LBY&querysi=migrants&searchin=title&display=10&sort=date Accessed 7 June 2011

[121] Al-Jazeera, Migrants forced to fight for Gaddafi, 9 April 2011 http://english.aljazeera.net/indepth/features/2011/04/20114818291705627.html Accessed 7 June 2011

[122] War Resisters' International, Libya – conscription, 7 August 1998 http://www.wri-irg.org/programmes/world_survey/reports/Libya Accessed 16 May 2011

OVERVIEW

10.01 Amnesty International, in its May 2012 report, 'Libya: Rule of law or rule of militias?', noted:

'The militias initially took up arms to overthrow Colonel al-Gaddafi or to fill the security vacuum left after his state collapsed. They quickly accumulated their own caches of weapons and consolidated control over entire neighbourhoods and areas. Many refuse to disarm or join the army or police, and do not answer to the central authorities.

'The National Transitional Council (NTC) and the government it appointed have appeared unable or unwilling to confront the militias. Officials frequently cite security concerns and the widespread availability of weapons to justify their approach of negotiating with the militias rather than confronting them, and to explain delays. The Deputy Minister of Interior, Omar al-Khadrawi, told Amnesty International that the Ministry of Interior had dismantled four "lawless" armed militias in Tripoli by early June 2012 – a tiny proportion of the total. Efforts that have been made to bring militias under official bodies have not been accompanied by systematic vetting to ensure that those who have ordered, committed or acquiesced to human rights abuses are neither rewarded nor given positions where they can repeat similar crimes. It remains unclear whether any members of militias have been prosecuted for human rights abuses.

'During and in the immediate aftermath of the conflict, armed militias captured thousands of suspected al-Gaddafi soldiers and loyalists, as well as alleged foreign "mercenaries". Militias continue to seize people outside the framework of the law and hold them in secret detention facilities, albeit on a significantly reduced scale.' [123]

10.02 Peter Fragiskatos, writing on 28 August 2012 in the Guardian, stated:

'Libya is awash with "militias" a ubiquitous term applied to the armed groups that formed during the war with Gaddafi and carried out much of the fighting against his regime…Just how many militias exist is unknown but estimates put the number in the low to mid hundreds. Their ranks are made up of thousands of young men – with many joining after the war ended – whose motives are complex and varied (the issue of pro-Gaddafi militias is another matter altogether).

'Most are no doubt eager to secure a future for themselves and preserve the respect that now goes along with being a Libyan thuwwar (revolutionary). Others are more interested in the profits that come with controlling the trading routes along Libya's borders and other realms of the economy (militias in the east and west seized various businesses and private property after the uprising was over). It is a struggle that has led to clashes between militia groups.

'Still, their persistence also reflects a genuine desire to maintain security in their area of origin, something that the National Transitional Council (NTC) – the interim authority established during the uprising – was unable to do, partly because it lacked resources but also because it was viewed by western-based militias as being dominated by eastern Libyans and former Gaddafi officials who were mostly spectators during the fighting…

[123] Amnesty International, Libya: Rule of law or rule of militias? May 2012. http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 5 September 2012

'The NTC tried to deal with the problem by bringing the militias under its rule. In September 2011, it created the Supreme Security Committee (SSC), a patchwork of various militia groups thought to number around 100,000. It also attempted to establish control over the Libyan National Shield, a group formed by militias from the east, Zintan and Misrata to preserve "the ideals of the revolution".

'In return for maintaining order around the country, the members of both groups were paid a salary that surpassed the average Libyan's wage, thus providing an incentive to continue fighting on the side of the state.

'The difficulty, however, is that the SSC and the National Shield – which have now become the assembly's problem – never came under the NTC's control and instead operated independently.

'In fact, their large numbers also threaten to overwhelm Libya's very weak military and police forces, both of which lack supplies and manpower. This would be less of a concern if they conducted themselves lawfully. But they haven't. Both have used violence to further their aims, have carried out random arrests and continue to maintain secret prisons.' [124]

10.03 The NOREF (Norwegian Peacebuilding Resource Centre) report, 'Balanced on a knife-edge: the future of Libya's new state', published September 2012, noted:

'The Libyan revolution in 2011 was a complex process, involving three kinds of players: external forces, whether NATO (and behind it, the United Nations – UN) or individual states such as France, Britain and Qatar, often with quite different agendas; the NTC itself, ostensibly responsible for resistance inside Cyrenaica, but isolated from Tripolitania and the capital, as well as pro-regime forces in the central region of Sirtica; and, finally and conclusively, independent militias in Misurata, Zawiya and Zintan. It was the latter that, coupled with an uprising in Tripoli in late August 2011, actually won the war, often after heroic resistance earlier to pro-regime forces. The NTC's claim, therefore, to be the sole legitimate representative of Libya – recognised with little delay by the international community – rang hollow in the ears of many who took a direct role in the struggle.

'The Tripolitanian militias, in consequence, are suspicious of attempts by the NTC or its government to attempt to force them into line and, to date, have resisted all such attempts. Instead, they have carved up the territories under their control into a series of fiefdoms in which they supply a rough-and-ready law and order that could easily degenerate into arbitrary and persecutory violence – and indeed has already done so. The NTC has compounded the problem by failing to create a viable security force out of the remnants of the police and army of the former regime.'[125]

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[124] The Guardian, The tools that could disarm Libya's militias, 28 August 2012. http://www.guardian.co.uk/commentisfree/2012/aug/28/tools-disarm-libya-militias-weapons-exchange?newsfeed=true Accessed 5 September 2012

[125] NOREF, Balanced on a knife-edge: the future of Libya's new state, September 2012. http://www.peacebuilding.no/var/ezflow_site/storage/original/application/5e0dd27504ad1372948624338c50ae0d.pdf Accessed 4 December 2012

MILITIA GROUPS

10.04 The Carnegie Endowment for International Peace article of 16 February 2012, 'Disarming Libya's Militias', stated:

'Militias are involved in intense competition with one another. The most significant competing factions are the two groups that liberated Tripoli: the Misratan Sadoon Swayhil legion and the five Zintani brigades organized under the Military Council of West Libya. The former claims its contributions as greater, having sacrificed thousands in addition to the capture and execution of Qadhafi, while the Zintani brigades—who liberated the Western half of the city—possess more tangible tools and occupy strategic infrastructure (such as Tripoli's airport) [control with Libyan authorities from 20 April 2012[126]] to negotiate for influence. The National Transitional Council (NTC) has had to play to a balance in recognition of both militias' contributions, reserving leadership of the ministries of the Interior and Defense to the commanders of the Misrata and Zintan brigades, respectively…

'At present, however, both Zintanis and Mistratans are seemingly working under the same aegis, forging a potential peace pact for Tripoli. Militias in the capital have also coordinated this week to form alternative committees to the NTC: 100 militias from western Libya announced a new federation to challenge the NTC. Incidentally, this grouping also happens to belong to the Military Council of West Libya formed by Defense Minister Osama al-Juwali—which may further complicate NTC-militia tensions.'[127]

10.05 A further article of 15 July 2012 by the Carnegie Endowment for International Peace, 'Libya's militia menace', noted:

'In the absence of an effective police force and army, the country's transitional government has pursued a contradictory policy. On the one hand, recognizing that armed militias could destabilize the state, it has enacted some programs to disarm, demobilize, and reintegrate the country's countless revolutionary "brigades."

'At the same time, however, the transitional government has been forced to harness the militias' power to project its own authority, because the existing police and army are weak and are associated with the old regime. In the transition period, governing officials co-opted and deputized militia commanders to quell tribal fighting in the western Nafusa Mountains and the Saharan towns of Kufra and Sabha. During the elections, they employed other armed groups to provide security; in Benghazi, for example, the ballots were stored and counted at the headquarters of the city's strongest militia. To a degree, the Libyan Ministry of Defense even subcontracted border control and the defense of the country's oil installations and fields to small brigades.

'The strategy of trying to dismantle the regional militias while simultaneously making use of them as hired guns might be sowing the seeds for the country's descent into warlordism. It has also given local brigades and their political patrons leverage over the

[126] International Institute for Strategic Studies, Armed Conflict Database, Military and Security Developments April-June 2012. Accessed 5 September 2012. Subscription site, hard copy available on request.
[127] The Carnegie Endowment for International Peace, 16 February 2012, 'Disarming Libya's Militias. http://carnegieendowment.org/sada/2012/02/16/disarming-libya-s-militias/9of5 Accessed 5 September 2012

central government. Emboldened by the writ of state authority, brigade commanders have been free to carry out vendettas against rival towns and tribes, particularly those favoured by former leader Muammar al-Qaddafi.' [128]

10.06 The article considered the difficulties faced by the new regime in asserting control over the militia:

'Much of its work should focus on dismantling or institutionalizing two ad-hoc security bodies that the transitional government created or tolerated: the Supreme Security Committees (SSC), which fall under the Ministry of Interior, and the Libyan Shield Forces, which are nominally attached to the Ministry of Defense. These bodies were intended to provide security in the transitional period by harnessing the zeal and expertise of the revolutionary fighters, but they have rapidly become a force unto themselves. They have become more formalized and have preserved the structures of local militias. They also overshadow the regular police and the national army, who remain weak, ill-equipped, and tainted by their affiliation with the Qaddafi regime.

'Between these two bodies, the more problematic is the SSC. The force is estimated to consist of 90,000 to 100,000 fighters. These men, ostensibly revolutionaries, act as a sort of national gendarmerie, providing transitional security at the local level, particularly during the election period. But ominously, the SCC has not managed to break down the fighters' old allegiances: entire brigades have joined en masse and their commanders have simply switched hats. This is particularly the case in Derna, a long-time hub of Salafi militancy. Here, a local Salafi brigade, the Abu Salim Martyrs' Brigade, which is known for its vendettas against Qaddafi-era security officials and its ties to more radical Salafi groups like the Ansar al-Sharia, is now enforcing security as the town's branch of the SSC. Among some Libyans, the incorporation of the Abu Salim Martyrs' Brigade into the SSC represented a victory: the integration of a troublesome band of fighters into the orbit of the state. But such views are naive: the relationship between the government and local SSC-incorporated brigades will hold only as long as interests overlap.

'The SSC system and the transitional government's demobilization programs work at cross-purposes. Pay for fighters who join an SSC-incorporated brigade is higher than what most Libyans could hope to make on the outside, so fighters have little incentive to leave and recruits have reportedly flocked to join. Many Libyans have feared the SSC as unruly thugs, who are distinguished only by hastily made logos on their T-shirts. Increasingly, though, there are signs that the SSC is becoming a more formalized unit -- the uniforms have gotten better and the SSC now has a Web site. In other words, it looks like the SSCs are not going away anytime soon.

'The Libyan Shield Force, meanwhile, is a coalition of militias from the east, Misrata, and Zintan that acts in parallel with Libya's national army. In many respects, the Shield Force is a bottom-up initiative by brigade commanders themselves, designed to resist the incorporation of their fighters into the official army or police departments and to preserve the structure of the brigades -- albeit under a different, more official-sounding name. The Shield supposedly acts under orders of the Ministry of Defense to quell tribal and ethnic fighting in Kufra, Sabha, and Zintan. In many instances, however, it has

[128] The Carnegie Endowment for International Peace, Libya's militia menace, 15 July 2012. http://carnegieendowment.org/2012/07/15/libya-s-militia-menace/csdq Accessed 5 September 2012

ended up inflaming tensions in these areas, either through heavy-handedness, such as its indiscriminate shelling of Kufra and its forced evictions of ethnic Tabu [from] that city in April. In other cases, locals see the Shield's commanders being party to the conflict because of their tribal affiliation.' [129]

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Libyan Shield Forces (LSF)

10.07 The International Crisis Group report of 14 September 2012 'Divided we stand: Libya's enduring conflicts, in its section on 'Revolutionary Coalitions and the Libyan Shield forces' stated:

'Revolutionary coalitions were not well-designed for long-term mobilisation outside their home communities, being composed of civilian volunteers (despite the one-off payments handed out at first by the defence ministry) whose source of livelihoods typically was in their hometowns. They also confronted "a problem of legitimacy". With few exceptions, the revolutionaries made efforts to restore stability in step with local community notables; still, their intervention lacked legal and constitutional basis and risked being perceived as regionally biased. Integration into the army was not an alternative insofar as it remained under-equipped and widely distrusted by revolutionary brigades; this meant that brigades required a parallel system to enable their longer-term mobilisation.

'The reaction, as seen, was to establish the Libyan Shield Forces, designed to compensate for the army's deficiencies and allow the revolutionary coalitions to deploy in military zones for extended periods. The LSF represented essentially the same brigades that participated in revolutionary coalitions deployed to areas of communal conflict; now, however, they enjoyed formal defence ministry authorisation and nominally answered to the armed forces' chief of staff, whose orders were a necessary prerequisite for deployment. Fighters were assigned to the LSF from revolutionary coalitions for periods of around a month; regional military councils and revolutionary coalitions decided together which towns would dispatch volunteers. In this sense, the LSF in many ways resembled a cross between a reserve force and an army auxiliary unit.

'The first LSF unit was set up in March 2012 in Kufra by Defence Minister Juweili and Fawzi Bukatf, commander of the Revolutionary Battalions Coalition, four weeks after the outbreak of fighting in the town. Misratan units created what is sometimes referred to as the "Saharan Libyan Shield", which imposed the ceasefire in Sebha in early April. Other LSF units followed, bringing together revolutionary brigades in the western mountains, Sebha and central regions. The LSF was publicly unveiled through a series of national conferences, beginning with a major one in Misrata in April 2012 attended by the prime minister, defence minister and armed forces chief of staff. By May, it had become a systematised, nationwide – and entirely parallel – defence force that both looked and

[129] The Carnegie Endowment for International Peace, Libya's militia menace, 15 July 2012. http://carnegieendowment.org/2012/07/15/libya-s-militia-menace/csdq Accessed 5 September 2012

acted very much like an auxiliary national army and was awarded year-long contracts by the defence ministry. In May, its leadership was formalised as a High Commission.' [130]

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ARBITRARY ARREST AND DETENTION

10.08 Amnesty International, in its May 2012 report 'Libya: Rule of law or rule of militias?' noted:

'Sweeping arrests by armed militias, acting independently or through local military councils or security committees, mostly took place when territories first came under the control of forces supporting the NTC. Decree 388 by the Ministry of Interior issued in December 2011 granted local Supreme Security Committees the right to arrest, detain and interrogate suspects. This provided a legal basis for the arrest and detention of suspects by the plethora of committees created by civilian or military councils and militias at the local level.

'Despite these limited attempts by the Ministry of Interior to regulate the number of bodies authorized to carry out arrests, armed militias continue to seize people without warrant. The Deputy Minister of Interior, Omar al-Khadrawi, admitted to Amnesty International in a meeting on 6 June that despite calls and decrees by the Ministry forbidding arrests by "revolutionary brigades", unlawful arrests continued.

'In addition to taking captive individual suspects, armed militias target entire communities accused of having supported al-Gaddafi forces and committed crimes during the conflict. Particularly vulnerable to such arrests are people from Tawargha at the hands of Misratah militias and people from Mashashiya at the hands of Zintan militias.

'Suspects are seized at home by groups of heavily armed men, frequently riding in pick-up trucks with machineguns mounted at the back. Arrest warrants by the prosecution are never presented, and thuwwar rarely identify themselves or tell distraught families where their relatives are being taken. Amnesty International also documented cases of individuals seized from their workplace and bundled into cars or pick-up trucks, who then disappeared without trace. Militias also take suspects captive from the streets or at checkpoints. Easily identifiable targets, such as black Tawarghas or Sub-Saharan African nationals, are particularly vulnerable to such practices, severely impeding their freedom of movement.' [131]

10.09 Human Rights Watch, in a report of 14 July 2012, entitled 'Libya: As Deadline Passes, Militias Still Hold Thousands', stated:

'The Libyan government should take immediate steps to assume custody of all of the roughly 5,000 detainees still held by militias. The Defense and Interior Ministries have not been able to rein in the well-armed militias or to convince them to hand over

[130] International Crisis Group, Divided we stand: Libya's enduring conflicts, 14 September 2012. http://www.crisisgroup.org/en/regions/middle-east-north-africa/north-africa/libya/130-divided-we-stand-libyas-enduring-conflicts.aspx Accessed 26 October 2012

[131] Amnesty International, Libya: Rule of law or rule of militias? May 2012. http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 5 September 2012

detainees to Libyan authorities. These detainees and the approximately 4,000 others already in state custody should be granted their full due process rights, Human Rights Watch said.

'Under Law 38 on some special procedures, passed on May 2, 2012, the Interior and Defense Ministries were required to refer all "supporters of the former regime" currently detained by militias, if there is sufficient evidence against them, to the competent judicial authorities by July 12 [2012].

'"Across Libya, thousands of detainees still languish in prisons run by militias, without a formal charge and without any prospect for legal review," said Sarah Leah Whitson, Middle East and North Africa director at Human Rights Watch. "Despite months of cajoling the militias, the transitional authorities missed the deadline and failed to gain control over approximately 5,000 people still held arbitrarily by armed groups, some subjected to severe torture."

'The judicial police, the official body mandated to protect and provide services to detainees held under the authority of the Justice Ministry, told Human Rights Watch that it had gained custody of more than 3,000 detainees from militias. These people were being held in prisons in eight regions in Libya.' [132]

10.10 The report went on to say;

'The judicial police, the official body mandated to protect and provide services to detainees held under the authority of the Justice Ministry, told Human Rights Watch that it had gained custody of more than 3,000 detainees from militias. These people were being held in prisons in eight regions in Libya.

'The judicial police have control of 26 facilities across the country, some of which are not in use. The exact number of people transferred to state authorities in recent months is not known because the government has no consolidated data. Some people detained over the past year by militias and state authorities have been released. Only a small number of people have been brought before a judge, have been charged, or have had their cases reviewed by the courts.

'The state security apparatus has so far been unable to confront the well-armed militias across Libya that continue to hold detainees. The authorities have also shown a lack of political will to challenge the armed groups that fought against Muammar Gaddafi, Human Rights Watch said. Both the Interior and Defense Ministries have shied away from using force. Law 38 is not clear on whether arbitrary detention is a criminal offense, nor is it clear on the possible consequences of holding people outside of the law.'[133]

10.11 Amnesty International, in its May 2012 report 'Libya: Rule of law or rule of militias?' noted:

[132] Human Rights Watch, Libya: As Deadline Passes, Militias Still Hold Thousands, 14 July 2012. http://www.hrw.org/news/2012/07/14/libya-deadline-passes-militias-still-hold-thousands Accessed 5 September 2012

[133] Human Rights Watch, Libya: As Deadline Passes, Militias Still Hold Thousands, 14 July 2012. http://www.hrw.org/news/2012/07/14/libya-deadline-passes-militias-still-hold-thousands Accessed 5 September 2012

'The Minister of Justice, Ali Ashour, told Amnesty International on 7 June that some 3,000 detainees were being held in prisons under the control of the Directorate of the Judicial Police, but was unable to estimate the number of detainees and detention facilities outside of government control. The UN Support Mission in Libya (UNSMIL) estimated that 4,000 people were held outside of government control in mid-May. Exact numbers are difficult to determine, given the fluidity of the situation, but recent estimates put the total at about 7,000.

'The transitional government made some progress in bringing prisons under the oversight of relevant ministries. By early June 2012, 33 prisons had been transferred to the Directorate of the Judicial Police, according to the Minister of Justice. Officials at the Ministry of Defence confirmed that the military police prison in Benghazi, holding some 380 individuals in early June, was under its control. Local Supreme Security Committees, which were brought under the umbrella of the Ministry of Interior by decree in December 2011, also oversee a number of detention facilities. The authorities still need to ensure that the transfer of prisons to central government control is accompanied by the establishment of an effective vetting mechanism to exclude any administrators and guards reasonably suspected of committing human rights abuses.' [134]

10.12 With regard to the conditions people were held in, and the treatment they received, the report stated:

'Since March 2011, Amnesty International has visited over 30 places of detention in Libya, including official, semi-official and unrecognized ones. Follow-up visits in 2012 to several facilities confirmed that while treatment generally improves for longer term detainees, new arrivals continue to suffer abuse. In May and June 2012, Amnesty International found evidence of recent abuses, including torture, in 12 of 15 detention facilities where it was allowed to interview detainees in private.

'Detainees are particularly vulnerable to revenge beatings and vigilante-style "justice" when held by victims or relatives of victims of human rights violations perpetrated by al-Gaddafi forces or when held in cities where they allegedly committed the violations. The common practice of transferring detainees to such locations increases the risk of torture, and further undermines their right to fair trial.

'The most commonly reported methods of torture include suspension in contorted positions and prolonged beatings with various objects, including metal bars and chains, electric cables, wooden sticks, plastic hoses, water pipes (known locally as Tube PPR) and rifle butts. Some detainees also said they were given electric shocks, burned with cigarettes and had hot metal applied to their flesh. Since late August 2011, when al-Gaddafi forces lost control of the capital and most of the country, Amnesty International has gathered detailed information about at least 20 people who died in custody after they were tortured or shot in detention by armed militias.' [135]

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[134] Amnesty International, Libya: Rule of law or rule of militias? May 2012. http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 5 September 2012

[135] Amnesty International, Libya: Rule of law or rule of militias? May 2012. http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 5 September 2012

10.13 The NOREF (Norwegian Peacebuilding Resource Centre) report, 'Balanced on a knife-edge: the future of Libya's new state', published September 2012, noted:

'…in major urban centres personal security still seems relatively high, despite an earlier wave of at least 7,000 arbitrary arrests, detentions, severe ill-treatment and even deaths. Indeed, the latest reports, in July 2012, suggest that the number of such detentions has fallen to around 5,000 people. Against this, of course, are the claims of ill-treatment experienced by Libya's former premier, al-Baghdadi al-Masmoudi, when he was extradited to Libya from Tunisia in late June. Brutality and ill-treatment are, perhaps, not the defining characteristics of the new Libya, disturbing though they are; on the other hand, the arbitrary nature of the process certainly is.' [136]

See also Ethnic groups – Tribal rivalries since the Declaration of Liberation.

PROLIFERATION OF ARMS AND RELATED MATERIAL

10.14 The United Nations Security Council, in a report of 22 November 2011, 'Report of the Secretary-General on the United Nations Support Mission in Libya', stated:

'A major security challenge confronting Libya and the international community is the threat posed by the proliferation of arms and related material, and its potential impact on regional and international peace and security. Of particular concern are existing and newly discovered stockpiles of chemical weapons and man-portable surface-to-air missiles, known as man-portable air defence systems. This concern has been reiterated by the Security Council in its resolution 2017 (2011)…

'Libya has accumulated the largest known stockpile of man-portable defence systems outside those countries that produce such systems. Although thousands were destroyed during the seven-month NATO operations, there are increasing concerns about the looting and likely proliferation of these portable defence systems, as well as munitions and mines, and about the potential risk to local and regional stability. Collaboration between the Ministry of Defence and international partners has led to the dismantling of large numbers of man-portable defence system sites across the country, particularly in the west. However, there are hundreds more suspected sites that remain to be inspected. While the support of the Libyan authorities in this regard has been critical to efforts already under way on this front, the formation of the interim Government should accelerate the process.

'The extensive contamination of areas from landmines and explosive remnants of war across Libya continues to pose a serious threat to the civilian population, including internally displaced persons, and to humanitarian workers…Large quantities of unexploded ordnance and ammunition stockpiles have been identified in residential areas, including in schools and hospitals. Stockpiles appear to have been moved into populated areas by Qadhafi forces to conceal them from potential airstrikes; they mostly remain unsecured and those in Sirte and Bani Walid in particular require immediate attention.…

'Unsecured ammunition storage areas damaged by NATO bombings and the internal fighting represent another pressing problem. Over 440 such storage areas were

[136] NOREF, Balanced on a knife-edge: the future of Libya's new state, September 2012. http://www.peacebuilding.no/var/ezflow_site/storage/original/application/5e0dd27504ad1372948624338c50ae0d.pdf Accessed 4 December 2012

bombed during the NATO campaign, in some cases leading to widespread contamination in the areas surrounding the sites. Although clearance of ammunition storage areas has been prioritized, only one team, currently operating in Tobruk, has so far been deployed, owing to limited resources and funding.' [137]

10.15 Ian Martin, the UN Secretary-General's special representative for Libya stated, in an interview of 6 August 2012:

'Libya has a colossal problem of mines and unexploded ordnance. It actually has a Second World War problem, it has a Chad-Libya problem in the south, and it now has the problem of the munitions used during last year, as well as the extraordinary array of weaponry and ammunition that al-Qadhafi had assembled that ceased to be secured in the disorder of the fighting last year.

'That, of course, is of great concern to Libya's neighbours, as some of it has begun to be trafficked out of Libya, although much of it is still in Libya and the UN Mine Action Service (UNMAS) is working with the Libyans to try to secure what is in Libya, and make sure it's safely stored and disposed of when they decide to do that.

'It's a major task that will go for some time. It will also require mine risk education that the UN Children's Fund (UNICEF) is involved in. As long as the contamination is still there, as it is in major areas, it's a very major challenge for a long time to come.' [138]

See also The effects of the conflict on children, para 23.11

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11. JUDICIARY

BEFORE THE 2011 UPRISING

11.01 The United Nations Development Programme on Governance in the Arab Region (POGAR) website, undated, accessed 31 May 2011, stated, 'The legal system of Libya is based on a combination of Civil Law and Islamic legal principles. The formal sources of the law, as set down in the first article of the Civil Code; include legislative provisions, Islamic principles, custom, and principles of natural law and rules of equity.' [139]

[137] UN Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 22 November 2011 http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/592/47/PDF/N1159247.pdf?OpenElement (to open document select s/2011/727) Accessed 17 January 2012
[138] UN News Centre, Interview with Ian Martin, Secretary-General's Special Representative for Libya, 6 August 2012 http://www.un.org/apps/news/newsmakers.asp?NewsID=64 Accessed 3 September 2012
[139] POGAR, Libyan Judiciary, undated http://www.undp-pogar.org/countries/theme.aspx?t=9&cid=10 Accessed 31 May 2012

Organisation

11.02 The same source described the system:

> 'The judicial system is composed of a four-tiered hierarchy. At the base are the summary Courts, located in small towns, which hear cases involving misdemeanours of lesser value. The decisions of this court may be appealed to the Courts of First Instance, located in each of Libya's former governorates. These courts are composed of chambers of three judges and have the authority to adjudicate in all civil, criminal, and commercial cases. In addition, the jurors apply the Sharia'a principles in cases involving personal status. Cases from the Courts of First Instance may be appealed to the Courts of Appeal. There are three such courts, located in Tripoli, Benghazi, and Sabha. The Court sits in panels of three judges to hear cases. A separate body called the Sharia'a Court of Appeals hears cases appealed from the lower court involving Sharia'a."' [140]

Penal code

11.03 The Libyan Penal Code (2007 edition) can be accessed via the following link:

UNDOC Libyan Arab Jamahiriya – Penal Code (2007) [141]

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SINCE THE 2011 UPRISING

Overview

11.04 Amnesty International, in its report 'Libya: Rule of Law or Rule of Militias?', published 12 July 2012, stated, 'Building an effective judicial system and establishing the rule of law is paramount for Libya to break out of the cycle of violence, human rights abuses and impunity, and to provide justice and redress for victims…Many people in the justice sector highlighted difficulties and threats they faced in performing their duties, arguing that a return to a functioning judiciary could only happen when the security situation improves.' [142]

11.05 Human Rights Watch, in a report of 30 December 2011 by their Middle East and North Africa director, commented:

> 'Libya has made admirable headway in drafting a Transitional Justice Law and an Amnesty Law. But to build a free society, it needs to wipe out laws that authorize fines, prison sentences and even death for Libyans who "insult" or "offend" state officials, or national unity, or Islam, or who attempt to form independent political associations or media.

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[140] POGAR, Libyan Judiciary, undated http://www.undp-pogar.org/countries/theme.aspx?t=9&cid=10 Accessed 31 May 2012
[141] UNDOC, Penal Code (2007), Libyan Arab Jamahiriya, https://www.unodc.org/tldb/showDocument.do?documentUid=8542&node=docs&cmd=add&country=LIB , Accessed 31 May 2011
[142] Amnesty International, Libya: Rule of law or rule of militias? May 2012. http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 5 September 2012

'Qaddafi used these laws to jail political activists, lawyers and journalists — whether liberal or religious — who dared to challenge him.'[143]

11.06 Human Rights Watch, in a news release of 22 January 2012 called 'Libya: Lagging Effort to Build Justice System', noted:

'Libya's interim government and its international supporters should make it an urgent priority to build a functioning justice system and begin legal reform that protects human rights after Muammar Gaddafi, Human Rights Watch said [on 22 January 2012].

'[It is] critically important [to get] the courts running so they can handle cases from before, during, and after the conflict, Human Rights Watch said. This includes investigating violations by anti-Gaddafi forces and prosecuting or releasing the roughly 8,000 detainees currently held without judicial review… Independent courts and the rule of law will help ensure stability in a country emerging from four decades of dictatorship and eight months of war.' [144]

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11.07 A report of 8 June 2012 by the International Criminal Court about 'The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi' (ICC report 8 June 2012) considered the judicial system in Libya:

'The Government of Libya is limited in its ability to exercise control over militia groups operating inside the country who continue to exert extensive power and constitute a de facto authority. There is a power imbalance between the NTC [National Transitional Council] and the militias whereby the NTC as yet does not appear to have the ability to order, negotiate or confront the militias nor to prevent militias from attacking or intimidating the interim authorities or using force against them. This impacts not only on the overall security situation on account of the easy access to weaponry, but also on the functioning of the legal system as a whole, given the continued practice of militias to maintain control over certain detention centres and the potential for them to exert influence over and intimidate judicial actors. It has also been noted that the popularity of the Revolution and the role of the militias within it has made it difficult for certain members of the judiciary to take positions or make decisions which negatively impact on militias.'[145]

11.08 Amnesty International, in a report of 5 September 2012 concerning the Libyan government's assertion of their ability and willingness to fairly prosecute Saif al-Islam Gaddafi nationally, stated:

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[143] Human Rights Watch, In Libya: Building the Rule of Law, 30 December 2011 http://www.hrw.org/news/2011/12/30/libya-building-rule-law Accessed 10 June 2011

[144] HRW, Libya: Lagging Effort to Build Justice System, 22 January 2012 http://www.hrw.org/news/2012/01/22/libya-lagging-effort-build-justice-system Accessed 8 February 2012

[145] International Criminal Court, The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi, 8 June 2012 http://www.redress.org/downloads/ICCdoc1424525Libyaobservations.pdf Accessed 11 September 2012

'Despite such claims, the Libyan justice system remains weak and fair trial rights can be flouted, as was demonstrated by the arrest and detention of Saif al-Islam Gaddafi's ICC defence lawyer in July.

'"The arrest of Saif al-Islam's ICC lawyer further undermined his right of defence and casts doubts over Libya's ability and willingness genuinely to grant fair trials to former al-Gaddafi government figures," said [Marek] Marczyński [International Justice Research, Policy and Campaign Manager at Amnesty International.

'Crimes against humanity are not considered crimes under Libyan law, which presents another serious obstacle to the country's ability to conduct effective investigations and prosecutions of such cases.' [146]

11.09 In an interview of 6 August 2012, commenting on the post-revolutionary justice system in Libya, the head of the United Nation Support Mission in Libya, Ian Martin, stated:

'…transitional justice, [and] the rule of law, where there's a major legacy from the past that has to be confronted: missing persons, fate uncovered as far as possible, victims assisted, the worst perpetrators brought to trial in fair proceedings, and a problem of the continued detention of those detained at the end of the conflict, rightly or wrongly, where the State capacity to screen those cases and deal with them properly within the law hasn't yet full existed.' [147]

11.10 Human Rights Watch, in a report of 18 June 2012, entitled, 'Libya: Candidates should address torture, illegal detention', noted: 'Improving security in courtrooms and prisons, and for judges, prosecutors, and lawyers, is an essential requirement for getting the justice system to function properly, Human Rights Watch said. The government will have to recruit and train more judicial and military police to help secure courtrooms and protect justice officials. According to the judicial police, it currently has 3,000 officers. Three thousand more people are gradually being trained.'[148]

11.11 The ICC report 8 June 2012 considered the judicial system in Libya:

'At present, as has been underscored by all interviewees, the criminal courts are only beginning to function, and mainly for de minimus crimes. There is a long and complicated task of processing files which is still underway. Judges have thus far, with some exceptions, refrained from presiding over high profile cases, though this is possibly beginning to change. While there are a small number of such cases that have been initiated, few are known to the Amici to have progressed beyond the investigation stage. For example, a complaint has been filed with the Prosecutor General in the Yarmouk case, which concerns allegations relating to Gadaffi loyalists burning 153 persons in detention. In February 2012, a military trial of 41 Gadaffi loyalists commenced in Benghazi; however, the proceedings have halted pending the transfer of

[146] Amnesty International, Libya: Former intelligence chief must be surrendered immediately to ICC, 5 September 2012 http://www.amnesty.org/en/news/libya-former-intelligence-chief-must-be-surrendered-icc-2012-07-24 Accessed 11 September 2012
[147] UN News Centre, Interview with Ian Martin, Secretary-General's Special Representative for Libya, 6 August 2012 http://www.un.org/apps/news/newsmakers.asp?NewsID=64 Accessed 3 September 2012
[148] Human Rights Watch, Libya: Candidates should address torture, illegal detention, 18 June 2012. http://www.hrw.org/news/2012/06/18/libya-candidates-should-address-torture-illegal-detention Assessed 11 September 2012

the case to a civilian jurisdiction. On 8 May 2012, the Zawiya case, which concerns allegations that Gadaffi loyalists were leading criminal gangs and possessing illegal weapons in order to destabilise Libya, was adjourned in order to enable the defence to prepare its case.' [149]

11.12 The Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya [UNSMIL]', published 30 August 2012, noted, in the 'Human rights, transitional justice and rule of law' section:

'Some progress was made in the reactivation of the Libyan judicial system. Almost all judges and prosecutors have reported back to duty. In most parts of the country, however, court sessions are not held regularly, except for family and civil law cases. In Benghazi and Darnah, incidents were reported in which brigades physically attacked court personnel and damaged court buildings. Prosecutors and judges continue to face threats and intimidation from brigades and, occasionally, from former regime loyalists. UNSMIL has promoted the reactivation of the court system and provided training to judges in electoral dispute resolution.

'Steps are also being taken to strengthen the judiciary. On 26 May [2012], the President of the Supreme Judicial Council issued a decree to establish a national committee to report on judicial reform. The 17-member committee is tasked with developing recommendations on restructuring the judiciary, its administration and legislative framework. UNSMIL has agreed to provide technical and advisory support to the committee and is also advising the Ministry of Justice in its review of the Penal Code. In addition, UNSMIL is advising the Office of the Prosecutor-General on the adoption of an overall strategy for the investigation and prosecution of past crimes.' [150]

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11.13 The ICC report 8 June 2012 continued:

'Although there are distinct civil and criminal courts, the Amici have been told that judges in Libya are able to sit on both benches. In order to be appointed as a judge, a person must first complete a law degree and then attend the High Institute for the Judiciary for a one year programme which focuses on theoretical knowledge and practical skills. The person is then appointed to the general prosecution office, a judicial administrative post, as a public defence lawyer or to one of the departments of the Ministry of Justice. After seven years experience in one of these judicial bodies, the person becomes eligible for nomination by the Authority for Judicial Inspection and, if

[149] International Criminal Court, The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi, 8 June 2012 http://www.redress.org/downloads/ICCdoc1424525Libyaobservations.pdf Accessed 11 September 2012

[150] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

such nomination is successful, the person would be appointed as a judge by the Supreme Council of Judicial Authority.

'There are presently members of the Supreme and other courts who were appointed by and served under the Gaddafi regime. At that time, it was possible to be appointed to the bench without following the traditional route. In particular, judges with 'parallel' legal experience, including as a legal consultant as opposed to a practising lawyer and, in certain cases, persons engaged in the police, were appointed as judges. Some of these individuals remain on the bench. It is unclear whether this parallel appointment process continues to be in place.

'Trials are generally held in public. Exceptions are where the holding of a public trial would impact on public policy or where there is a need to protect public morality or the dignity of the family, especially if involving minors. In addition, a party to proceedings may request that proceedings are held in confidence. This is decided at the discretion of the presiding judge.' [151]

Independence and fair trial

11.14 The ICC report 8 June 2012 considered the independence of the judicial system in Libya:

'The NTC [National Transitional Council] has taken important steps to demonstrate its intention to improve the independence of the judiciary. It promulgated the Constitutional Declaration of 3 August 2011, article 32 and 33 of which proclaimed the independence of the judiciary. Also, it issued Law 3 of 2011 adjusting law 6 of 2006 on the judiciary, with the aim of insulating the judiciary from the executive. The NTC also abolished the Internal Security Agency and the State Security Court and released numerous political prisoners.

'Yet, despite these legal and other pronouncements, challenges remain. Judge Marwan Tashani, head of the committee for documentation and follow-up of detainees and mercenaries in the NTC and head of the Libyan Judges Organization, cites examples of executive interference. This includes the investigation into the assassination of Colonel Abdulfatah Younis, public security minister under the Gadaffi regime who defected and became commander in chief of Libya's revolutionary army, in which the head of the NTC "appeared alongside the investigation authority in the media and made accusations of people who were not called upon nor questioned". He also notes other challenges facing the independence of the judiciary, indicating that "the continuing detention of many of the members of Gaddafi's brigades and figures of his regime without questioning nor according them any due process further illustrates the weakened role of the judiciary in ensuring the supremacy of the rule of law."

'The Amici [Lawyers for Justice in Libya and the Redress Trust (together, "the Amici")] have no knowledge of confirmed instances of bribery of judges or prosecutors since February 2011, however it is noted that judicial salaries range from 600-1400 LYD (475 – 1000 USD) per month which does not meet the standard of living. More significantly, while judges are appointed for an indefinite term, the ease with which they had been

[151] International Criminal Court, The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi, 8 June 2012 http://www.redress.org/downloads/ICCdoc1424525Libyaobservations.pdf Accessed 11 September 2012

removed or sanctioned under the previous regime undermined their ability to act independently. As the vetting mechanisms have not yet been reinstated, it is as yet unclear whether the mechanisms will be utilised in a similar way and thus whether this will remain an issue in the current or future context.

'There may be more subtle influences on judges which may impact on the independence and impartiality of their decision-making. The power of the militias continues to be strong, and numerous interviewees commented on the potential for militias to influence the judiciary and the administration of justice as a whole.' [152]

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Prosecution

11.15 The ICC report 8 June 2012 stated:

'A number of prosecutors fought during the conflict with the revolutionary brigades and it has been indicated to the Amici that there is a disparity in how suspects are investigated, depending on whether they are understood to be Gaddafi loyalists or members of revolutionary brigades. In general terms, there has been a tendency to overlook or minimise crimes alleged to have taken place in the context of revolutionary activities whereas alleged crimes carried out by Gaddafi loyalists are subjected to much more rigorous scrutiny. This approach was highlighted in the response of the Government of Libya to the Report of the International Commission of Inquiry where the Deputy Minister of Justice stated that the actions of the revolutionaries should not be viewed in the same light as those of the Gaddafi forces as they were merely 'reacting' to the attacks of those forces, implying that such alleged crimes should be assessed based on the identity of the perpetrator and not the nature of the crime. Indeed, this lack of consistency in approach was formally sanctioned by the NTC with the introduction of laws 35 and 38 of 2012, with law 38 of 2012 instituting a blanket amnesty for "acts made necessary by the 17 February revolution" for its "success or protection," whether such acts are of a military, security or civil nature.' [153]

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Defence

11.16 The report continued:

'Under Libyan criminal procedure, there are four main phases of procedure, the investigation phase being the first. Defence lawyers have a limited role during the investigation phase. In this phase, they may be present and counsel clients when there is an interview by the Office of the Prosecutor General and/or a confrontation with

[152] International Criminal Court, The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi, 8 June 2012 http://www.redress.org/downloads/ICCdoc1424525Libyaobservations.pdf Accessed 11 September 2012

[153] International Criminal Court, The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi, 8 June 2012 http://www.redress.org/downloads/ICCdoc1424525Libyaobservations.pdf Accessed 11 September 2012

witnesses…In practice, the right to have access to a lawyer before being questioned is often disregarded. Fuller rights exist in the accusation phase.

'The prevailing security situation makes representation of Gaddafi loyalists difficult, though in practice, there is at least one instance in which prominent Libyan lawyers have agreed to represent such clients… It was further highlighted that, although Libyan law protects defence lawyers when putting forward a defence, this law was likely to have the effect of deterring some lawyers from representing Gaddafi loyalists. They have also noted that should more senior Gaddafi loyalists be prosecuted, there may be increased security threats. Thus far, as noted, this has not yet proved to be an insurmountable problem.

'It has been noted that there is no legal impediment for an accused person to call witnesses from outside Libya, or for witnesses to testify by video-link from outside the country. However, there is no specific allowance for the use of video-link testimony nor any precedent for such use.

'In addition, it is possible for foreign lawyers to represent clients in Libya with leave of the Libyan Law Society.' [154]

Acts 35, 37 and 38

11.17 The Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya [UNSMIL]', published 30 August 2012, noted, in the 'Human rights, transitional justice and rule of law' section:

'On 14 June [2012], the Supreme Court annulled Act No. 37, which had made glorifying Muammar al-Qadhafi a criminal offence and had been adopted by the National Transitional Council on 2 May [2012]. The law had been criticized by Libyan and international human rights organizations, and by UNSMIL, on the grounds that it violated freedom of speech. The Court found the law to be unconstitutional. Two laws granting amnesty remain in place, however. Act No. 38 grants amnesty for all acts performed by revolutionaries with the goal of promoting or protecting the revolution, while Act No. 35 grants amnesty for certain violations other than crimes committed by the family members and aides of Muammar al-Qadhafi. The United Nations has maintained that neither law should be interpreted or implemented in a manner that grants amnesty to those responsible for war crimes, crimes against humanity, crimes of sexual violence in situations of armed conflict and/or gross violations of human rights.' [155]

11.18 The Foreign and Commonwealth Office, in its quarterly update (30 June 2012) to the report on Human Rights and Democracy: Libya, originally published April 2012, stated:

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[154] International Criminal Court, The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi, 8 June 2012 http://www.redress.org/downloads/ICCdoc1424525Libyaobservations.pdf Accessed 11 September 2012

[155] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

'On 2 May the National Transitional Council (NTC) announced three new laws, granting amnesty for some crimes, Criminalising the glorification of the dictator; and on the transitional phase. We have some concerns that the language of these laws is vague in parts and could be interpreted in ways which erode freedoms won during the revolution or which could provide impunity for crimes such as torture. The Foreign Secretary raised the matter during Prime Minister al-Kib's visit to the UK. Officials have also spoken to the NTC Legal Committee, who said that anyone found to have committed serious human rights abuses would not be granted amnesty. Prime Minister al-Kib stated that these laws were for the transition phase and would be repealed after the elections. The Supreme Court of Libya ruled in June that Law on the dictator was unconstitutional. The case was referred to the court by a group of Libyan lawyers who believed the law infringed on freedoms of expression.' [156]

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12. ARREST AND DETENTION – LEGAL RIGHTS

12.01 The United States Department of State, 'Country Report on Human Rights Practices 2011, Libya', published 24 May 2012, noted:

'The Qadhafi-era law stipulated that a warrant is required for arrest but that authorities can obtain permission to detain persons without charge for as long as eight days after arrest. The law also specified that detainees be informed of the charges against them and that, for a detention order to be renewed, detainees must be brought before a judicial authority at regular intervals of 30 days. In practice the Qadhafi government did not adhere to these provisions, at times holding detainees indefinitely, arbitrarily, and secretly, without charges or process.

'Following the outbreak of the revolution and attendant breakdown of judicial institutions and process, the interim government and opposition forces also arbitrarily detained persons, holding them in formal and informal locations, including unknown locations for extended periods without formal legal charges or legal authority. In some cases orders for arrest came from official or quasi-official sources. At times during the conflict, the opposition military command or the TNC formed committees that issued orders and warrants to militias for the arrest of certain individuals. One notable example occurred on July 28, when TNC military commander Abdelfatah Younis was arrested under the authority of a TNC committee. He was subsequently killed while in militia custody in Benghazi.

'Under Qadhafi the law provided for bail, access to counsel for pre-trial detainees, and a public defender for anyone unable to afford a private attorney. The Constitutional Declaration recognizes the right to counsel. During the year the vast majority of detainees by both the Qadhafi and revolutionary forces were not known to have had access to bail or a lawyer.

[156] FCO, Human Rights and Democracy 2011: Libya, quarterly update, 30 June 2012. http://fcohrdreport.readandcomment.com/human-rights-in-countries-of-concern/libya/quarterly-updates-libya/# Accessed 5 September 2012

'Incommunicado detention was a severe problem. The Qadhafi government, militias, and post-Qadhafi authorities held detainees incommunicado for unlimited periods in unofficial and unknown detention centers.'[157]

12.02 A report of 8 June 2012 by the International Criminal Court about 'The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi' (ICC report 8 June 2012) noted, 'In practice, the right to have access to a lawyer before being questioned is often disregarded.' [158]

12.03 The report went on to say:

'There are approximately 6,000 – 10,000 individuals who are in detention as a consequence of, or in relation to, acts connected to the Revolution. Some of these detainees are held in detention centres controlled by the state – the Ministries of Justice and of the Interior. However, numerous detainees are held by militia groups, including Mr Gaddafi, and there is currently little, if any, ability for the state to exercise control over detention facilities run by militias, though militias have begun in certain, though not all instances, to hand over detainees to the state. Additionally, there are reported to be secret places of detention in which detainees' status is unregulated. Law 38 of 2012 was enacted by the NTC, among other things, to regularise the detention of detainees. The law sets out that the competent authorities have 60 days to review the evidence relating to detainees and for a judge to confirm their continued detention in accordance with law or, otherwise, to order their release. This law is in force but has not yet begun to be applied, as has been indicated by interviewees. There are logistical and practical challenges relating to the review process, namely the significant time and effort it would require to review the high number of cases, many of which rely exclusively on confession evidence. Given the numerous allegations of ill-treatment and torture meted out to secure the confessions, it will be necessary to review the veracity of all confession evidence, which may further delay the review process.' [159]

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[157] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 11 September 2012

[158] International Criminal Court, The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi, 8 June 2012 http://www.redress.org/downloads/ICCdoc1424525Libyaobservations.pdf Accessed 11 September 2012

[159] International Criminal Court, The Situation in Libya in the case of The Prosecutor v Saif-al-Islam Gaddafi and Abdullah al-Senussi, 8 June 2012 http://www.redress.org/downloads/ICCdoc1424525Libyaobservations.pdf Accessed 11 September 2012

13. PRISON CONDITIONS

13.01 The United States Department of State, 'Country Report on Human Rights Practices 2011, Libya' published 24 May 2012, noted:

'According to international organizations and rights groups, Qadhafi government prison and detention centre conditions ranged from poor to adequate in formal facilities, but there was scant information available about conditions inside prisons. As a result of the conflict, makeshift facilities appeared throughout the country to accommodate detainees collected by all sides. In such cases conditions were uneven and varied widely, but consistent problems included overcrowding; insufficient food, water, and ventilation; the lack of basic necessities such as mattresses; and poor access to hygiene and health care. There were reports that the Qadhafi government used informal facilities, including but not limited to warehouses, military buildings, shipping containers, and other venues, in addition to formal detention facilities. Militias reportedly detained persons at schools, former government military sites, and other informal venues, including private homes and, in one case, a soccer club. In the aftermath of the conflict, prison and detention conditions were largely but not entirely under government authority, and conditions in some were poor to the point of being life threatening.

'The total number of prisoners and detainees was unknown. The International Committee of the Red Cross (ICRC) reported that it visited 14,000 detainees in 100 detention facilities during the year. At year's end, the ICRC caseload was approximately 8,500 detainees in 68 facilities under the control of local councils, militias, private individuals, or in some cases reported criminal enterprises. The ICRC did not register every detainee at each site, suggesting that the total number of those held were higher. Men and women were reportedly held separately; there was no information available about conditions specifically for women. Human rights organizations reported that militias held minors with adults. There was no credible ombudsman who could serve on behalf of prisoners and detainees…

'The ICRC opened an office in the country and generally had good access to facilities and known informal detention sites under the control of the TNC and revolutionary militias; access for other international organizations varied.' [160]

13.02 The Foreign and Commonwealth Office, in its quarterly update (30 June 2012) to the report on Human Rights and Democracy: Libya, originally published April 2012, stated:

'The Transitional Government (TG) continues to make progress in transferring detention facilities to state control, announcing in May [2012] that 31 facilities had been transferred. We remain concerned about the treatment of detainees being held by revolutionary groups. On 1 May the UN Support Mission in Libya (UNSMIL) reported the deaths of three detainees as a result of torture and seven other cases of mistreatment in a detention centre in Misrata. The TG announced it would investigate the deaths. We continue to urge them to take positive action; the Foreign Secretary raised this during the Libyan Prime Minister's visit to the UK on 24 May. Prime Minister al-Kib stated that a committee had been formed to look into detainee abuse, that human

[160] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 11 September 2012

rights monitors would be allowed access to monitor prison conditions and that action would be taken against those who were found to have mistreated detainees.' [161]

13.03 Amnesty International, in its May 2012 report, 'Libya: Rule of law or rule of militias?', noted:

'The Minister of Justice, Ali Ashour, told Amnesty International on 7 June that some 3,000 detainees were being held in prisons under the control of the Directorate of the Judicial Police, but was unable to estimate the number of detainees and detention facilities outside of government control. The UN Support Mission in Libya (UNSMIL) estimated that 4,000 people were held outside of government control in mid-May. Exact numbers are difficult to determine, given the fluidity of the situation, but recent estimates put the total at about 7,000.

'The transitional government made some progress in bringing prisons under the oversight of relevant ministries. By early June 2012, 33 prisons had been transferred to the Directorate of the Judicial Police, according to the Minister of Justice. Officials at the Ministry of Defence confirmed that the military police prison in Benghazi, holding some 380 individuals in early June, was under its control. Local Supreme Security Committees, which were brought under the umbrella of the Ministry of Interior by decree in December 2011, also oversee a number of detention facilities. The authorities still need to ensure that the transfer of prisons to central government control is accompanied by the establishment of an effective vetting mechanism to exclude any administrators and guards reasonably suspected of committing human rights abuses.

'Since March 2011, Amnesty International has visited over 30 places of detention in Libya, including official, semi-official and unrecognized ones. Follow-up visits in 2012 to several facilities confirmed that while treatment generally improves for longer term detainees, new arrivals continue to suffer abuse. In May and June 2012, Amnesty International found evidence of recent abuses, including torture, in 12 of 15 detention facilities where it was allowed to interview detainees in private.

'Detainees are particularly vulnerable to revenge beatings and vigilante-style "justice" when held by victims or relatives of victims of human rights violations perpetrated by al-Gaddafi forces or when held in cities where they allegedly committed the violations. The common practice of transferring detainees to such locations increases the risk of torture, and further undermines their right to fair trial.' [162]

13.04 In May and June 2012, Amnesty International sought access to 19 detention facilities in al-Zawiya, Benghazi, Gharyan, Kufra, Tripoli and surrounding areas, and Sabha, including official prisons and detention centres run by armed militias and semi-official security and military bodies. It was able to speak to detainees in private in 15 of these

[161] FCO, Human Rights and Democracy 2011: Libya, quarterly update, 30 June 2012. http://fcohrdreport.readandcomment.com/human-rights-in-countries-of-concern/libya/quarterly-updates-libya/# Accessed 5 September 2012

[162] Amnesty International, Libya: Rule of law or rule of militias? May 2012. http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 5 September 2012

centres. The report, Libya: Rule of law or rule of militias?, gave a detailed account of their findings. [163]

13.05 The Foreign and Commonwealth Office, in its quarterly update (30 June 2012) to the report on Human Rights and Democracy: Libya, originally published April 2012, stated, 'The UK has revived a pre-revolution prison reform project to provide support in bringing all prisons and prisoners under the authority of the Libyan Judicial Police. UK prison experts have assisted them in identifying their priority needs to ensure Libya's prisons adhere to international standards. Further international assistance in prison reform, including the possibility of establishing Libya/UK prison partnerships, is being explored.' [164]

13.06 The International Centre for Prison Studies, World Prison Brief – Libya provides information on the numbers of prisoners and institutions in 2012. [165]

See also Chapter 10 Non-government armed forces: arbitrary arrest and detention and Chapter 8 Security forces: torture.

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14. DEATH PENALTY

14.01 The Foreign and Commonwealth Office, in its report on Human Rights and Democracy: Libya, published 31 March 2011, stated:

'The Libyan penal code still provides for the death penalty. In a statement at its Universal Periodic Review, Libya said that it had applied the death penalty in 201 cases since 1990. In May [2010] Libya executed by firing squad 18 prisoners convicted of murder. The Libyan penal code also allows the death penalty for crimes such as the formation or support of illegal organisations or the promotion of principles that undermine the constitution or the social structure.'[166]

[163] Amnesty International, Libya: Rule of law or rule of militias? May 2012. http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 5 September 2012
[164] FCO, Human Rights and Democracy 2011: Libya, quarterly update, 30 June 2012. http://fcohrdreport.readandcomment.com/human-rights-in-countries-of-concern/libya/quarterly-updates-libya/# Accessed 5 September 2012
[165] International Centre for Prison Studies, World Prison Brief http://www.prisonstudies.org/info/worldbrief/wpb_country.php?country=28 Accessed 7 February 2012
[166] The Foreign and Commonwealth Office, Human Rights and Democracy, Libya, 31 March 2011 http://s3-eu-west-1.amazonaws.com/htcdn/Human-Rights-and-Democracy-The-2010-Foreign-Commonwealth-Report.pdf Accessed 31 May 2011

14.02 Amnesty International in its Annual Report 2012 – Libya, published 24 May 2012, noted, 'The death penalty remained in force for a wide range of crimes. No information was available about death sentences or executions in 2011.'[167]

14.03 Amnesty International in its report, 'Death sentences and executions in 2011', published in March 2012, added, 'The continuing violence in countries such as Libya… has made it particularly difficult to gather adequate information on the use of the death penalty in the region in 2011. No information was available about judicial executions in Libya in 2011, and no death sentences are known to have been imposed. Extrajudicial executions, torture and arbitrary detention were frequently reported instead.'[168]

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15. POLITICAL AFFILIATION

For information about freedom of expression generally, see Freedom of speech and media.

FREEDOM OF POLITICAL EXPRESSION, ASSOCIATION AND ASSEMBLY

15.01 The Amnesty International report, 'Year of Rebellion: State of Human Rights in the Middle East and North Africa', published 9 January 2012, noted in its chapter on Libya:

'Already, Libyans have enjoyed greater freedom of expression. For the first time in 42 years, they could speak their minds and openly voice their long suppressed criticism of the former regime, without fear of imprisonment, harassment and other persecution. After decades without independent organizations and political parties, Libya witnessed a mushrooming of civil society organizations, political groups and media outlets. Public criticism of some NTC [National Transitional Council] members and decisions appeared to be tolerated. On the other hand, serious abuses by militia opposing al-Gaddafi forces, including extrajudicial executions, torture and arbitrary detention, were rarely condemned by the NTC.'[169]

15.02 However, the same organisation, in a news release of 4 May 2012 stated:

'The Libyan authorities must not suppress freedom of expression in the name of protecting the 17 February Revolution, Amnesty International said following the adoption of a law criminalising the "glorification" of deposed leader, Mu'ammar al-Gaddafi.

[167] Amnesty International, Annual Report 2012 – Libya, 24 May 2012. http://amnesty.org/en/region/libya/report-2012 Accessed 12 September 2012
[168] Amnesty International, Death sentences and executions in 2011. http://amnesty.org/en/region/libya/report-2012 Accessed 12 September 2012
[169] Amnesty International, Year of Rebellion, 9 Jan 2012 http://www.amnesty.org/en/library/asset/MDE01/001/2012/en/e2985922-558f-486d-8e68-ef54a7d25222/mde010012012en.pdf Accessed 30 January 2012 Accessed 18 January 2012

'On Wednesday [2 May 2012], the ruling National Transitional Council (NTC) approved "Law 37 of 2012 on the Criminalisation of the Glorification of the Dictator"…

'Not only does the law run counter to Libya's international obligations, but it is also not compliant with Libya's Constitutional Declaration, adopted on 3 August 2011, which guarantees freedom of expression.' [170]

For more information about Law 37 see Chapter 11 Judiciary: Acts 35, 37 and 38

15.03 The Freedom House report, 'The Worst of the Worst 2012 – Libya', published 4 July 2012, noted:

'The Qadhafi regime closely monitored mosques for signs of religious extremism and Islamist political activity, but Muslims of various religious and political strains have been much more free to organize and debate their points of view since his fall. In some cases this has led to verbal and armed clashes. Academic freedom was tightly restricted under al-Qadhafi. Close state supervision has been lifted since his ouster. However, no laws have been drafted to guarantee academic independence, and the education system has yet to resume normal operations in all parts of the country. Freedom of assembly has dramatically increased in light of the events of 2011, but the ongoing presence of militia groups and the proliferation of firearms in the country limited peaceful assemblies and the public expression of dissenting views in certain areas.'[171]

15.04 The United States Department of State, 'Country Report on Human Rights Practices 2011, Libya, published 24 May 2012', noted, 'The Constitutional Declaration included freedom of association for political and civil society groups. Libyans founded hundreds of self-styled NGOs, some of which supported the war effort. Other NGOs took on political colourings. The new government tolerated the emergence of nascent political groups and self-described parties.' [172]

POLITICAL PARTIES

15.05 Aljazeera took a look at Libya's political parties in a report of 3 July 2012:

'During his 42-year rule, Muammar Gaddafi banned direct elections, calling the process of democracy "bourgeois" and in essence "anti-democratic". In his infamous Green Book, in which he outlined his political philosophy, he spurned political parties as forms of "dictatorship" and considered anyone claiming the right to assembly a betrayal of his book.

[170] Amnesty International, Libya: NTC must not curtail freedom of expression in the name of protecting revolution, 4 May 2012. http://www.amnesty.org.uk/news_details.asp?NewsID=20109 Accessed 12 September 2012

[171] Freedom House, The Worst of the Worst 2012 – Libya 4 July 2012 http://www.freedomhouse.org/sites/default/files/Worst%20of%20the%20Worst%202012%20final%20report.pdf Accessed 12 September 2012

[172] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 11 September 2012

'After Gaddafi's fall, a total of 130 political parties (or "political entities", for lack of legislation that defines parties) were formed, offering people a wide range of ideologies and political views for the July 7 constituent elections.

'Many of the parties are very local in nature, representing only a certain town or even just a neighbourhood. Only 10 of them have candidates across Libya's 13 constituencies, and could therefore be seen as national political movements. Most of them have their fundamentals based on Islamic principles, reflecting Libya's Islamic character.'[173]

15.06 The same report gave five brief profiles of what were believed to be influential political forces in the running for the 80 party list (out of 200 total) seats in the constituent race for the General National Congress:

'**Justice and Development Party [Hizb al Adala wal Tanmiya]**

'Though widely considered to be the political arm of the Muslim Brotherhood in Libya, the party's leaders deny this…created in March this year and is led by Mohamed Sowan, a former political prisoner under Gaddafi…The party is believed to be the country's most organised political force.

'**Homeland Party [Hizb al Watan]**

'The organisation was co-founded in April 2012 by Abdel Hakim Belhadj, the former commander of the Libyan Islamic Fighting Group and the head of the Tripoli Brigade…the party has a "national programme within an Islamic framework"… The Homeland Party campaigns heavily on security issues such as the creation of a strong national army and protection of Libya's borders. It also supports decentralisation of power but strongly rejects federalism.

'**National Forces Alliance [Tahalof al Qiwa al Wataniya]**

'Created in February 2012, the alliance presents itself as a liberal movement and is believed to be the main liberal contender in the elections. The alliance includes about forty political organisations, hundreds of NGOs and almost 300 independent figures from a wide spectrum of Libyan society.

'Headed by Mahmoud Jibril, the former prime minister, the alliance calls for the application of "moderate Islam" and "for the establishment of the foundations of a democratic civil state".

'**National Centrist Party [Hizb al Tayyar al Watani al Wasati]**

'Ali Terhouni, the founder of the party, and the former deputy prime minister in charge of oil and finance in Jibril's interim cabinet, was supposed to join his former boss in the Alliance of National Forces - but split after a conflict about strategy…[The] Party campaigns on issues like a strong state and the strict rule of law.

'**National Front Party [Al Jabha al Wataniya]**

[173] AlJazeera, Libya's political parties, 3 July 2012 http://www.aljazeera.com/news/africa/2012/06/2012626224516206109.html Accessed 12 September 2012

'The National Front was created in May 2012 out of the ranks of the now-dissolved National Front for the Salvation of Libya, an armed opposition movement against Gaddafi's rule. The resistance group was established in 1981 by Muhamad Yousef al-Magariaf, the former Libyan ambassador to India, and a household name in Libya.

'The front is striving to be a broad political platform, presenting itself as a liberal party, campaigning on issues such as decentralisation, human rights, economy, national reconciliation and security.' [174]

For details and results of the July 2012 election see Chapter 4: Recent Developments – July 2012 election

See also Political System

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16. FREEDOM OF SPEECH AND MEDIA

OVERVIEW

16.01 The United States Department of State, 'Country Report on Human Rights Practices 2011, Libya' (USSD Report 2011), published 24 May 2012, stated, 'The TNC [National Transitional Council] and interim government promoted a climate of free expression, provided for in the Constitutional Declaration, setting up a committee with the goal of establishing a climate favourable to a free press. The number of media outlets grew in the country. For example, as of May [2011], 60 new print publications had been registered with the Benghazi Municipal Council.' [175]

16.02 Reporters without Borders ranked Libya 154th (out of 179 countries) in its 2011/12 Press Freedom Index, published 25 January 2012. (1 being the most, and 179 being the less, free).[176]

16.03 Freedom House, in its annual report 'Freedom of the Press 2012 – Libya' (Freedom of the Press 2012 report), published 5 September 2012, noted:

'Libya improved from Not Free to Partly Free due to significant improvements in media freedom and access to information as Mu'ammar al-Qadhafi's control over the country progressively crumbled during 2011. The draft constitution contains provisions for expanded freedom of expression and of the press, and access to officials is far greater than under the Qadhafi regime. There has also been a boom of media outlets,

[174] AlJazeera, Libya's political parties, 3 July 2012 http://www.aljazeera.com/news/africa/2012/06/2012626224516206109.html Accessed 12 September 2012
[175] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 11 September 2012
[176] Reporters without Borders, Press Freedom Index 2011/12, 25 January 2012 http://en.rsf.org/press-freedom-index-2011-2012,1043.html Accessed 13 February 2012

particularly in the east, with a diversity of viewpoints. Journalists are able to cover the news more freely than before, and with less threat of violence and intimidation.' [177]

16.04 The same report continued:

'A dramatic increase in outlets in 2011 significantly altered the Libya media landscape, with a much wider diversity of independent and pro-NTC viewpoints. Many smaller media sources are owned by individuals and often survive on donations, and in many cases, ownership of these outlets remains unclear. Activists and entrepreneurs launched hundreds of outlets on a variety of platforms during and in the wake of the uprising. Benghazi, one of the first cities to declare itself free of the Qadhafi regime, had 800 media outlets registered by the time Libya declared itself independent in October 2011. During the year, media outlets flourished in Misurata, Tripoli, and in the western Nafusa Mountains, where the Amazigh minority established newspapers as well as television and radio stations in their own language (under the Qadhafi regime, Amazigh was a banned language). Tribute FM was the first Libyan English-language radio station established. When it received this license, the NTC said it wanted the outlet to be "as critical of the new regime as they liked."' [178]

PRINT MEDIA

16.05 The Freedom of the Press 2012 report noted:

'There has also been an explosion of print media in the wake of the revolution. As Libya does not have a recent history of independent media, the quality of the journalism has frequently been criticized, and few newspapers have enough content to establish a daily edition. Many of the newspapers and magazines founded during of the fall of the old regime are closing, mostly due to activists returning to their normal lives or because their enterprises lacked equipment, funding, or experience in the media industry. More recently, the government has proposed giving some funding to independent media outlets in their early stages to help them become established.

'The General Press Corporation (GPC) that had existed under Qadhafi has been dissolved, along with state-owned newspapers such as Al-Shams and Al-Zahf al-Akhdar. A new body, the Press Support and Encouragement Corporation, has taken its place. It was founded and is headed by journalist and poet Idris al-Mismari. He has vowed that this new press body will not replace the GPC, but instead will "safeguard the state-owned [press] to serve journalism." He has also promised that Libya's press will be based on "freedom and transparency," and that a code of ethics will be written by journalists.' [179]

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RADIO AND TELEVISION

16.06 The Freedom of the Press 2012 report noted:

[177] Freedom House, Freedom of the Press, 5 September 2012. http://www.freedomhouse.org/report/freedom-press/2012/libya Accessed 12 September 2012
[178] Freedom House, Freedom of the Press, 5 September 2012. http://www.freedomhouse.org/report/freedom-press/2012/libya Accessed 12 September 2012
[179] Freedom House, Freedom of the Press, 5 September 2012. http://www.freedomhouse.org/report/freedom-press/2012/libya Accessed 12 September 2012

'Before February 2011, all TV stations were run by the state broadcaster, the Libya Jamahiriyah Broadcasting Corporation (LJBC). The LJBC was disbanded after the fall of Tripoli in August 2011 and replaced by the state-owned Libyan Radio and Television network (LRT). There are currently more than 20 television stations and dozens of radio outlets, many of which are controlled by private owners. Among the new television stations that were established during the conflict are Libya al-Hurrah, which replaced the pro-Qadhafi channel Al-Libiyah. The station was founded by Nabbous; since his death in March, it has expanded from a web-based television channel, and is broadcast live from several Libyan locations. Libya TV or Libya al-Ahrar was launched in April 2011 with support from the Qatari government and Libyan businessmen. Although it is a private channel, it is increasingly seen as the mouthpiece of the NTC. Before the fall of the regime, satellite channels that carried stations such as Al-Jazeera were jammed in order to withhold information from citizens. Nevertheless, journalists continued to work around these barriers to spread information, and after the fall of the regime, access to these channels resumed.' [180]

INTERNET

16.07 The USSD Report 2011 stated:

'A single government-owned service provider offered Internet access. The Qadhafi government actively attempted to impede the flow of information within, to, and from the country by cutting landlines and restricting the Internet and all other forms of communication. As of year's end, communications infrastructure had been largely restored to pre-revolution levels, with functioning but inconsistent cellular telephone and Internet services.' [181]

16.08 The Freedom of the Press 2012 report noted:

'Internet penetration remains relatively low, with about 17 percent of the population accessing the medium in 2011. The social media scene in Libya experienced constant growth in 2010, and it more than doubled between February and October 2011. Libyans' use of social media, as well as video- and photo-sharing websites, was instrumental in the provision of information, news, and multimedia content about the protests and ensuing conflict. According to Social Bakers, which provides usage statistics for social media sites, Libyan Facebook users increased by 121 percent, from 72,000 to 230,940 people (3.57 percent of the population), in 2011. After journalists, bloggers, and activists uploaded images of the initial February protests to the internet and social networking sites, the Qadhafi government shut down or disrupted the internet and mobile phone, and many bloggers were arrested. Between February and August 2011, access to the internet was severely limited in the west; however, it was gradually restored after the rebels established control in the east, and the rebels set up their own mobile phone network in Benghazi in April. Following the liberation of the country, there

[180] Freedom House, Freedom of the Press, 5 September 2012. http://www.freedomhouse.org/report/freedom-press/2012/libya Accessed 12 September 2012
[181] The United States Department of State, Country Report on Human Rights Practices 2011, Libya, 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 11 September 2012

were no reports of the resumption of filtering that had been prevalent during the Qadhafi era.' [182]

16.09 The Freedom House report, 'Freedom of the Net 2012', published 24 September 2012, gave details of access to the internet:

'Internet access via ADSL or WiMAX was free of charge in the eastern part of the country during the conflict and became free throughout Libya for those with functioning equipment from November 2011 until March 1, 2012. This considerably increased the number of users and hours spent online. Pricing structures then returned and as of May 1, 2012, internet was available via mobile phone, landline, and cable networks throughout Libya for those who had modems and SIM cards. The account connection fees of the Qadhafi era returned, while monthly subscription rates slightly decreased and data usage quotas were raised. Despite these changes, internet speeds in Libya remain extremely slow. Since the end of the conflict, there have been no government-imposed restrictions on connectivity, but problems remain due to damaged infrastructure…

'Although a popular access point previously, the cybercafé industry was decimated due to the months-long internet shutdown that began in February 2011, with almost all venues closing. As a result, in early 2012, most people accessed the internet from their homes, hotel lobbies, and workplaces (particularly those working for foreign organizations or companies).

'The post-conflict regulatory environment remains very unclear. The interim government has a Ministry of Communications, but it has expressed no clear vision for the future. During the Qadhafi era, decisions on licensing were made by the government-controlled GPTC. In 2006, the General Telecom Authority (GTA) was formed with plans announced that it would be followed by a new regulator in 2009. At the time of the 2011 uprising, it remained unclear whether the GTA had come into existence, though some suspected it had been formed and mandated to oversee the monitoring of online activities.' [183]

16.10 The report continued:

'The government also passed a rule in 2006 mandating that websites registered under the ".ly" domain not contain content that is "obscene, scandalous, indecent or contrary to Libyan law or Islamic morality." This rule appears to still be in effect under the interim government, which has not yet abolished it, but has not enforced it either.

'Since the rebels' victory in August 2011, all previously blocked websites, including those of Israeli newspapers, have become accessible again. Under the interim government, there have been no reports of website blocking or pressure to delete content. However, many Qadhafi-era government web-pages containing information on laws and regulations from before the uprising are inaccessible, as is the online archive of formerly state-run Libyan newspapers. Some of these websites may have become defunct after the officials running them were ousted or fees to hosting providers were

[182] Freedom House, Freedom of the Press, 5 September 2012. http://www.freedomhouse.org/report/freedom-press/2012/libya Accessed 12 September 2012
[183] Freedom House, Freedom of the Net 2012, 24 September 2012 http://www.freedomhouse.org/sites/default/files/inline_images/FOTN%202012%20FINAL.pdf Accessed 25 September 2012

left unpaid, but others were likely deliberately taken down when the revolutionaries came to power.

'As of May 2012, social media applications like the video-sharing website YouTube, the social-networking platform Facebook, and the microblogging service Twitter were freely accessible. YouTube had previously been blocked under the Qadhafi regime beginning in January 2010.

'Under Qadhafi, the highly repressive environment and fear of harsh punishments for critical speech contributed to extreme self-censorship by internet users…By early 2012, the environment had loosened considerably and freedom of expression was flourishing. Still, a sizable number of Libyan bloggers and online journalists continue to practice some degree of self-censorship due to the fluid and uncertain political situation.

'There are few mechanisms in place to hold the interim government to account should they abuse their power. In addition, given the already tense and violent environment, many bloggers choose not to touch on social taboos like rape or tribal conflicts. Many also avoid publishing content critical of the 2011 revolution. Such unseen pressures contribute to an atmosphere of less than complete freedom.' [184]

16.11 The report noted how popularity of networking sites had grown since the uprising:

'Since the fall of Qadhafi's regime, Facebook, Twitter and other digital media have grown in popularity and been used to mobilize Libyans for activism around a variety of causes. By April 2012, Facebook use had doubled to around 400,000 people, and the social networking tool was the most visited website in the country. Bloggers, online journalists, and other users have vocally expressed a diverse range of visions for the post-Qadhafi political order, the interim government and other topics, though lingering self-censorship remains. People have also turned to Facebook to learn the latest news about upcoming events and some have used mass text message campaigns to rally support in the run-up to elections scheduled for mid-2012. Websites related to the Amazigh minority, whose language was banned under Qadhafi, are now flourishing.' [185]

16.12 The report considered the violations of users' rights:

'During the Qadhafi era, Libya's media environment was among the most tightly controlled in the world…several laws authorized harsh punishments for those who published content deemed offensive or threatening to Islam, national security, territorial integrity, or the reputation of Qadhafi…Particularly egregious was a law on collective punishment, which allowed the authorities to punish entire families, towns, or districts for the transgressions of one individual. Because of their vague wording these laws could be applied to any form of speech whether transmitted via the internet, mobile phone, or traditional media.

[184] Freedom House, Freedom of the Net 2012, 24 September 2012 http://www.freedomhouse.org/sites/default/files/inline_images/FOTN%202012%20FINAL.pdf Accessed 25 September 2012

[185] Freedom House, Freedom of the Net 2012, 24 September 2012 http://www.freedomhouse.org/sites/default/files/inline_images/FOTN%202012%20FINAL.pdf Accessed 25 September 2012

'As of May 2012, these laws remained on the books. However, in what many viewed as a positive sign for the future, the NTC in August 2011 published a Draft Constitutional Charter for the Transitional Stage, intended to fill the gap before full elections and a new constitution come into effect. Article 13 of the Draft Charter guarantees "freedom of opinion for individuals and groups, freedom of scientific research, freedom of communication, liberty of the press, printing, publication and mass media."

'…Although there is less fear of government repression in the post-Qadhafi era than previously, threats still remain. In March 2012, Sharifa Alfisa, an outspoken female independent journalist writing for a number of online Libyan news sites, was abducted and beaten under mysterious circumstances in Benghazi by unidentified individuals. She was released a couple of days later. Unconfirmed reports circulated that she was investigating the murder of General Abdulfatah Younis in which the NTC and Islamist militias are alleged to be implicated. Others claimed she was kidnapped on suspicion of being pro-Qadhafi…

'While many Libyans would like to believe that such widespread surveillance has ceased under the interim government, uncertainties remain. Given the lack of an independent judiciary or procedures outlining the circumstances under which the state may conduct surveillance, there is little to prevent the government or security agencies from resuming the practice. Some suspect that it has been activated to target those with an anti-Islamist agenda. During an interview on al-Hurra TV in March 2012, the Minister of Telecommunications stated that such surveillance had been stopped because the interim government wanted to respect the human rights of Libyans. An organization representing IT professionals in Libya refuted his remarks in an online statement, claiming those working in the telecom sector report that the surveillance system has been reactivated. Such allegations could not be independently verified, however.'[186]

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JOURNALISTS

16.13 Reporters Without Borders, in a report of 1 October 2012 entitled, 'Freedom of information threatened by visa refusals, filming bans and arbitrary arrest', noted:

'Reporters Without Borders is very worried by the signs of a decline in respect for freedom of information – including visa problems, filming bans, arbitrary arrest and deportation – since the election of the General National Congress on 7 July.

'Several foreign journalists have told Reporters Without Borders they have had difficulties getting visas to visit Libya, especially after the 11 September attack on the US consulate in Benghazi.

'Those who managed to go have had problems with the militias, especially when trying to take photos or film the peaceful protests against US ambassador Chris Stevens' death.

'The Supreme Security Committee (SSC) has also arrested journalists arbitrarily.

[186] Freedom House, Freedom of the Net 2012, 24 September 2012 http://www.freedomhouse.org/sites/default/files/inline_images/FOTN%202012%20FINAL.pdf Accessed 25 September 2012

'Its victims include the British filmmaker and journalist Sharron Ward and her Libyan interpreter, who were detained while filming at a camp for internally displaced persons (IDPs) at Janzour, 12 km west of Tripoli, on 19 July and were held for nearly eight hours. Ward was then detained again for three days, from 21 to 23 July, before being deported.'[187]

16.14 The Economist, in an article of 15 September 2012, 'Libya: Despite everything, it's still a success', stated, 'The issuing of visas to foreigners is also fraught, with Islamists in the relevant ministries suspected of being loath to welcome Westerners. Journalists thought to portray the country too candidly have been castigated.' [188]

16.15 Aljazeera featured an interview on 12 May 2012 with Alaa El-Huni, a member of 1Libya, a non-profit organisation that focuses on supporting civil society and independent media in Libya. He is also presenter at Al-Asima TV, a privately owned station, where he also hosts a political show. He said he doesn't feel like anyone is controlling him, but that doesn't mean that things are ideal:

'"The first thing is that as much as there is freedom, there is a lack of security for reporters," said Huni, adding that this has made him more cautious in what he reports and how he reports it. But many of his colleagues are less experienced.

"The new journalists - they have good intentions for Libya, but they don't know how to discuss certain subjects, and with their lack of professionalism, and they end up creating a bigger problem than the one they were trying to report," said Huni.

'And the chasm between the number of new reporters and experienced editors is huge, as Huni said there are roughly 15 TV stations in Libya now, where there used to be only two major news channels.

'A new national journalists' association has been formed, and Huni said that the group is working specifically to address this issue.

'"We need to come up with guidelines for journalists and also tell them how they can protect their rights," said Huni.'[189]

16.16 The same report also featured Sami Zaptia, managing editor of the Libya Herald news website:

'"We're starting from a void ... We're starting from zero - that is a challenge. There hasn't been a tradition of a free, independent press for, some would say, roughly 40 years. So we don't have that tradition, that culture. And that's not easy, building a tradition, a culture, overnight," said Zaptia.

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[187] Reporters without Boarders, Freedom of information threatened by visa refusals, filming bans and arbitrary arrest, 1 October 2012 http://en.rsf.org/libya-freedom-of-information-threatened-01-10-2012,43465.html Accessed 12 November 2012

[188] The Economist, Despite everything, it's still a success, 15 September 2012 http://www.economist.com/node/21562944 Accessed 12 November 2012

[189] Aljazeera, Building Libya's new media 'from a void', 12 May 2012. http://www.aljazeera.com/indepth/features/2012/05/2012512141942911357.html Accessed 12 September 2012

'He says he started an English language news site because he was frustrated that most of what was being reported on Libya was being done by foreigners, and generally, from a distance.

'The people who might be in the best position to report on Libya are Libyans, but they are also the least trained to do so as journalists.

'There's currently no institutional training for journalists in Libya, although enabling a free and professional media is something the National Transitional Council (NTC) has stated as a priority. The prime minister's office has also made a point of being more responsive to the media, with regular press conferences to address concerns.

'A small talent pool - coupled with the fact that no-one these days wants to pay for advertising - means outfits such as Libya Herald are struggling to survive. Zaptia can't pay his writers and runs Libya Herald from a tight office space in the Damascus district, where dividers create the illusion of several offices in a single room and things are stacked atop each other.

'"We're all subsidising [the site] right now, hoping that things will get better," said Zaptia.' [190]

16.17 The Committee to Protect Journalists reported on 17 July 2012 that two journalists were kidnapped whilst reporting on the July 2012 elections:

'The Committee to Protect Journalists welcomes the release of two Libyan television journalists who were kidnapped on July 7 [2012] after covering the country's first elections in decades.

'Abdelqadir Fassouk, a reporter and cameraman for the private Misurata-based Tobacts TV station, and Yusuf Badi, a cameraman for the same station, were released on Monday, according to news reports. The journalists were headed back to the station after covering the country's historic parliamentary elections from the city of Mizdah when they were kidnapped near the city of Bani Walid, news reports said…

'Fassouk and Badi were released after negotiations between officials from Misurata and Bani Walid, which were mediated by officials from Jadu, a nearby town, according to Mohamed Limdani, head of the radio department at Tobacts TV. Misurata and Bani Walid have a history of rivalry and enmity, according to news reports…

'The identity of the journalist's captors remains unknown, Limdani said. The journalists were aware that their captors were armed but had not been given any other details, he said.' [191]

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[190] Aljazeera, Building Libya's new media 'from a void', 12 May 2012. http://www.aljazeera.com/indepth/features/2012/05/2012512141942911357.html Accessed 12 September 2012

[191] Committee to Protect Journalists. Libyan journalists released after nine days, 17 July 2012. http://cpj.org/2012/07/libyan-journalists-released-after-nine-days.php#more Accessed 17 September 2012

17. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

17.01 Human Rights Watch, in its '2011 World Report: Libya', published 24 January 2011, commented on the situation for human rights organisations and NGOs during the rule of Gaddafi:

'Libya has no independent NGOs and Libyan laws severely restrict freedom of association. Law 71 bans any group activity opposing the ideology of the 1969 revolution, and the penal code imposes the death penalty on those who join such groups. The government has refused to allow independent journalists' and lawyers' organizations. The only organization able to criticize human rights violations publicly is the Human Rights Society of the Gaddafi Foundation, which is chaired by Saif al-Islam al-Gaddafi.'[192]

17.02 The United Nations News Centre, in a press release of 29 September 2011, reported that, following the uprising, the UN Human Rights Council had adopted by consensus a resolution recommending to the General Assembly lifting the suspension of Libya's membership and 'welcomed the new government's commitment to protect human rights and democracy in the North African nation.' The report also stated, 'Today's resolution noted the new commitments by Libya to protect human rights, democracy and the rule of law, and to cooperate with all UN human rights organizations and mechanisms.' [193]

17.03 Voice of America, in a report of 22 December 2011, 'Libya Sees Growth of Civil Society Groups, NGO's', stated:

'A Libyan economist Sami Zaptia is expressing satisfaction with the growth of civil society groups, which he says are educating citizens about their rights and responsibilities in a democracy.

'Zaptia says the groups, including non-governmental organizations, have been organizing nationwide forums and seminars to empower Libyans as they prepare for elections for a new government next year…Zaptia says Libyans are breathing a breath of fresh air and are increasingly becoming aware of the need to respect people's rights." [194]

17.04 The website of the Libyan Human Rights Commission stated, accessed on 18 September 2012 stated, 'Libyan Human Rights Commission was founded in 1985 to promote Democracy & compliance with Human Rights in Libya. The Commission is temporarily based in Washington, DC, USA. The Commission plans to establish its

[192] Human Rights Watch, World Report 2011: Libya, 24 January 2011 http://www.hrw.org/en/world-report-2011/libya Accessed 31 May 2011

[193] UN News Centre UN Human Rights Council recommends reinstating Libya's membership, 29 September 2011 http://www.un.org/apps/news/story.asp?NewsID=39890&Cr=libya&Cr1= Accessed 23 January 2012

[194] Voice of America, Growth of Civil Society Groups, NGO's 22 December 2011 http://www.voanews.com/english/news/africa/Libya-Sees-Growth-of-Civil-Society-Groups-NGOs-135966468.html Accessed 23 January 2012

headquarters in Libya as soon as it is able to do so. With the recent political climate, the Commission has started to build its headquarters in Benghazi, Libya.'[195]

17.05 The Commission went on to state:

'This Commission is organized for the restoration of basic Human Rights in Libya, probe into the condition and plight of detainees, conscience and political prisoners. Persuade Human Rights Organizations, Watch Groups, and Governments to support efforts made by the Commission and others for fair hearings and trials, early release, and ceasing of torture, file Legal suits against individuals or government before appropriate courts of law and present complaints to the United Nations Human Rights Commission on behalf of affected persons.' [196]

17.06 The United States Department of State 'Country Report on Human Rights Practices for 2011: Libya', published 24 May 2012 noted, 'The Constitutional Declaration included freedom of association for political and civil society groups. Libyans founded hundreds of self-styled NGOs, some of which supported the war effort. Other NGOs took on political colourings.' [197]

17.07 The same report also stated:

'The TNC and interim government were receptive to international and local human rights organizations and were responsive to international observers…The new authorities generally cooperated with UN bodies, including human rights components of the United Nations Support Mission to Libya. However, as of year's end, the UNHCR [United Nations High Commissioner for Refugees] had not secured a memorandum of understanding from the interim government that would allow it to expand its activities.' [198]

17.08 The Office of the Special Coordinator for Middle East Transitions, in its U.S. Government Assistance to Libya - Fact Sheet, August 14, 2012, noted, 'The United States is providing technical assistance to NGOs throughout Libya to bolster their administrative, financial, and programmatic capacities. This includes bolstering the ability of local bar associations and advocacy groups to advocate for rule of law reform during the democratic transition.' [199]

For information about NGOs working with children see Children: Child care and protection paragraph 22.20.

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[195] Libyan Human Rights Commission, Our History http://libyanhumanrightscommission.org/history.php Accessed 31 January 2012
[196] Libyan Human Rights Commission, Our History http://libyanhumanrightscommission.org/history.php Accessed 18 September 2012
[197] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 17 September 2012
[198] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 17 September 2012
[199] Relief Web U.S. Government Assistance to Libya - Fact Sheet, August 14, 2012 http://reliefweb.int/report/libya/us-government-assistance-libya-fact-sheet-august-14-2012 Accessed 17 September 2012

18. FREEDOM OF RELIGION

RELIGIOUS DEMOGRAPHY

18.01 The United States Department of State '2011 Report on International Religious Freedom – Libya' (USSD January – December IRF Report 2011), covering 1 January 2011 to 31 December 2011, published 30 July 2012, stated, 'The population is 97 percent Sunni Muslim. Many members of the Amazigh ethnic minority are Ibadi Muslims, and virtually all non-Sunni Muslims are resident expatriates. Small Christian communities consist almost exclusively of sub-Saharan African and Egyptian migrants and a small number of American and European workers.'[200]

LEGAL RIGHTS

18.02 The USSD January – December IRF Report 2011 noted:

'The interim constitution protects religious freedom, although some laws and policies restrict religious freedom. Under the previous government there were no explicit legal protections for religious freedom, and the government generally enforced laws and policies that restricted religious freedom.

'The interim governing authority, the Transitional National Council (TNC), issued a temporary constitutional declaration in August [2011] that protects freedom of religion. Article 1 of this document states Islam is the state religion and Islamic law is the principal source of legislation, but that non-Muslims are accorded the freedom to practice their beliefs. Article 6 states "there shall be no discrimination among Libyans on the basis of religion or sect" with regard to legal, political, and civil rights.' [201]

18.03 The report added:

'The TNC's interim constitutional declaration was the first constitutional protection for freedom of religion since before Qadhafi came to power in 1969. However, the new government has not passed new laws providing more specific protections for religious freedom.

'The new government no longer censors religious material that enters the country. It no longer arrests young men who attend dawn prayers at mosques (a practice that was seen as a sign of religious extremism). The government no longer arrests imams who deliver their own Friday sermons instead of reading the government-sanctioned texts.

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[200] United States Department of State January – December 2011 International Religious Freedom Report 2011, Libya, 30 July 2012. http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper Accessed 18 September 2012

[201] United States Department of State January – December 2011 International Religious Freedom Report 2011, Libya, 30 July 2012. http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper Accessed 18 September 2012

For the first time in the country's history, religious scholars formed independent organizations that issue fatwas (religious rulings) and advice to followers.' [202]

18.04 The Libya Interim National Council, on its official website 'A vision of a democratic Libya' (undated) stated, 'We recognise without reservation our obligation to…A state that draws strength from our strong religious beliefs in peace, truth, justice and equality' and 'Political democracy and the values of social justice, which include…A constitutional civil state which respects the sanctity of religious doctrine.' [203]

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RELIGIOUS FREEDOM

18.05 The USSD January – December IRF Report 2011 continued:

'There were no reports of abuses of religious freedom.

'There were no reports of harsh and disproportionate treatment because of religious beliefs or practices.

'The new government did not explicitly repeal specific Qadhafi-era laws and regulations that affect religious freedom, but at the same time it did not enforce them. The Awqaf continued the previous regime's practice of providing imams with texts of Friday sermons, which often contained political and social messages. However, the internal security agencies that in the past closely monitored and controlled citizens' religious activities were dissolved and not reinstated.' [204]

18.06 Human Rights Watch, in a report of 31 August 2012, considered the recent attacks on Sufi religious sites:

'In recent weeks, armed groups motivated by their religious views have attacked Sufi religious sites across the country, destroying several mosques and tombs of Sufi religious leaders and scholars. The government's security forces have failed to stop the attacks and, in some cases, have stood by while the attacks took place, a pattern apparently endorsed by the interior minister. Authorities have made no arrests, as far as Human Rights Watch has been able to determine…

'Mainstream Islamic scholars consider Sufism a practice of Islam that emphasizes esoteric and mystical elements. The followers pray over tombs of saints and ask for blessings, practices that some conservative Muslims reject as idolatry.

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[202] United States Department of State January – December 2011 International Religious Freedom Report 2011, Libya, 30 July 2012. http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper Accessed 18 September 2012

[203] Libyan Interim National Council, A vision of a democratic Libya, undated. http://www.ntclibya.org/english/libya/ , Accessed 18 September 2012

[204] United States Department of State January – December 2011 International Religious Freedom Report 2011, Libya, 30 July 2012. http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper Accessed 18 September 2012

'In the most recent attack, on August 28, 2012, armed assailants reportedly attacked the Uthman Basha mosque in Tripoli's old town with heavy drills. The attack caused extensive damage and destroyed 30 graves within the compound. The historic site, which serves as a madrasa, a school of religious learning, also includes a library that the reports said was looted and damaged.

'No group has claimed responsibility for the attacks on Sufi sites. Interior Minister Fawzi Abdel A'al was quoted describing them as "groups that have a strict Islamic ideology where they believe that graves and shrines must be desecrated." It was an apparent reference to Salafists, Muslims who advocate a return to Islam, as they believe it was practiced in the days of the Prophet Muhammad.

'Abdel A'al said on August 28 that forces under his authority would not intervene to protect Sufi sites if it meant using force against extreme Islamist groups, and that the matter should be solved among the religious groups themselves. "If all shrines in Libya are destroyed so we can avoid the death of one person [in clashes with security forces], then that is a price we are ready to pay," he was quoted as saying.'[205]

MINORITY RELIGIONS

18.07 The USSD January – December IRF Report 2011 noted:

'Given the suspension of operations of the WICS [World Islamic Call Society], the status of the government limit on the number of places of worship allowed for each Christian denomination to one per city was unclear.

'Members of minority religious groups, primarily Christians, encountered minimal restrictions conducting worship. Most of the country's churches continued operating both during and after the war.' [206]

PROSELYTISING AND CONVERSIONS

18.08 The USSD January – December IRF Report 2011 continued, 'Following the uprising that overthrew Muammar Qadhafi's regime, the new authorities ceased actively regulating all aspects of religious life, although the status of the government's policy that criminalized proselytizing was unclear.' [207]

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[205] Human Rights Watch, Libya: stop attacks on Sufi sites, 31 August 2012. http://www.hrw.org/news/2012/08/31/libya-stop-attacks-sufi-sites Accessed 18 September 2012
[206] United States Department of State January – December 2011 International Religious Freedom Report 2011, Libya, 30 July 2012. http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper Accessed 18 September 2012
[207] United States Department of State January – December 2011 International Religious Freedom Report 2011, Libya, 30 July 2012. http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper Accessed 18 September 2012

19. ETHNIC GROUPS

19.01 The United States Department of State, 'Country Report on Human Rights Practices 2011, Libya', published 24 May 2012, stated:

'Arabic-speaking Muslims of mixed Arab-Amazigh (Berber) ancestry constituted 97 percent of citizenry. The principal minorities were Amazighs, Tuaregs, and Toubou. These minority groups are predominantly Sunni Muslim but identify with their respective cultural and linguistic heritage rather than with Arab traditions. Several nomadic groups live in areas along the country's desert borders, including Tuareg and Toubou. The country was home to an estimated 1.5 million to two million foreign workers and undocumented migrants, many of whom fled or were displaced during the conflict. Of those, nearly one million were thought to be of Sahelian or sub-Saharan African origin.

'Under Qadhafi, Arabic was declared the only official language, and the regime denied the existence of non-Arab citizens. Amazigh people faced discrimination, including limitations on the use of their native language. Amazigh fighters participated in the revolution and were able to publicly use Amazigh symbols and the alphabet. At year's end, they pursued fledgling efforts to advocate for equal protections for Amazigh culture and language.

'There was societal discrimination and violence against dark-skinned Libyans, including those of original sub-Saharan descent, in part due to allegations that Qadhafi used African mercenaries during the conflict.' [208]

19.02 Minority Rights Group International in its 'Libya Overview', updated August 2011, noted:

'Currently, Berbers who live in the south of Libya have not been granted Libyan citizenship and also face serious discrimination: they have no rights to decent housing, access to higher education, open a bank account, or get a passport.

'Tebu live in similar conditions. Amnesty International has reported that since November 2009 they have been targeted by the Libyan authorities and forcibly evicted from their homes in the city of Kufra and in the country's south-east.'[209]

19.03 The same group's global ranking 'People's under Threat 2012' released 24 May 2012, ranked Libya as a major riser at 36 (a rise in rank of 28 since 2010) citing 'Black Libyans, Sub-Saharan migrants, Tebu and Berbers' as those under threat.[210]

19.04 The Voices of Libyan Women, on their webpage 'Issues facing particular groups of Libyan Women' (undated) noted, 'Minority groups suffer disproportionately; as Libya is a tribal community we have noted that particular tribes are preferred for employment in

[208] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 18 September 2012
[209] Minority Rights Group International, Libya Overview, August 2011. http://www.minorityrights.org/4171/libya/libya-overview.html Accessed 18 September 2012
[210] Minority Rights Group International, Peoples under threat 2012, 24 May 2012. http://www.minorityrights.org/11337/peoples-under-threat/peoples-under-threat-2012.html#risers Accessed 18 September 2012

the smaller & rural cities. We recommend that the government address this, and implement educational and awareness campaigns.'[211]

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TRIBAL AND REGIONAL DIVISIONS

19.05 The executive summary of the NOREF (Norwegian Peacebuilding Resource Centre) report, 'Balanced on a knife-edge: the future of Libya's new state', published September 2012, commented on geography and tribalism:

'These tensions are paralleled by intense disagreements about the past. The collapse of the Qaddafi regime has not been universally welcomed; many people believed in it and its political vision, and they now are part of a persecuted minority. Such tensions divide families and, at a more formal level, cause confrontation at a tribal level too. And the tribe is a political and social reality in Libya, despite the displacement of rural populations and the modernisation of urban society.

'In part, the behaviour and policies of the previous regime are responsible for these tensions because, after attempting to eliminate tribal loyalties, it eventually reified them into an instrument of political control by making tribal leaderships collectively responsible for the behaviour of tribal members. It also instrumentalised some tribes as its own supporters against those it perceived as enemies. Thus, the tribes of Sirtica were co-opted into the security services and the Revolutionary Committee Movement, while the tribes of Cyrenaica, formerly dominant as the bulwark of royal power before 1969, were subordinated to them, in a complete reversal of the traditional tribal hierarchy in Libya.

'The consequences of these issues have been to embitter the social scene in Libya; this explains the ferocity visited upon Sirt and Bani Walid, both of them strongholds of pro-regime tribes, at the end of the civil war. Since then a series of other groups have been the subject of attack for similar reasons – in Tawarga, for example, where the Misurata militia expelled the local population because of its alleged co-operation with the Qaddafi regime (but really because it was black, in an echo of the September 2000 riots), or the Warshfanna tribe outside Zawiya. More recently there were disturbances at Zuwara, also on the grounds that a local Amazight population had collaborated with the Qaddafi regime. In the south there have been clashes with the Tibu in Kufrah and Sebha, while at Ghadames the local Touareg population has been forced out for alleged cooperation with the previous regime. The result is that rural insecurity has increased and remnants of the forces of the previous regime are exploiting these divisions for criminal ends and in an attempt to subvert the new regime.

'Even more important, perhaps, is the sense that a common Libyan destiny is increasingly open to question, to be replaced by a regional or tribal ethos, particularly in rural areas. This is in part a reflection of the chaotic security situation and in part of the resentment felt by the tribes of Cyrenaica regarding their subordination to a regime backed for 40 years by the Sirtican tribes. It is complemented, too, by a growing sense of alienation in Tripolitania and among the Fezzan from the east of the country. This found expression in late March 2012 in the emergence of a separatist movement in

[211] The Voice of Libyan Women, Issues facing particular groups of Libyan Women (undated) http://www.vlwlibya.org/economic-empowerment/ee-issue/ Accessed 13 November 2012

Benghazi, which further marginalises the NTC's authority in the east. A conference of 2,000 delegates, led by a cousin of the former king, Abdulhakim al-Sanusi, called for a federal future for Libya. There have been similar calls from the southern, non-Arab tribes after clashes with Arab neighbours.' [212]

See also Chapter 1: Geography – State policy (under Gaddafi) towards the east.

19.06 Reuters, in a report of 25 August 2011 entitled 'Factbox: Libya's tribal, cultural divisions' noted:

'**Provincial Divisions**

'Coastal Libya has been divided into two distinct provinces since before the time of the Romans - Tripolitania in the west around Tripoli and Cyrenaica around Benghazi.

'In its early stages, the conflict divided Libya once again along those lines, with the area around Benghazi under opposition control and the rebels taking the flag of the former Cyrenaican monarchy ousted by Gaddafi.

'Benghazi-based rebel forces struggled to push Gaddafi loyalists back beyond the traditional provincial tribal boundary near the oil port of Brega, leaving it to western Libyan rebels - many ethnic Berbers - to take the capital Tripoli.

'Experts say opposition to Gaddafi was always higher in eastern areas although several western tribes repeatedly rebelled against him. Gaddafi's support was strongest in his own tribe as well as southern, often African tribes from Libya's old desert province of Fazzan.

'**Ethnic, Tribal Divisions**

'Political risk consultancy Stratfor estimates that Libya has up to 140 tribes, but only 30 have any particular significance.

'Some Libyans, mostly in the rebel movement, say such traditional structures are not very important in urban areas, but others say that they may prove vital in the absence of traditional government structures.

'Tribes, sub-tribes and other groups have a variety of leadership structures, and rarely simply function as monolithic blocks, analysts say.

'Below are some of the main tribes and other ethnic groups with details provided by analysts and Reuters reporters around the region.

'**Gaddafa**

'Gaddafi's tribe is one of Libya's smaller groups and not particularly powerful historically. With its territory running from the port of Sirte midway between Tripoli and Benghazi down into the Sahara, he used it to help cement his power.

[212] NOREF, Balanced on a knife-edge: the future of Libya's new state, September 2012. http://www.peacebuilding.no/var/ezflow_site/storage/original/application/5e0dd27504ad1372948624338c50ae0d.pdf Accessed 4 December 2012

‘Analysts say the tribe became wealthy under his rule, is sometimes accused of having a stranglehold on power and makes up the core elements of some of the "regime protection units." But some members - perhaps part of assorted sub-tribes that benefited less from his rule - may have abandoned him early in the uprising.

‘The rebels' National Transitional Council (NTC) has made contact with some members of the group, but analysts say that reprisals or attacks against those believed to have been loyal to Gaddafi could cause problems.

‘**Warfalla**

‘Usually estimated to be Libya's largest tribe with up to one million of the total roughly 6 million population, tribal elders announced early on that they were turning against Gaddafi.

‘The tribe is based primarily to the east of Tripoli with its origins in Misrata, initially besieged by Gaddafi's forces and home to some of the rebels who took Tripoli. Some of their territory reaches toward Sirte. The tribe launched a coup against Gaddafi in 1993 with the support of the Magarha tribe demanding greater representation in government.

‘Although the coup failed and a number of leaders were killed, imprisoned and driven into exile, the tribe maintained sizeable numbers within the military. The tribe includes six sub-tribes and has sometimes suffered from internal divisions.

‘**Magarha**

‘Analysts say this tribe is the second largest and it has had mixed relations with Gaddafi's government. Originally from the interior, many members have moved to the coast as the tribe has played an increasingly central role in politics. Leader Abdessalam Jalloud was once seen as the second most important man in the country, but he fell out with Gaddafi in the 1990s and the tribe joined the 1993 uprising.

‘After the coup failed, the tribe was able to maintain closer relations with Gaddafi following closed-door negotiations.

‘**Tuareg**

‘The traditionally nomadic Tuareg is divided between a number of states in the Sahara whose borders they do not recognize. Analysts estimate just over 560,000 live within Libya.

‘Tuareg rebels have attacked other Saharan governments and oil installations in pursuit of independence but have traditionally not clashed with the Libyan government, leading to some to suspect that Gaddafi armed them.

‘Libyan officials have offered asylum to non-Libyan Tuareg. They were believed to be broadly loyal to Gaddafi in the conflict, although again details are sparse. Some suspect Gaddafi may try to hide among them in Libya's desert south or use his contacts with them to sneak across the Southern border out of the country.

‘**Berbers**

‘Estimated to make up to 50 percent of the population of the western mountains, the Berbers were seen as largely marginalized under Gaddafi's rule in favour of the majority Arabs. Many of them helped take Tripoli.

‘The NTC specifically targeted this group - which was key to their victory - and their draft constitution makes it clear they will be viewed as equal to their Arab counterparts.

‘For now, there seems to have been little in the way of tension between Berber and Arab rebels, but some say it might emerge in due course.

‘**Bara’sa**

‘Gaddafi's second wife came from this eastern tribe and many of his children are believed to support it, with some members being appointed to mid-level bureaucratic posts. While many members quickly went over to the opposition, the tribal leaders appeared reluctant to make overt statements as to their loyalty during the uprising.

‘**Zuwayyah**

‘Largely rural and living in oil-producing regions of the east and interior, the tribe is relatively small but might demand greater say in the use of oil revenues. They are reported to have been among the most vocal opponents of Gaddafi during the uprising, and are said to be relatively well armed. Ultimately, their main interest is seen to be ensuring they continue to benefit from Libya's oil.

‘**Other Eastern Tribes**

‘The Misrata are said to be the largest tribe in eastern Libya, based around the eastern town of the same name (not to be confused with the identically named western town besieged by Gaddafi earlier in the war) and the cities of Benghazi and Darnah.

‘The al-Awaqir is most prevalent in the city of Al Bayda, home of NTC Chairman Mustafa Abdel Jalil, and has long been at the center of opposition to Italian and Ottoman colonialism.

‘The Obeidat are clustered around the north eastern garrison town of Tobruk. Several senior officials from this group publicly defected at the beginning of the uprising.

‘Rebel military leader Abdel Fattah Younes - killed in an attack by other rebels - was a member of this group, but Jalil was keen to appear alongside tribal leaders immediately afterwards and serious divisions looked to have been avoided.

‘**Other Western Tribes**

‘The Bani Walid overlap geographically with the Warfalla, and was reported to have defected from military units early in the uprising.

‘The Tarhuna make up roughly a third of the population of the capital Tripoli, while the Zentan are located between Tripoli and the Tunisian border. Both tribes are said to be

heavily represented in the military but members were also reported to have joined early protests.'[213]

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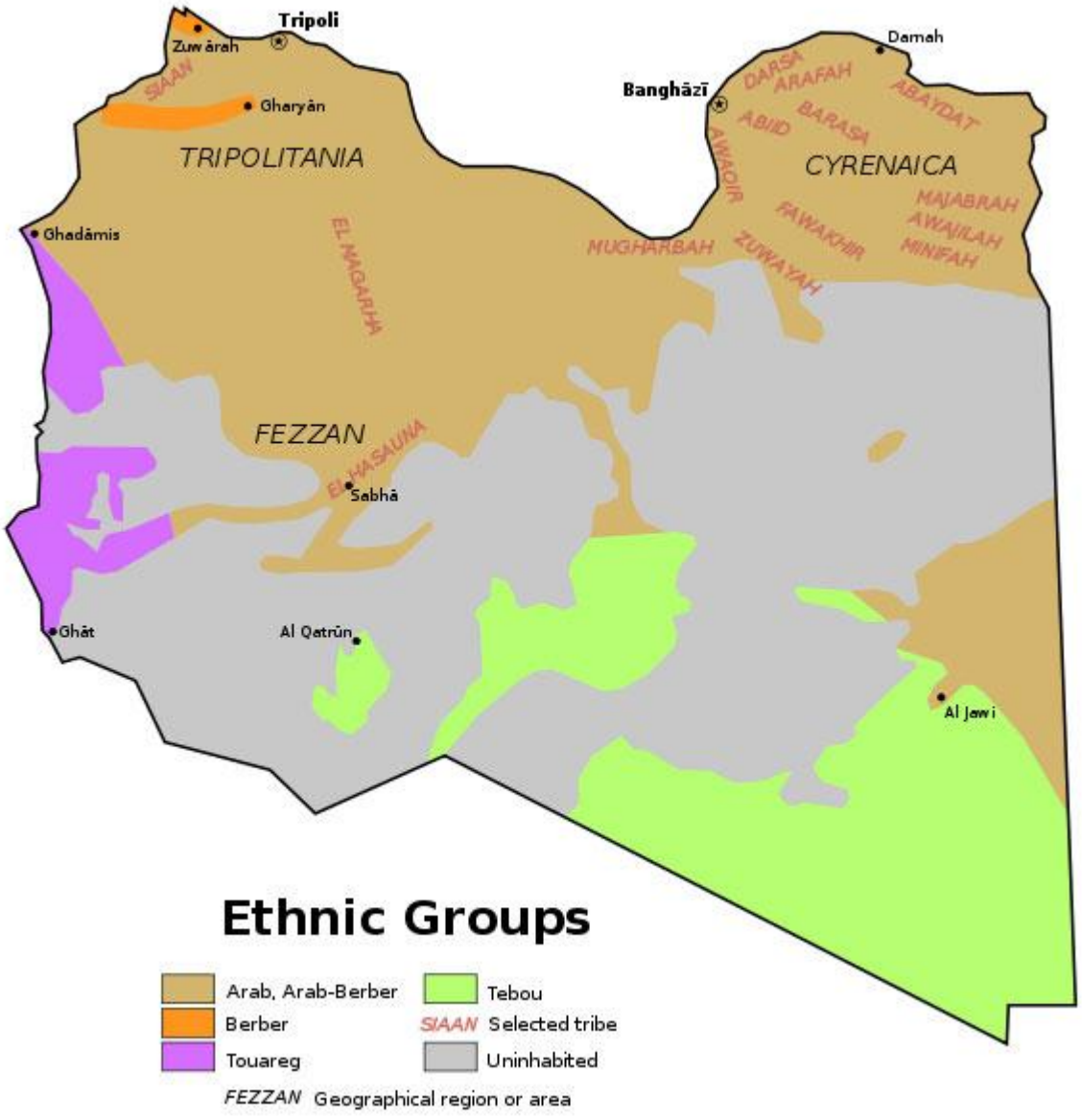
TRIBAL MAP

19.07 A map, dated 24 February 2011, from Mapsorama.com showed the ethnic group distribution in Libya:



[214]

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[213] Reuters, Factbox: Libya's tribal, cultural divisions, 25 August 2011. http://www.reuters.com/article/2011/08/25/us-libya-tribes-idUSTRE77O43R20110825 Accessed 18 September 2012

[214] Mapsorama, Ethnic groups in Libya, 24 February 2011, http://www.mapsorama.com/demographic-map-of-libya/ Accessed 6 July 2011

TRIBAL AND ETHNIC TENSIONS SINCE THE DECLARATION OF LIBERATION

19.08 The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) in its 'Libyan Response, Situation Report 67' of 4 December 2011 noted, 'The protection situation for some minority groups, such as the Tewergha, Mushashya and Qawalish remains a concern. Many displaced people from these areas are unable to return at present, due to concerns for their safety.' [215]

19.09 The Foreign and Commonwealth Office, in its quarterly update (30 June 2012) to the report on Human Rights and Democracy: Libya, originally published April 2012, stated: 'Continuing security incidents, including fighting around Kufra and Sebha, have impeded the effective enjoyment and protection of human rights over the last three months. The causes include historical tribal tensions, general criminality and in some cases, an ethnic dimension. We continue to have concerns over the treatment of minority groups, including the Tebu, Tuareg, Tawergha and sub-Saharan Africans.'[216]

19.10 The report of the UN Human Rights Council 'International Commission of Inquiry on Libya', released on 2 March 2012, looked at 'targeted communities':

'**Qadhafi forces**

While the Qadhafi government targeted people for arrest, torture and killing based on their opposition to the government, the Commission has not found evidence that one particular group was targeted more than others. While some towns were historically oppressed by Qadhafi's government, there is no indication they were treated during the conflict in a worse way as a consequence of this previous discrimination.

'**Thuwar**

'Misratans believe Tawerghans to be Qadhafi loyalists and responsible for crimes, including rape. With the capture of Tawergha by thuwar, most Tawerghans left, fearing reprisals. When Tripoli fell to the thuwar, brigades from Misrata entered a Tawergha IDP camp in the city and arrested and beat 85 Tawerghan men. In September 2011, they arrested between 40-50 more. According to eyewitnesses, as recently as 6 February 2012 Misratan thuwar attacked the Tripoli IDP camp and killed five Tawerghans, including an old man, a woman, and three minors.

'The Commission received multiple reports that, in the months which followed the capture of Tripoli, there were arbitrary arrests of Tawerghans by Misratan thuwar on the streets of Tripoli. Their whereabouts often remain unknown. Those who have been released report being beaten. The Commission has documented multiple incidents of Tawerghans held in detention in Misrata being subjected to torture. The Commission has examined corroborating injuries on victims.

[215] UN Office for the Coordination of Humanitarian Affairs, Libyan Response, Situation Report 67, 4 December 2011 http://northafrica.humanitarianresponse.info/sites/default/files/20111204_SituationReport.pdf Accessed 3 January 2012

[216] FCO, Human Rights and Democracy 2011: Libya, quarterly update, 30 June 2012. http://fcohrdreport.readandcomment.com/human-rights-in-countries-of-concern/libya/quarterly-updates-libya/# Accessed 5 September 2012

'A similar pattern of arrests, torture, other forms of ill-treatment, and killings was documented by the Commission in Sirte, Zlitan, Al Jufra, Shawarif, Alut and Benghazi.

'**Tawergha**

'In the months after Tawergha was emptied of its population, houses and public buildings continue to be looted and destroyed by the Misratan thuwar. The Commission found that roads into the town had been blocked. The Commission observed houses being set alight. Buildings appeared to have been bulldozed. The Commission observed that the word "Tawergha" had been scratched off road signs. The words "New Misrata" has been written over them. The Commission notes that the Misratan thuwar have been open about their views of the Tawerghans. One fighter told the Commission he thought that Tawerghans deserved "to be wiped off the face of the planet". The language reportedly used by the Misratans during the arrests was often of a racist and derogatory nature, for example calling them "slaves", "blacks", and "animals". Some have been told that they cannot ever return.

'**Targeting of other communities**

'Thuwar from Zintan have targeted Mashashiya towns, perceived as loyalist. The Commission was able to confirm reports that Mashashiya detainees have been tortured, towns looted, and property burnt. Mashashiyans who have attempted to return to their homes have reportedly been beaten. In December 2011, Zintani thuwar reportedly shelled a town containing Mashashiya IDPs. The Military Council twice refused to allow the Commission to enter one of the towns. Nonetheless, damage was visible. Graffiti was written on the town signs, including "Mashashiya - Qadhafi's dogs".

'The inhabitants of Tiji and Badr are Arabs in an originally Amazigh region. When Nalut thuwar entered Tiji and Badr in August 2011 they reportedly demanded that its remaining residents leave, and killed three brothers. Thuwar from Nalut subsequently shelled Tiji in October 2011 with Grad rockets, killing at least three young women. According to testimony received, Nalut thuwar detained a number of adult men, called them "Arab dogs" and told them "this is not your land". The Commission observed that evidence of burning could still be seen in the town.

'The Commission has received reports of beatings and looting in Abu Kammesh by Zowara thuwar. One interviewee stated that a work colleague told him "you're an Arab living on Amazigh land; we're going to kick you all out". Sub-Saharan Africans were also arbitrarily arrested and beaten in detention and even killed, by various thuwar.' [217]

19.11 The report reached the following conclusions about these communities:

'The Misrata thuwar have killed, arbitrarily arrested and tortured Tawerghans across Libya. The destruction of Tawergha has been done to render it uninhabitable. Murder, torture and cruel treatment, and pillaging which occurred during the hostilities constitute a war crime. Where they have continued since, they violate international human rights law. The torture and killing by Misratan thuwar would also, given the widespread and

[217] UNHCR, International Commission of Inquiry on Libya, 2 March 2012 http://www.unhcr.org/refworld/topic,4565c2254a,4565c25f593,4ffd19532,0,,,.html Accessed 18 September 2012

systematic manner in which they have occurred here, be capable of constituting a crime against humanity and the facts indicate crimes against humanity have taken place.

'The Commission finds that Zintan thuwar have killed, arbitrarily arrested and tortured members of the Mashashiyan community; that Nalut thuwar have committed unlawful killings and torture in Tiji, as well as looting and destroying property; and that Zowara thuwar have committed unlawful killings and torture, as well as looting and destruction of property in Abu Kammesh. In these cases, while there were clear indications that the communities were targeted and the consequences for individuals were severe, the Commission did not find the necessary evidence to indicate that the attacks against these communities were as widespread or as systematic as is the case with the Misratan thuwar and Tawergha. Insofar as these acts took place within the context of the armed conflict, however, they constitute war crimes; where they have occurred since the armed conflict ceased, they constitute a violation of international human rights law.' [218]

19.12 The 220 page report of the UNHCR's International Commission of Inquiry on Libya contained more detailed reports of the targeting of specific groups. [219]

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Tawerghans

19.13 Human Rights Watch, in a report of 28 October 2011, The Murder Brigades of Misrata, noted:

'As the war in Libya comes to an end, the pressing need for accountability and reconciliation is clear. The actions of the Misrata brigades are a gauge of how difficult that will be, and Misrata is not alone in its call for vengeance. In the far west, anti-Gadhafi militias from the Nafusa Mountains have looted and burned homes and schools of tribes that supported the deposed dictator. Anti-Gadhafi militias from Zuwara have looted property as they demanded compensation for damage they suffered during the war…

'Clearly the NTC is up against the passions of a nasty war. Misrata withstood a two-month siege at the hands of Gadhafi's forces with near-daily indiscriminate attacks that killed about 1,000 of its citizens. The town's main boulevard, Tripoli Street, is in ruins. Facades of public buildings and private homes collapsed from tank fire and are charred inside and out. The pockmarks of bullet holes disfigure construction everywhere.

'The fierce fight for Misrata has left a penetrating bitter aftertaste. Misratans say they detest anyone who backed Gadhafi. They are not welcome in Misrata, even if the city and its environs was their home for generations.

'The Misrata militia is focusing its greatest wrath on Tawergha, a town of about 30,000 people just south of the city. Both Misratans and Tawerghas say residents there were

[218] UNHCR, International Commission of Inquiry on Libya, 2 March 2012 http://www.unhcr.org/refworld/topic,4565c2254a,4565c25f593,4ffd19532,0,,,.html Accessed 18 September 2012
[219] UNHCR, International Commission of Inquiry on Libya, 2 March 2012 http://www.unhcr.org/refworld/topic,4565c2254a,4565c25f593,4ffd19532,0,,,.html Accessed 18 September 2012

enthusiastic Gadhafi supporters. Hundreds of erstwhile civilians in that town took up arms to fight for him. Misratans say Tawergha volunteers committed rapes and pillaged with gusto, though Misrata officials decline to produce evidence of the alleged rapes, saying family shame inhibits witnesses and victims from coming forward.

'In any event, Misratan militia members are venting their anger on all Tawerghas, who are largely descendants of African slaves. Most fled their town as Misratan fighters advanced there between Aug. 10 and Aug. 12 [2011].

'Witnesses and victims we interviewed provided credible accounts of Misratan militias shooting and wounding unarmed Tawerghas and torturing detainees, in a few cases to death. In Hun, about 250 miles south of Misrata, militias from Benghazi have taken it upon themselves to protect about 4,000 refugees. They say Misratans are hunting down Tawerghas.'[220]

19.14 Human Rights Watch, in a further report of 30 October 2011, 'Libya: Militias Terrorising Residents of "Loyalist" town', gave more details about the plight of the people from Tawergha:

'Militias from the city of Misrata are terrorizing the displaced residents of the nearby town of Tawergha, accusing them of having committed atrocities with Gaddafi forces in Misrata, Human Rights Watch said today. The entire town of 30,000 people is abandoned – some of it ransacked and burned – and Misrata brigade commanders say the residents of Tawergha should never return.

'Human Rights Watch interviewed dozens of Tawerghans across the country, including 26 people in detention in and around Misrata and 35 displaced people staying in Tripoli, Heisha, and Hun. They gave credible accounts of some Misrata militias shooting unarmed Tawerghans, and of arbitrary arrests and beatings of Tawerghan detainees, in a few cases leading to death…

'The people of Tawergha mostly fled in August to the Jufra region, south of Misrata, according to the United Nations High Commission for Refugees (UNHCR), which put the number of displaced Tawerghans there at 15,000. Local officials in Hun, a town in Jufra, said 4,000 Tawerghans had sought shelter in three camps there as of early October, and an unknown number are in the town of Sokna and nearby agricultural settlements. Since then, at least 5,000 Tawerghans have moved from Jufra to Benghazi and Tripoli, and other groups are in Tarhuna, Khoms, and the far south.' [221]

19.15 The United Nations Security Council 'Report of the Secretary-General on the United Nations Support Mission in Libya', published 1 March 2012, stated:

'…an estimated 65,000 to 80,000 people remain internally displaced, mainly Tawergha, other minorities and people associated with the former regime, owing to fears of reprisals in their areas of origin. They are in need of interim solutions to improve their living conditions and access to basic services, and in the longer term, reconciliation

[220] HRW The Murder Brigades of Misrata, 28 October 2012 http://www.hrw.org/news/2011/10/28/murder-brigades-misrata Accessed 4 January 2012
[221] Human Rights Watch, Libya: Militias terrorising Residents of 'Loyalist' town, 30 October 2011 http://www.hrw.org/news/2011/10/30/libya-militias-terrorizing-residents-loyalist-town Accessed 9 November 2011

between communities to allow their return to their areas of origin. The Humanitarian Coordinator has urged that all efforts be made to reduce aid dependency and avoid the creation of displaced persons' camps.' [222]

19.16 Human Rights Watch, in a report of 5 March 2012, called on the Libyan government to urgently increase security for the roughly 12,000 displaced people from Tawergha in western Libya. The report noted, 'Nearly a month after militias raided a Tawergha camp in Janzur, shooting dead one man, three women, and three children, that camp and others still lack adequate protection.'[223]

See also paragraph 19.23 for information about black Libyans

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Tuareg

19.17 Reuters, in a report of 9 November 2011 entitled 'Tense reconciliation begins with Libya's Saharan tribes', reported on a meeting between representatives from the Tuareg nomad tribes and the transitional government:

'Meeting in a compound that used to be Muammar Gaddafi's private retreat outside the desert town of Obari, Zintan fighters and a civil and military delegation from the capital of Tripoli are here to make sure the revolution has fully arrived.

'Tensions are running high. Many Tuareg nomad tribes, who roam the southern Sahara desert spanning the borders of Libya and its neighbours, backed Gaddafi late into the war.

'The Arab fighters of Zintan, on the other hand, pride themselves on the speed at which they turned on Gaddafi. Zintan brigades came here to fight loyalists of the late Libyan leader in June and some have stayed behind, saying they intend to disarm the Tuareg, mediate disputes and reconcile the region with the interim government in the north, the National Transitional Council (NTC).

'Many look upon the nomads with suspicion. "I've been sent from the Ministry of Defense to sort it out here," said one commander, accusing the Tuareg of fighting for Gaddafi and raping women in the northern cities of Misrata and Zawiya, where bloody battles raged during the civil war. "I will fix it. We are from Zintan and we are real revolutionaries. We need to stay in control here," he added.' [224]

19.18 The report went on to describe the difficulties faced in reconciliation:

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[222] United Nations Security Council 'Report of the Secretary-General on the United Nations Support Mission in Libya', 1 March 2012 http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/129 Accessed 18 September 2012

[223] HRW Libya: Bolster Security at Tawergha Camps, 5 March 2012. http://www.hrw.org/news/2012/03/05/libya-bolster-security-tawergha-camps Accessed 18 September 2012.

[224] Reuters, Tense reconciliation begins with Libya's Saharan tribes, 9 November 2011 http://www.reuters.com/article/2011/11/09/us-libya-tuareg-idUSTRE7A82S020111109 Accessed 14 November 2011

'The NTC faces the huge task of reconciling groups all over the country now that Gaddafi is gone after 42 years, and has sent delegations to sensitive areas around the country.

'In towns around Libya, locals say people have been killed in raids by former rebel brigades seeking revenge against men they believed had fought on Gaddafi's side. There are fears of regional violence, especially in the previous Gaddafi stronghold towns of Sirte, Bani Walid and Sabha, only 200 km (125 miles) from Obari.

'This region was one of the last bastions of Gaddafi in Libya and was only fully taken over by forces loyal to the NTC a month after he was toppled.

'Many Tuareg backed Gaddafi because he supported their rebellion against the governments of Mali and Niger - where there are large populations of Tuareg -- in the 1970s and later allowed more than 100,000 to settle in southern Libya.

'The tribes are important to regional security because the Tuareg have huge influence in the vast, empty desert expanses which are often exploited by drug traffickers and Islamist militants as a safe haven for their operations.

'Porous borders, discontent and availability of arms make this region one of the potential hot spots to present an armed challenge to the interim government.' [225]

19.19 Considering the use of mercenaries in the conflict, the report of the UN Human Rights Council 'International Commission of Inquiry on Libya', released on 2 March 2012, stated:

'…three interviewees indicated that an indeterminate number of Tuareg men were recruited to fight alongside Qadhafi forces. The Tuareg are a historically nomadic tribe that move between the borders of Libya, Algeria, Mali and Niger. The Tuaregs' territory has, since the early 19th century, been organised into seven major confederations which lie in the Saharan district. While some Tuareg remain stateless, many have taken on the citizenship of the country in which their confederation is based.

'One interviewee indicated that a group of Tuareg fighters had been recruited from Aghat, the capital of the Ghat District in the Fezzan region of south western Libya. Another interviewee indicated that Tuareg fighters had been recruited by the Qadhafi forces in Ubari, the capital of Wadi al Hayaa District, in the Fezzan region of south western Libya. Consequently, the Commission considers that, on the basis of information it has received, the Tuareg fighters were either "a national of a party to the conflict" or "a resident of territory controlled by a party to the conflict" and therefore cannot be described as "mercenaries" within the provisions of international law.' [226]

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[225] Reuters, Tense reconciliation begins with Libya's Saharan tribes, 9 November 2011 http://www.reuters.com/article/2011/11/09/us-libya-tuareg-idUSTRE7A82S020111109 Accessed 14 November 2011

[226] UNHCR, International Commission of Inquiry on Libya, 2 March 2012 http://www.unhcr.org/refworld/topic,4565c2254a,4565c25f593,4ffd19532,0,,,.html Accessed 18 September 2012

Tebu

19.20 Al-Jazeera, in an article of 3 December 2012, noted how the situation had changed for the minority Tebu tribe:

‘While the Tebu now dominate Libya's southern desert, guarding remote checkpoints, oil fields and weapons stockpiles, before the revolution they had been marginalised for decades under Gaddafi's "Arabisation" campaign, and the regime's divide-and-rule tactics favoured the south's Arab communities, including the Zwai, Awlad Suleiman and Warfalla tribes.

‘Discrimination stemmed from Libya's 1954 citizenship law, traditionally semi-nomadic tribes - such as the Tebus - lacked identification, denying them access to higher education, skilled jobs, housing and health care. Labelled "foreigners" and speaking languages other than Arabic, many Tebus with Libyan citizenship were stripped of it during Gaddafi's final years.

‘"Gaddafi never liked the Tebu because he had a strong belief there was no place for non-Arabs in Libya," said Adam El Tibawi, the head of the Tebu National Assembly.

‘Dislike for Gaddafi led the Libyan Tebu to rise up against him in the 2011 revolution that eventually claimed the former leader's life. Activating their tribal ties across Libya's border with Sudan, Chad and Niger, the Tebu provided crucial southern support to the coastal rebels' fight.

‘During that time, the country's revolutionary National Transitional Council (NTC) assigned Tebu military leader Issa Abdel Majid Mansour and his armed border guard from Kufra a key role in monitoring the south's porous frontier…

‘Mansour said the Tebu are a valuable asset to the Libyan government and AFRICOM [The US military's Africa Command] in the regional war against AQIM [Al Qaeda in the Islamic Maghreb]. While he underlines his preference for Libyan Tebu to gain full citizenship rights within the state, Mansour warned the tribe could be forced to prove its power if dropped from the government's agenda.

‘"We can put pressure on the government. We can warn them about having a separate state," said Mansour, "But we cannot say whether this is realistic or not - the time has not come."’ [227]

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Black Libyans

19.21 Minority Rights Group International in its ‘Libya Overview’, updated August 2011, noted:

‘Since the early days of the Libyan uprising there have also been reports of organized racist attacks on so-called “Black” Libyans and foreign workers, particularly in rebel-held areas. Officials of the UN High Commissioner for Refugees related that refugees arriving from eastern Libya at the Egyptian border reported that armed Libyans had been going from door to door, forcing sub-Saharan Africans to leave. Tens of thousands

[227] Al-Jazeera, Libya's Tebu tribe hopes for lasting peace, 3 December 2012 http://www.aljazeera.com/indepth/features/2012/11/20121118115735549354.html Accessed 3 December 2012

of refugees arriving at camps in both Tunisia and Egypt have said they were accused of being mercenaries hired by the government, and told of racist killings and beatings.

'In all, some 500,000 people have fled the country, a large proportion of them foreign workers. Libya has a long history of discrimination against its large population of sub-Saharan migrants, including racially-motivated killings, previously earning the censure of the UN Committee on the Elimination of Racial Discrimination.'[228]

19.22 Amnesty International's report of 12 July 2012, 'Libya: Rule of Law or Rule of Militias?, stated:

'The violence in the south of Libya exposes underlying racism and xenophobia against non-Arab black Libyans. Members of the Tabu and Touareg communities have long complained about discrimination, racism and the inability to renew identity documents or obtain new ones for their children. Such communities also tend to be among the poorest, and live in informal settlements with little access to services. Arab majorities counter-argue that the allegiance of these communities lies outside of Libya given their tribal links to populations in Mali, Chad and Niger, and blame them for criminal acts and smuggling.' [229]

Amazigh (Berber) nationalism

19.23 The BBC News, in a report of 23 December 2011, stated:

'In the coastal towns and mountain villages of western Libya, there are two flags proudly flying side-by-side from every balcony and shop-front in celebration of the end of 42 years of Muammar Gaddafi's rule.

'The first is the now-familiar red, black and green of Libya's new national flag, adopted by rebel fighters at the beginning of the uprising in February.

'But the other is less well known: sky blue, bright yellow and luminous green, with a curious red symbol, like a doubled-ended pitchfork, emblazoned in the middle.

'It is the flag of Libya's Amazigh, as the Berbers call themselves. They consider themselves the original Libyans and they suffered decades of repression and discrimination at the hands of the Gaddafi regime.

'With Gaddafi now gone, they are hoping for a brighter future with the right to express their heritage and recognition of the sacrifices they made during Libya's bloody eight-month civil war...

'Mr [Fathi] Abouzakhar [chairman of a newly-formed Amazigh rights group] and other activists are now calling for the Amazigh identity to be included in Libya's new constitution, and for Tamazight to be made an official language alongside Arabic. But so far they say Libya's new leaders have completely ignored their demands...

[228] Minority Rights Group International: Libya Overview, August 2011 http://www.minorityrights.org/4171/libya/libya-overview.html Accessed 18 January 2012
[229] Amnesty International, Libya: Rule of Law or Rule of Militias?, 12 July 2012 http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 31 October 2012

'The apparent snubs have also provoked anger and bitterness among the Amazigh fighters who fought Gaddafi forces on the western front, freeing the Amazigh-dominated Nafusa Mountains before going on to liberate other towns and cities far from their heartlands.

'"We played a huge role in the revolution", said Hossam Aisa Hamisi, an Amazigh former rebel fighter from the coastal town of Zuwara, near the Tunisian border...Now the fighting has finished, he says, their contribution is quickly being forgotten.

'"The NTC thanked us, but that was it", he says. "They ignored us and they are still ignoring us. The ways of doing things are still the same as they were in Gaddafi's time"..."This revolution was all about freedom, so for the Amazigh the revolution is not over", says Hossam Aisa Hamisi. "When we get our rights, then the revolution will be finished".'[230]

See also Chapter 1: Geography - Geographic and tribal issues

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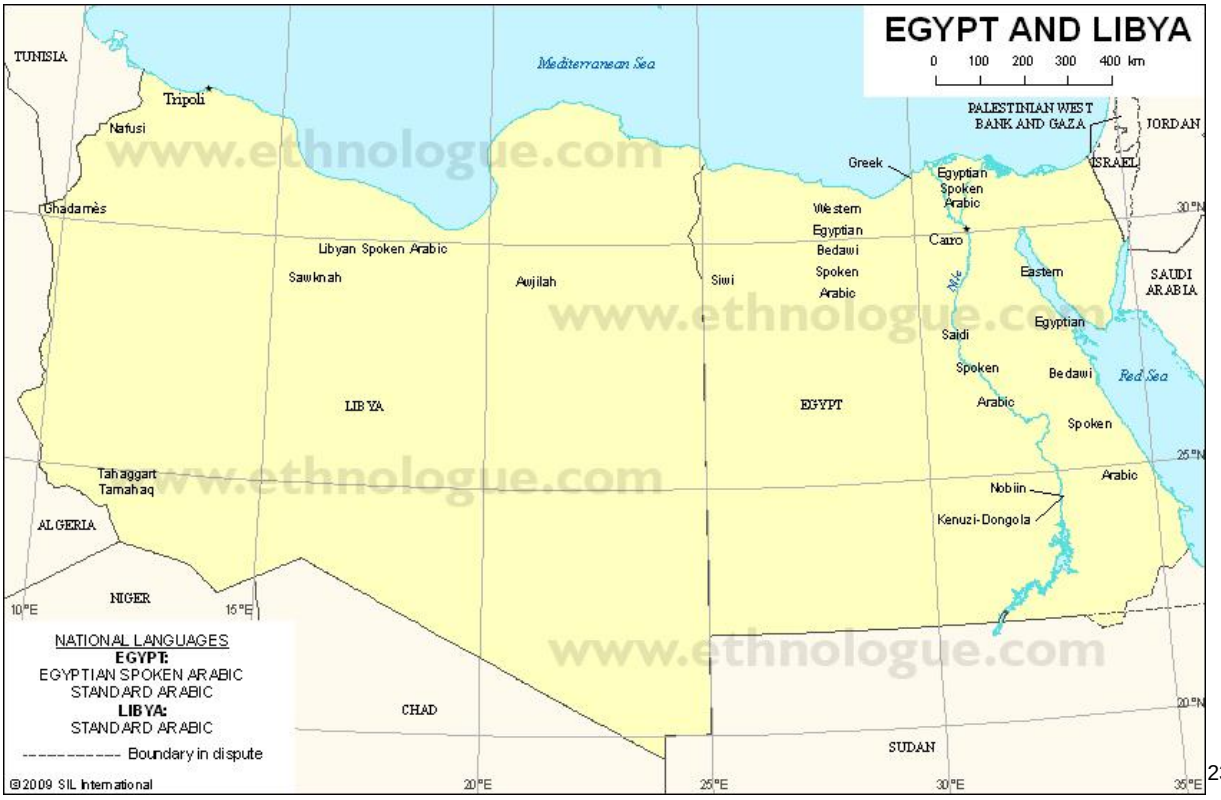
LANGUAGES SPOKEN IN LIBYA

19.24 Ethnologue 2009 Language map of Libya and Egypt:



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[230] BBC News, After Gaddafi, Libya's Amazigh demand recognition, 23 December 2012. http://www.bbc.co.uk/news/world-africa-16289543 Accessed 18 September 2012
[231] Ethnologue Language map of Libya and Egypt 2009, http://www.ethnologue.com/show_map.asp?name=LY&seq=10 Accessed 13 June 2011

19.25 Ethnologue, 'Languages of the world' (updated 2009) listed the nine living languages of Libya as,

Libyan Spoken Arabic
Standard Arabic
Awjilah
Domari
Ghadamès
Libya Sign Language
Nafusi
Sawknah
Tamahaq (Tahaggart)

The source gives more information about the languages and can be accessed via the following link:

http://www.ethnologue.com/show_country.asp?name=libya [232]

19.26 Kwintessential, on its (undated) webpage, 'Libya – Language, culture, customs and etiquette', accessed 18 September 2012, noted:

'The main language spoken in Libya is Arabic, which is also the official language. Tamazight (i.e. Berber languages), which do not have official status, are spoken by Libyan Berbers. Berber speakers live above all in the Jebel Nafusa region (Tripolitania), the town of Zuwarah on the coast, and the city-oases of Ghadames, Ghat and Awjila. In addition, Tuaregs speak Tamahaq, the only known Northern Tamasheq language. Italian and English are sometimes spoken in the big cities, although Italian speakers are mainly among the older generation.' [233]

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20. SEXUAL ORIENTATION AND GENDER IDENTITY

20.01 The information in this section refers to the situation of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons in general. Although there are separate subheadings for lesbians, transgender and intersex persons at the end of this section because all same-sex relationships are illegal in Libya, and no clear legal difference between homosexuality and transgenderism exists there, the sections on 'the treatment by, and attitudes of, state authorities' and 'societal treatment and attitudes' should be seen as pertaining in the most part to all LGBTI persons. In considering the position of lesbian and bisexual women see also chapter on Women for information about their position in Libyan society.

[232] Ethnologue, Languages of the world, 2009 http://www.ethnologue.com/show_country.asp?name=libya Accessed 13 June 2011
[233] Kwintessential, Libya – Language, culture, customs and etiquette. http://www.kwintessential.co.uk/resources/global-etiquette/libya.html Accessed 18 September 2012

LEGAL RIGHTS

20.02 The International Lesbian and Gay Association report, 'State-Sponsored Homophobia', released May 2012, stated that same-sex relations for men and women are illegal. The survey also provided the relevant legislation criminalising same-sex relations:

'Penal Code of 1953

'Article 407: Sexual assault/rape

'(1) Any individual who has sexual intercourse with another person using violence, by means of threats or through deception shall be punished with a term of imprisonment of a maximum of ten years.

'(2) This punishment shall also be imposed on any individual who has had sexual intercourse with the consent of a person who was not yet 14 years of age or with a person who did not resist on account of mental or physical disability. If the victim was not yet 14 years of age or was over 14 years of age but had not yet reached the age of 18, the maximum term of imprisonment shall be 15 years.

'(3) If the offender is a relative of the victim, a guardian, a tutor or a custodian, or if the victim is his servant, or if the victim has a special dependant relationship to the offender, a term of imprisonment of between five and 15 years shall be imposed.

'(4) If an individual has sexual intercourse with another person with their consent (outside marriage), the two persons involved shall be punished with a term of imprisonment of five years at most.

'Article 408: Lewd acts

'(1) Any individual who commits lewd acts with a person in accordance with one of the methods specified in the preceding article shall be punished with a period of imprisonment of five years at most.

'(2) This punishment shall also be imposed if the act has been committed in agreement with a person who was not yet 14 years of age or with a person who did not resist on account of a mental or physical disability. If the victim was between the ages of 14 and 18, the term of imprisonment shall be at least one year.

'(3) If the offender belongs to one of the groups of offenders specified in paragraphs (2) and (3) of Article 407, a term of imprisonment of at least seven years shall be imposed.

'(4) If an individual commits a lewd act with another person with their agreement (outside marriage), both parties shall be punished with a term of imprisonment.' [234]

20.03 The International Lesbian, Gay, Bisexual, Trans and Intersex Association summarised the legal situation on its Libya page:

- 'Male to Male relationships: Not Legal

[234] International Lesbian and Gay Association, State-Sponsored Homophobia May 2012 http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2012.pdf , Accessed 19 September 2012

- Punishments for male to male relationships: Imprisonment of 10 years or more
- Female to Female Relationships: Not Legal
- Marriage and Substitutes for Marriage: No law
- Is it possible to change your gender on official documents?: No
- Gay or lesbian able to serve in the armed forces: No'[235]

20.04 The same source also added, from its section on law:

- 'Can same sex couples adopt children together? No
- Are public demonstrations (marches, protest, parades etc) by sexual minorities permitted? No
- Is there any type of legal recognition for same sex relationships? No
- What types of same sex partnerships are recognized? No law
- Does the law prohibit discrimination on the ground of sexual orientation? No
- Does the law ban discrimination on the basis of sexual orientation in employment? No
- Prohibition on entry into the country by LGB people. No'[236]

20.05 Sodomy Laws, a database of anti-gay legislation around the world (last updated 2007) stated, with regard to Libya, that gay male and female sex was 'illegal' and the maximum penalty was 'five years'. [237]

20.06 Thinkprogress.com on its LGBT page in an undated report Liberated Libya might not improve life for gay community noted: 'Interim Libyan leader Mustafa Abdul-Jalil has indicated that Islamic Sharia law will be the basic source of the country's new legislation, which could mean that persecution of homosexuality will persist. Abdul-Jalil opposes harsh punishment, but has not indicated whether he thinks Libya should punish people discovered to be gay, as countries like Iran and Saudi Arabia do.'[238]

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[235] The International, Lesbian, Gay, Bisexual, Trans and Intersex Association, Libya page (law). http://ilga.org/ilga/en/countries/LIBYAN%20ARAB%20JAMAHIRIYA/Law Accessed 10 December 2012

[236] The International, Lesbian, Gay, Bisexual, Trans and Intersex Association, Libya page (law). http://ilga.org/ilga/en/countries/LIBYAN%20ARAB%20JAMAHIRIYA/Law Accessed 10 December 2012

[237] Sodomy Laws, 2007. http://www.glapn.org/sodomylaws/index.htm Accessed 3 January 2012

[238] Thinkprogress.com Liberated Libya might not improve life for gay community (undated) http://thinkprogress.org/lgbt/2011/10/26/353656/liberated-libya-might-not-improve-life-for-lgbt-community/ 4 January 2012

TREATMENT BY, AND ATTITUDES OF, STATE AUTHORITIES

20.07 The United States Department of State, 'Country Report on Human Rights Practices 2011, Libya' (USSD Report 2011), published 24 May 2012, noted, 'Under Qadhafi the government deemed lesbian, gay, bisexual, and transgender (LGBT) orientation illegal, and official and societal discrimination against LGBT persons persisted during the year. The Qadhafi-era penal code made consensual same sex sexual activity punishable by three to five years in prison. The law provided for punishment of both parties' [239]

20.08 It was reported on 13 February 2012 by Fox News, in a news release entitled 'New Libyan leadership takes harsh stance at UN against gays':

'A United Nations delegate from Libya's newly formed government told a human rights panel that gays and other groups threaten 'reproduction of the human race,' drawing a stern rebuke from leaders of the international body.

'The remarks, reported by Geneva-based U.N. Watch, came just months after the North African nation's membership was restored to the U.N. Human Rights Council. The reinstatement came amid assurances that the new government that supplanted the brutal regime of Muammar Qaddafi would not brook human rights violations.

'Yet the unnamed representative told a panel discussing violence based on sexual orientation that lesbian, gay, bisexual and transgender, or LGBT, topics "affect religion and the continuation and reproduction of the human race."' [240]

20.09 Global Gayz's, 'Gay Life in Libya' compiled on 19 February 2012, noted:

'The country's criminal code prohibits all sexual activity outside of a lawful marriage. Private homosexual acts between consenting adults are punishable with up to five years' imprisonment. In the 1990s, Libyan autocratic ruler Muammar Gaddafi began to enact "purification" laws designed to enforce a harsh view of Islamic law on the population. Libyan courts were given the power to use amputation, flogging and other cruel punishments against persons found to be violating traditional Islamic morality.

'In 2010 the Gay Middle East blog reported that two adult men had been charged with "indecent acts", which meant cross-dressing and homosexual conduct. Female homosexuality would also appear to be illegal, as is making any sort of public acknowledgment that a person is gay.' [241]

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[239] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 18 September 2012
[240] Fox News, New Libyan leadership takes harsh stance at UN against gays, 13 February 2012 http://www.foxnews.com/world/2012/02/13/new-libyan-leadership-takes-harsh-stance-against-gays-at-un/ Accessed 113 February 2012
[241] Gobal Gayz, Gay Life in Libya, 19 February 2012. http://www.globalgayz.com/africa/libya/gay-life-in-libya/ Accessed 19 September 2012

SOCIETAL TREATMENT AND ATTITUDES

20.10 The USSD Report 2011, noted, 'No public information was available on societal discrimination on the basis of sexual orientation or gender identity. There were no known reports of legal discrimination based on sexual orientation or gender identity in employment, housing, or access to education or health care.' [242]It should be noted that although the USSD Report states 'there were no known reports of legal discrimination' that should not be used to assert that there is no discrimination.

20.11 Global Gayz's, 'Gay Life in Libya' compiled on 19 February 2012, noted:

'Libyan social attitudes about sexual orientation and gender identity are heavily influenced by Islamic mores and the dictatorial whim of leader Gaddafi (in the past). Traditional Islam condemns homosexuality and cross-dressing as they do all expressions of sexuality outside of a traditional marriage. The government has used both religion and fear of Gaddafi to suppress any open expression of same-sex issues. Even now after Gaddafi's death to be gay means to live in secret and hiding so creating a "Gay Life in Libya" is a clandestine effort behind closet doors and perhaps by Internet.' [243]

20.12 Pink News, in a report of 2 December 2012, 'Libya: Gay men speak out about abductions and beatings by Islamic militia', noted:

'Gay men in Libya have spoken out about the largest and most powerful militia brigade, 'and claim that men have been arrested, and assaulted by them, just for being gay.

'The Times reported that the Nawasi brigade, Tripoli's biggest Islamist militia group, are to blame for the abductions and beatings, and witnesses said such arrests are commonplace in the country's capital.

'The city's largest and most powerful brigade officially work under the authority of the Ministry of Interior, and, according to witnesses, were taking people away just for being gay.'[244]

20.13 The same article continued with an interview with 'Ahmad' who said:

'…he was witness to recent events during which the Nawasi drove past a birthday party, saw a man dressed in a wig and dress, and beat him until he admitted he was gay, at which point he was taken away. He said:

'"We think they were on a routine patrol when they heard the music," explained Ahmad of the militia. "They were sitting outside for nearly half an hour. Then they saw one of the guys wearing a wig and a dress so thought it was girls having a party with boys.

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[242] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 18 September 2012

[243] Gobal Gayz, Gay Life in Libya, 19 February 2012. http://www.globalgayz.com/africa/libya/gay-life-in-libya/ Accessed 19 September 2012

[244] Pink News, Libya: Gay men speak out about abductions and beatings by Islamic militia, 2 December 2012 http://www.pinknews.co.uk/2012/12/02/libya-gay-men-speak-out-about-abductions-and-beatings-by-islamic-militia/ Accessed 3 December 2012

‘“When they came inside, everyone panicked and the man pulled off his dress and wig. They wanted to know where the girls were, so they beat them until one of them admitted he was gay and that’s when they were taken away,”

‘After the men were taken away, a picture of detainees from the party appeared on the Nawasi brigade’s Facebook page, in which they had their hands above their heads, and their heads against a wall, with their backs to the camera. Text accompanying the image read “flog them hard”, “ride them like camels” and “let’s see the bullets fly”…

‘The Nawasi brigade have denied that the photographed men’s lives were in danger, and said that the main reason for them being arrested was not that they were gay. He said:

‘“These guys are not straight, but that’s not the main reason we arrested them,” he said. “The main thing was the big noise they were making to the neighbours, as well as the large amounts of alcohol and hashish we found.”

‘The detained men were released a week after being taken, with bruises on their backs and legs, and with shaved heads. Ahmad said these types of arrests and beatings were commonplace, and he himself had false teeth because his own were knocked out during an arrest by the Nawasi last August.’ [245]

20.14 LGBT Asylum News, in a report of 20 September 2011 entitled ‘In Libya, mistreatment of black migrants includes gays’, related the story of a gay African worker:

‘"I have been work (sic) in Tripoli, Libya for the last five years, I belong to a group of young gay African men. Life has not be (sic) smooth but we keep to ourselves."

‘"There has been wide scale abuse and heavy beatings for gays in the middle of the war crisis.”

‘"Gays are hated here in Libya and that is not likely to stop because of the new government. Here is the example: Just recently, my Ugandan gay friend was badly beaten and left for death here in Tripoli.”

‘"H's case is not unique, being gay in Africa is treated like a crime, and here in Libya is no different and that will not change with the new government. H's case will not make the news because we are afraid to report it for fear of not only because we are gay but we are also black Africans, a double crime here. H would have died if a few of our friends did not come to his rescue and if the liberators found out that his friends were gay it would have been terrible."’[246]

[245] Pink News, Libya: Gay men speak out about abductions and beatings by Islamic militia, 2 December 2012 http://www.pinknews.co.uk/2012/12/02/libya-gay-men-speak-out-about-abductions-and-beatings-by-islamic-militia/ Accessed 3 December 2012

[246] LGBT Asylum News, In Libya, mistreatment of black migrants includes gays, 20 September 2011 http://madikazemi.blogspot.com/2011/09/in-libya-mistreatment-of-black-migrants.html Accessed 4 January 2012

20.15 Gay worlds news in an article of 3 September 2011, 'Libya: What about the LGBT Rights now?' noted, 'Beyond the criminal laws, cross-dressing and homosexuality are widely seen as immoral activities.'[247]

20.16 Global Gayz's, 'Gay Life in Libya' compiled on 19 February 2012, noted, 'The government does not permit the public advocacy of LGBT rights and homosexuality and cross-dressing are considered highly taboo within the society. When they are discussed, it is always in a negative manner, in keeping with traditional Islamic morality.'[248]

20.17 Gay Star News published an interview with Libyan LGBT activist Khaleed on 2 March 2012. In the interview Khaleed spoke about life as a gay man in post Gaddafi Libya:

'"After the revolution started, the situation changed, at least for now. More LGBT people started to try to meet each other online because of their lack of knowledge of cruising/meeting places or because these remain dangerous. The biggest fear for gay Libyans is social scandals and/or being subject to local gossips and jokes for being gay.

'"The thing I am concerned about is comments Libya's transitional leader said in October last year about Sharia law being the main inspiration for the new constitution of Libya. Nothing has happened yet to make things worse and I hoped it won't, but we must now work to lift the anti-gay laws perpetuated by Gadaffi."

'The second thing Khaleed feels is troubling is the tone of political discussion in the country can sometimes be coloured by homophobia: "There are some disputes here between those who favour a secular and liberal Libya and Islamists and traditionalists.

'"When there is talk about a secular and liberal democratic state in Libya the Islamists use fear tactics: 'Oh look they want to allow gay marriage in Libya!' This is a huge taboo in my country and I hope political debate becomes sensible and less homophobic.

'"Now that the dictatorship of Gaddafi had fallen, it is imperative for the future government to abolish the laws that violate human rights including those laws that incriminate homosexuality."

'But Khaleed is realistic about what can be achieved: "Gay Libyans, and all LGBT people in Libya I think, do not believe their dream of an open and free homosexual life in Libya can be realised in the near future.

'"We don't dream of having pride events or showing our affection to each other in public places or coming out to our families. This will require massive social change and a stable civil society which we are only beginning to build. We are not asking for the

[247] Gay worlds news, Libya: What about the LGBT Rights now? 3 September 2011 http://www.gay-worldsnews.com/libya-what-about-the-lgbt-rights-now/ Accessed 4 January 2012

[248] Gobal Gayz, Gay Life in Libya, 19 February 2012. http://www.globalgayz.com/africa/libya/gay-life-in-libya/ Accessed 19 September 2012

moon: all we need and want for now is respect of our privacy, and to have laws that do not incriminate us for our sexual orientation."'[249]

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LESBIANS

20.18 The United States Department of State, Country Report on Human Rights Practices 2010, Libya, published 8 April 2011 noted, 'In November [2010] a girl who announced on the Internet that she was gay sought asylum in France after she was allegedly arrested, raped, and nearly forced into a marriage.' [250]

20.19 Global Gayz's, 'Gay Life in Libya' compiled on 19 February 2012, noted, 'Female homosexuality would also appear to be illegal.' [251]

TRANSGENDER AND INTERSEX PERSONS

20.20 The 'Huriyah blog' gave the following details about itself: 'Huriyah was a queer Muslim magazine between the years 2000 and 2010. We are now publishing content from several LGBT Muslims on issues dealing with sexuality, faith, and culture.' 'A blog of 20 March 2011 gave the following limited information:

'I'm Saleemah. I was a columnist for Huriyah until we shut down last year. I usually would write about the Transgender community. Today, I'm writing about Transgender community in Libya. As I watch the news here in France and see my country bombing that country, I reflect on my memories of that Transgender community. It's a very small community, as elsewhere in Muslim Africa… Yes, Libya is a Muslim country and they do have prejudices against sexual and gender minorities. But I thought the Libyan way of life was excellent, and when your way of life is excellent you have the room for all of your citizens.'[252]

20.21 The International Lesbian, Gay, Bisexual, Trans and Intersex Association posed and answered the following questions on its Libya page:

- 'Is there a clear legal difference between homosexuality and transgenderism? No
- Do the same laws that ban homosexuality apply for trans individuals? Yes
- Laws prohibiting discrimination on the ground of gender identity. No'[253]

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[249] Gay Star News, My life as a gay man in post-Gaddafi Libya, 2 March 2012. http://www.gaystarnews.com/article/my-life-gay-man-post-gaddafi-libya-0 Accessed 19 September 2012
[250] USSD Country Report on Human Rights Practices 2010, Libya, 8 April 2011 http://www.state.gov/g/drl/rls/hrrpt/2010/nea/154467.htm Accessed 14 December 2011
[251] Gobal Gayz, Gay Life in Libya, 19 February 2012. http://www.globalgayz.com/africa/libya/gay-life-in-libya/ Accessed 19 September 2012
[252] The Huriyah Blog, Transgender life facts about Libya. 20 March 2012. http://huriyahmag.blogspot.co.uk/2011_03_01_archive.html Accessed 11 December 2012
[253] The International, Lesbian, Gay, Bisexual, Trans and Intersex Association, Libya page (law). http://ilga.org/ilga/en/countries/LIBYAN%20ARAB%20JAMAHIRIYA/Law Accessed 10 December 2012

20.22 COI Service was unable to find information specifically on intersex persons in Libya during the period this report was updated having consulted the sources referred to in this section.

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21. DISABILITY

21.01 The United States Department of State, 'Country Report on Human Rights Practices 2011, Libya', published 24 May 2012, stated:

'The Qadhafi-era law provided for the rights of persons with physical, sensory, intellectual, and mental disabilities and provided for monetary and other types of social assistance. In addition a number of organizations provided services to persons with disabilities. Few public facilities had adequate access for persons with physical disabilities, resulting in restricted access to employment, education, and health care. There was limited access to information or communications.

'The conflict caused injuries and disabilities among fighters and civilians, including children maimed by mortar or gunfire or injured due to remaining unexploded ordnance. The interim government made efforts to set up mechanisms to address issues among the war-wounded, including the evacuation of large numbers of injured to hospitals in other countries. Several international aid organizations operated in the country clearing land mines and the explosive remnants of war.' [254]

21.02 Details of statutory disability benefits in Libya are outlined in the Libya country summary of the United States Social Security Administration's Social Security Programs throughout the World, released August 2011. The summary sets out details of permanent and temporary disability benefits. [255]

21.03 The United Nations reported on their website Enable, (accessed 24 September 2012) that Libya signed the Convention on the Rights of Persons with Disabilities (UN) on 1 May 2008.[256]

21.04 Handicap International reported:

'The large volume of mines and explosive devices left scattered across the country poses a serious threat to civilians. Since 2012, three weapons clearance teams have been deployed in Tripoli and Sirte.

[254] The United States Department of State, Country Report on Human Rights Practices 2011, Libya.24 May 2012. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012
[255] United States Social Security Administration's Social Security Programs throughout the World, released August 2011. http://www.ssa.gov/policy/docs/progdesc/ssptw/2010-2011/africa/ssptw11africa.pdf Accessed 24 September 2012
[256] Enable, Ratifications and Signatories http://www.un.org/disabilities/countries.asp?navid=12&pid=166 Accessed 24 September 2012

'The proliferation of small arms among the civilian population has also led to many accidents. Our teams are conducting awareness activities to reduce the incidence of small arm incidents, and continue to deliver risk education sessions on landmines and unexploded ordnance.' The Libya page of their website can be accessed via the following link:

http://www.handicap-international.org.uk/where_we_work/africa/libya [257]

21.05 International Medical Corps UK, in a report of 10 September 2012 by Joan Carey, their senior programme manager, noted that they began working in Libya during the 2011 conflict, 'Today we are still there, working with war wounded and other disabled Libyans in rehabilitation centres across the country. We are working hand in hand with the government of Libya, who also wants improved conditions for its disabled members, to build effective and equitable health and social service sectors.'[258]

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22. WOMEN

OVERVIEW

22.01 Libya acceded to the 'UN Convention for the Elimination of All Forms of Discrimination against Women' (CEDAW) on 16 May 1989. (UN Treaty Database, accessed 24 September 2012).[259]

22.02 The Freedom House report 'Countries at the Crossroads 2011- Libya', published 10 November 2011, contained information about women's rights in Libya, it should be noted, though, that this report is considering the situation for women during the Gaddafi regime:

'Women's rights in Libya are curtailed by certain laws and social norms that perpetuate discrimination, particularly in areas such as marriage, divorce, and inheritance. In January 2010, the General People's Committee passed a law granting Libyan women the ability to pass citizenship along to their children, but the lack of implementation directions and the inclusion of a number of seemingly contradictory clauses make unclear the extent to which the law will result in enhanced rights for women. Libyan women are sometimes subject to forced participation in social rehabilitation camps, which essentially amount to arbitrary arrest and detention. Women are sent to these

[257] Handicap International – Libya Page http://www.handicap-international.org.uk/where_we_work/africa/libya Accessed 24 September 2012
[258] International Medical Corps UK, Aspiring to even more than Paralympic glory for disabled people worldwide, 10 September 2012. http://www.internationalmedicalcorps.org.uk/libya/aspiring-to-even-more-than-paralympic-glory-for-disabled-people-worldwide/ Accessed 10 September 2012
[259] UN Treaty Collection, Chapter IV, Convention on the Elimination of All Forms of Discrimination Against Women. http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en Accessed 24 September 2012

camps when they have allegedly compromised their families' reputation, including by being raped.'[260]

22.03 The United States Department of State 'Country Report on Human Rights Practices 2011, Libya' published 24 May 2012 and covering 2011, (USSD Report 2011) noted, 'The law under Qadhafi granted women equality, but in practice societal discrimination against women continued. Sharia (Islamic law) governs family matters, including inheritance, divorce, and the right to own property. The TNC's guiding Constitutional Declaration states that citizens are equal under the law and includes prohibitions on gender-based discrimination.' [261]

22.04 The Freedom House report, 'Women's Rights in the Middle East and North Africa 2010 – Libya' (Freedom House, Women's Rights 2010 report) rated women's freedom in Libya in 2009 on a scale of one to five (one representing the lowest and five the highest level of freedom women have to exercise their rights – methodology for the ranking is here).

- 'Non-discrimination and Access to Justice: 2.4
- Autonomy, Security, and Freedom of the Person: 2.6
- Economic Rights and Equal Opportunity: 2.8
- Political Rights and Civic Voice: 1.8
- Social and Cultural Rights: 2.5' [262]

22.05 The Social Institutions and Gender Index [SIGI], accessed on 24 September 2012, stated: 'Libya is not ranked in the 2012 SIGI due to missing data for one or more SIGI variables. The country was ranked 91 out of 102 in the 2009 Social Institutions and Gender Index.' SIGI also noted 'Libya is ranked in 64th (out of 187 countries) place in the 2011 Human Development Index (HDI), with a value of 0.760. The Gender Inequality Index value is 0.314 placing it at 51 out of 146 countries with data. Libya is not ranked under the 2011 Global Gender Gap Index.' [263]

22.06 In Depth News, in an undated article following the July 2012 elections, entitled 'Libya: the fight for women's rights goes on' stated:

'Following the Libyan revolution, in which women played a crucial part, and the participation of large numbers of female citizens in the July 2012 elections, Libyan women are now looking forward to a partnership and full equality with their male counterparts.

[260] Freedom House, Countries at the Crossroads 2011 – Libya, 10 November 2011 http://www.unhcr.org/refworld/country,,,,LBY,,4dcbf517c,0.html Accessed 8 February 2012
[261] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012
[262] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012
[263] SIGI- Libya http://genderindex.org/country/libya Accessed 24 September 2012

‘"Libyan women were instrumental in the country choosing a liberal and progressive government in the recent elections as many of them voted for the winning National Forces Alliance (NFA) of Mahmoud Jibril," said Nadine Nasrat, from the Institute for Democracy and Electoral Assistance (IDEA).

‘"They also played a crucial role during the revolution but much of this was overlooked by the media. During the war women smuggled weapons and ammunition in their clothing. They provided logistical, medical and intelligence support to men," added Nasrat who is also the chairperson of the Tripoli branch of the Committee to Support Women's Participation in Decision Making.

‘"They cooked for and fed many of the rebels who would otherwise have gone hungry as the fighting raged. They also took care of the homes and children," said Nasrat.’ [264]

22.07 Amnesty International’s Annual Report, published 24 May 2012, stated: ‘The NTC [National Transitional Council] promised to promote women’s rights and enshrined the principle of non-discrimination, including on the basis of gender, in its Constitutional Declaration. However, discrimination against women remained entrenched in law and practice.’[265]

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LEGAL RIGHTS

22.08 The Freedom House, Women’s Rights 2010 report observed:

‘Although the government claims to have eliminated gender-based discrimination under Libyan legislation, women remain treated unequally in some aspects of the law, notably within provisions of family law that uphold the principles of Shari'a (Islamic law). Moreover, women face discrimination within the judiciary due to social attitudes and prevailing cultural values, and legislation designed to protect women is often not implemented in practice. Women are often treated as minors under the guardianship of their fathers or other male relatives, a cultural and in some cases legal reality that has remained unaltered in recent years…

‘Although women and men have an equal right of recourse to the law and an equal right to pursue legal proceedings, and although an adult woman is generally recognized as a full person before the court, women continue to find themselves at a disadvantage due to cultural traditions. They typically consult with a male relative before taking legal action, and it is still accepted practice for a man to take legal action on a woman's behalf. A woman has the right to challenge discriminatory actions by the state and claim compensation should the courts rule in her favour. However, it is difficult to determine whether women actually file such claims, as court records are not easily accessible by the public…

[264] In Depth News, ‘Libya: the fight for women’s rights goes on’ (undated) http://www.indepthnews.info/index.php/global-issues/1094-libya-the-fight-for-womens-rights-goes-on Accessed 24 September 2012
[265] Amnesty International, Annual Report 2012: Libya, 24 May 2012 https://www.amnesty.org/en/region/libya/report-2012 Accessed 22 October 2012

'An adult woman is recognized as a full person before the court and is equal to a man throughout all stages of litigation and legal proceedings. However, in some instances, women are not considered to be as authentic witnesses as men. Common interpretations of Islamic principles assert that one male witness is equivalent to two females. Moreover, the testimony of a woman cannot be used to establish the crime of zina (extramarital sexual relations), illustrating at least one circumstance in which a woman's worth before the court is less than that of a man.' [266]

22.09 Women Living under Muslim Laws [WLUML], in a 'Statement on Libya' of 25 October 2011, expressed their concerns about the possible introduction of Sharia law:

'WLUML is deeply concerned that the first public act of the Libya's National Transition Committee has been to proclaim on October 23rd, 2011, that a number of laws would be considered annulled and that 'sharia law' was to replace them…when we consider which laws have been de facto annulled and changed for religious ones, we see that these are laws that directly affect the rights of women in marriage, divorce, guardianship, polygamy, inheritance, etc. i.e. family codes or laws of personal status. …Women are directly targeted by this change in laws and will lose many acquired rights in the process…We denounce the loose use of the term 'sharia' to give a false religious legitimacy to patriarchal interpretations of religion, as well as to patriarchal traditions.'[267]

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POLITICAL RIGHTS

22.10 The UN News Service, in a news release of 26 June 2012 entitled 'Equal participation of women vital for building new Libya, says UN envoy', noted:

'The top United Nations envoy in Libya today [26 June 2012] stressed the importance of the equal participation of women in rebuilding the country, as he commended the number of women who have registered to vote and to stand for election in the upcoming legislative polls…

'"The new Libya provides a new opportunity for Libyan women to articulate your political, economic and social aspirations," the Secretary-General's Special Representative and head of the UN Support Mission in Libya (UNSMIL), Ian Martin, said at an event held yesterday in the capital, Tripoli, to celebrate women's participation in the electoral process.

'"If women have equal opportunities to fulfil their political and socio-economic role, this contributes to development, democracy, nation-building and peace for all Libyans," he added.

[266] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[267] Women Living Under Muslim Laws, Statement on Libya, 25 October 2011 http://www.wluml.org/action/women-living-under-muslim-laws-statement-libya Accessed 14 December 2011

'There are over 600 women candidates standing for election next month. Mr. Martin congratulated them, stating that they are role models not just for the women and girls of Libya, but also for the many people who will be watching them across the globe.

'"It is inspiring for all of us to see you claiming your equal political and civic rights to build a new Libya," he stated.

'The envoy also paid tribute to civil society representatives who have advocated, through social media, demonstrations, petitioning and public for a, for further change in the daily lives of Libyans.

'"I congratulate you for the contributions you have made to advance gender equality and women's empowerment to date," he said. "I commend your practical efforts to support women to register to vote, to educate women and men as to voting, and the support you are providing to women candidates."' [268]

22.11 The Guardian, in an article of 7 July 2012, entitled 'Libya's politicians finally wake up to the power of women', also reported on this event:

'When the UN held a conference on women's participation in politics last month in a Tripoli hotel, the hall — the largest the UN could find — was filled to overflowing. As the evening went on, male politicians, including prime minister Abdulrahim el-Keib, felt obliged to make an appearance. Yet expectations among women's groups are modest. "Most women, they will probably ask their families who they should be voting for," said Murabit [Alaa Murabit, of Voice of Libyan Women]. "Maybe 15% will vote after studying the politics. But it's something."'[269]

22.12 The same report considered the involvement of women in politics:

'Across the political spectrum, parties – all led by men – have been scrambling to grab a slice of the female vote.

'"Initially political parties were opposed to women, now it's changed," said Alaa Murabit, of Voice of Libyan Women, which campaigns for women in politics. "In the past few weeks we have seen men pay attention. They have suddenly become pro-women. How much is honest I don't know."

'Two events have caused this seismic shift in what remains a deeply conservative country, where few women drive and female swimsuits are banned.

'The first was voter registration. When the elections were organised, the government – which has two women in the cabinet – did not think it necessary to appoint a single woman to its election commission. But when registration numbers began to roll in, it was clear that women were as enthused as men by the first election in more than four decades. More than a million women signed up to vote.

[268] UN News Service, Equal participation of women vital for building new Libya, says UN envoy. http://www.un.org/apps/news/story.asp?NewsID=42328&Cr=libya&Cr1 Accessed 24 September 2012

[269] The Guardian, Libya's politicians finally wake up to the power of women, 7 July 2012. http://www.guardian.co.uk/world/2012/jul/07/libya-politicians-wake-power-women Accessed 24 September 2012

‘The second event goes by the name Najud al-Kikhia. In May this little-known female politician not only won a seat on the council of Benghazi, Libya's second city, but got more votes than any male candidate. Since then, pollsters have been anxiously reviewing policy, and election posters are the most visible signs: parties of all shades now portray beaming women candidates…

‘It is clear that last year's revolution produced a change in expectations among men and women. Women's groups were some of the first to form after the eight-month civil war and fierce lobbying this year secured a 10% quota for female candidates in the 200-seat parliament…

‘However, a male backlash has already begun, with many election posters showing female candidates being defaced and slashed by Salafists. Even among women, there is division. An arts graduate in Misrata, who said she could not give her name in an interview without her father's permission, said most women remained conservative in outlook.

‘What women want changed were indignities such as being told who to marry, or being met with a barrage of innuendo if they walk into a coffee bar. "I want to wear the hijab," she told me. "What I do not want is some politician telling me I must wear it by law."’ [270]

22.13 In Depth News, in an undated article following the July 2012 elections, entitled ‘Libya: the fight for women’s rights goes on’, noted:

‘The elections proved to be a double-edged sword. Over 500 female candidates, comprising almost half of the total candidates, contested in the July elections. While this was a historic milestone for Libyans in general and the country's women in particular, the backlash was instantaneous.

‘Ibtisan Staita, a member of the winning National Forces Alliance (NFA) from Dernah – a port city in eastern Libya – won a seat on the National Council. However, in a case of mistaken identity, her cousin who resembles Ibtisan Staita was assassinated by suspected Islamists who vehemently oppose the participation of women in politics.

‘Najad Al Khaikha, a candidate from Benghazi, who bagged more votes than any other male candidate in the country's second largest city, will not lead the local council due to male opposition. In a further sign of male resistance to female participation during the election campaign, posters of female candidates were torn off walls and flyers with female candidates were ripped up.

‘These are just some of the issues Nasrat’s committee [Nadine Nasrat, chairperson of the Tripoli branch of the Committee to Support Women's Participation in Decision Making] is up against. Her committee has several hundred members throughout Libya who have been working with international NGOs to promote the rights of women.

‘Furthermore, the committee, whose membership comprises a number of female politicians from several political parties, intends to use its newly-found political leverage to increase the participation of women in Libya's new government who in turn will lobby for legislation implementing change.

[270] The Guardian, Libya's politicians finally wake up to the power of women, 7 July 2012. http://www.guardian.co.uk/world/2012/jul/07/libya-politicians-wake-power-women Accessed 24 September 2012

'One of the first steps is to ensure that women comprise 30 percent of the Constitutional Committee, which will be responsible for drafting new legislation for the new government.' [271]

22.14 The Foreign and Commonwealth Office, in its quarterly update (30 September 2012) to the report on Human Rights and Democracy: Libya, originally published April 2012, stated, 'The results [of the 2012 elections] were largely uncontested. 33 women were elected to the GNC, with 32 under the party list system and one independent candidate. This is 16.5% of the total number of seats, and reflects the estimate of likely women members of Congress that the UN made prior to elections.' [272]

22.15 The Foreign and Commonwealth Office, in its previous update (30 June 2012), stated:

'A UK-funded project, aimed at mobilising women to participate in the political process, helped to encourage women to register after initial figures suggested there would be a low turnout for women. When registration closed on 21 May [2012], women accounted for 45% of registered voters. The UK-funded projects are now looking at what support can be provided to women after elections, particularly to help inform advocacy on the new constitution. There continues to be a strong desire from women to participate in the political process and a network of women's organisations is being established to focus on advocacy, campaigning and communication skills.'[273]

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SOCIAL AND ECONOMIC RIGHTS

Overview

22.16 The Amnesty International Annual Report 2012- Libya, released 24 May 2012, noted:

'The NTC promised to promote women's rights and enshrined the principle of non-discrimination, including on the basis of gender, in its Constitutional Declaration. However, discrimination against women remained entrenched in law and practice.

'On 23 October [2011], the NTC Chairman promised to amend any legislation contrary to Shari'a (Islamic law), referencing Libya's marriage laws. Law 10 of 1984 on Marriage, Divorce and their Consequences allows polygamy, but stipulates that, before remarrying, a man must seek authorization from a special court to ensure that he is mentally, socially and financially fit.'[274]

Income and assets

[271] In Depth News, 'Libya: the fight for women's rights goes on' (undated) http://www.indepthnews.info/index.php/global-issues/1094-libya-the-fight-for-womens-rights-goes-on Accessed 24 September 2012
[272] FCO, Human Rights and Democracy 2011: Libya, quarterly update, 30 September 2012. http://fcohrdreport.readandcomment.com/human-rights-in-countries-of-concern/libya/quarterly-updates-libya/# Accessed 22 October 2012
[273] FCO, Human Rights and Democracy 2011: Libya, quarterly update, 30 June 2012. http://fcohrdreport.readandcomment.com/human-rights-in-countries-of-concern/libya/quarterly-updates-libya/# Accessed 5 September 2012
[274] Amnesty International, Annual Report 2012 – Libya, 24 May 2012. http://amnesty.org/en/region/libya/report-2012 Accessed 24 September 2012

22.17 The Freedom House, Women's Rights 2010 report stated:

> 'Women in Libya have the same rights to own land and property as men, and they are free to buy and sell both…women have the right to retain their private wealth upon marriage. However, given that men are usually responsible for land and property in accordance with dominant social traditions, only women of a higher social class tend to have control over their own financial affairs. Women are free to obtain bank loans and financial credit, and banks do not require the consent of the husband to issue a loan to a woman. In 2007 the Rural Bank granted 19,558 loans, of which 4,502 went to women.
>
> 'Women also have the right to full and independent use of their income and assets, but it is not uncommon for women to give their income to their husbands or other family members. According to one survey, out of 200 women questioned, only half kept their salaries. The other half either handed over all their income to a male family member or gave up most of it after taking a cut for themselves.' [275]

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Inheritance

22.18 The Freedom House, Women's Rights 2010 report noted, 'The inheritance rights of women are not equal to those of men. Libya's inheritance laws are based on Islamic principles whereby a woman inherits only half of what is due to her brothers. In addition, it is not unusual for a woman to give her share of inheritance to her brothers, in part to ensure that the brothers will financially support her should she remain unmarried or find herself divorced or widowed.' [276]

Marriage

22.19 'Women's rights in the Middle East and North Africa: citizenship and justice', by Sameena Nazir and Leigh Tomppert and published in 2005, stated, 'Although not particularly widespread, polygamy is still permitted although Qadhafi has tried to dissuade from engaging in the practice by speaking out against it. In order to take a second wife, the man must secure prior judicial permission based on grounds of financial and physical capacity. He must also obtain the written permission of his first wife although authorization may be given by a court in exceptional circumstances.'[277]

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[275] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[276] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[277] Women's rights in the Middle East and North Africa: citizenship and justice, 2005 by Sameena Nazir and Leigh Tomppert http://books.google.co.uk/books?id=5spje12_is4C&pg=PA170&lpg=PA170&dq=divorce+libya+women&source=bl&ots=t4oJlNYcew&sig=VtA_YB0ihTLs7mNqXO7Z2UkyyMw&hl=en&ei=JMTo

22.20 The book went on to describe how marriages are negotiated:

> 'By law, women are able to negotiate their marriage rights. The Promotion of Freedom Act No. 20(1991) stipulates, "Every male and female citizen has the right to form a family based on a contract of marriage concluded with the consent of both parties." Officially a guardian may not force a ward of either sex into marriage or prevent a ward from marrying. However, according to tradition, women cannot marry without the consent of their father or male guardian. Marriage is generally a family affair, especially in rural areas, and partners are often designated from birth and are dependant on family and tribal ties.'[278]

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Divorce

22.21 World for Libya [which according to its website is a not for profit organisation which was established following the Libyan civil protests and the uprising of February 2011, with a goal to provide aid and assist the poorest and neediest Libyans and Libyan refugees] in a report of 7 October 2011, called Women's Rights in Libya, stated, 'Divorce, especially within the mountainous regions of Libya, has an enormous stigma attached to it, with female divorcees being ostracised from society.' [279]

22.22 'Women's rights in the Middle East and North Africa: citizenship and justice', by Sameena Nazir and Leigh Tomppert and published in 2005, stated:

> 'A man has the right to divorce his wife by law, although he must petition the court in order for it to be valid and the divorce has to be agreed by a legislator. Judicial divorce is also available to women if the husband is deemed unable to support his wife, is absent without justification or is impotent.
>
> 'The court will decide if both parties do not mutually agree to the divorce and cannot be reconciled. If the woman is deemed to be the cause of the divorce, then not only is she denied any outstanding mahar (dower payment), but in addition the custody of her children is given to her husband. In some cases she is also ordered to pay compensation. If the court decides the divorce is the fault of the husband, he is ordered to pay compensations as well as any outstanding mahar. After a divorce has been granted the law imposes on the husband the duty to maintain his wife for a period regardless of how wealthy she may be. However, in practice it seems this is not enforced and divorced women may face difficulties if they do not have family to fall back on.

TojkOsSN4gTYksyICQ&sa=X&oi=book_result&ct=result&resnum=2&ved=0CE4Q6AEwATgK#v=onepage&q=divorce%20libya%20women&f=false Accessed 14 December 2011

[278] Women's rights in the Middle East and North Africa: citizenship and justice, 2005 by Sameena Nazir and Leigh Tomppert http://books.google.co.uk/books?id=5spje12_is4C&pg=PA170&lpg=PA170&dq=divorce+libya+women&source=bl&ots=t4oJlNYcew&sig=VtA_YB0ihTLs7mNqXO7Z2UkyyMw&hl=en&ei=JMToTojkOsSN4gTYksyICQ&sa=X&oi=book_result&ct=result&resnum=2&ved=0CE4Q6AEwATgK#v=onepage&q=divorce%20libya%20women&f=false Accessed 14 December 2011

[279] World for Libya, Women's Rights in Libya, 7 October 2011 http://worldforlibya.org/news/posts/2011/10/women's-rights-in-libya/ Accessed 14 December 2011

'Custody is the right of both parents with a married status. If a couple separates based on mutual agreement, the mother has the right of custody, followed by her mother, then the child's father and his mother. However a child who is in the custody of its mother must be supported financially by its father unless it has its own private assets.' [280]

22.23 In Depth News, in an undated article following the July 2012 elections, entitled 'Libya: the fight for women's rights goes on', noted:

'"There are many things we want to change," said Nasrat [Nadine Nasrat, chairperson of the Tripoli branch of the Committee to Support Women's Participation in Decision Making]." One of the things we want to change is Libya's divorce laws. Because when a woman gets divorced and has no children, she is forced to leave the house. Why should women become homeless after a divorce?"

'"Another important issue is women having to fight on a monthly basis for spousal support for their children after divorce. In addition to the amount being very low – another problem which has to be addressed – the women are forced to go to the courts every month and fight red tape and bureaucracy before a pittance is handed through a hole in a window," said Nasrat.

'"This is a very humiliating experience. According to one court ruling, the money should be paid into a woman's bank account automatically. Following a divorce, should a woman remarry, she loses her children which then go to the grandmother. This is something else we want to fight," said Nasrat.' [281]

22.24 The Freedom House, Women's Rights 2010 report added:

'Although women are permitted to represent themselves before the court during divorce proceedings, in practice they are usually represented by a male family member. Divorce is still considered to be a family affair, meaning a woman's ability to secure a divorce is often dependent on the extent to which her family supports her decision. Moreover, it is generally easier for men to secure a divorce than women, and society is more accepting of divorced men than divorced women. However, as women have become more financially independent in recent years, they have grown more capable of pushing for divorce than they were in the past…

'Women who are divorced face particularly acute challenges. Although Libyan law calls for the man to leave the marital home to his wife and children upon divorce, tradition dictates otherwise. In reality, divorced women are expected to return to live with their

[280] Women's rights in the Middle East and North Africa: citizenship and justice, 2005 by Sameena Nazir and Leigh Tomppert http://books.google.co.uk/books?id=5spje12_is4C&pg=PA170&lpg=PA170&dq=divorce+libya+women&source=bl&ots=t4oJlNYcew&sig=VtA_YB0ihTLs7mNqXO7Z2UkyyMw&hl=en&ei=JMToTojkOsSN4gTYksyICQ&sa=X&oi=book_result&ct=result&resnum=2&ved=0CE4Q6AEwATgK#v=onepage&q=divorce%20libya%20women&f=false Accessed 14 December 2011

[281] In Depth News, 'Libya: the fight for women's rights goes on' (undated) http://www.indepthnews.info/index.php/global-issues/1094-libya-the-fight-for-womens-rights-goes-on Accessed 24 September 2012

families, as society does not tolerate the idea of a woman living alone and supporting herself.' [282]

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Women living alone

22.25 The Freedom House, Women's Rights 2010 report noted:

'Women are adversely affected by poverty due to their gender because the job types to which they are limited by tradition often fail to provide enough income for financial independence. Divorced and widowed women are particularly vulnerable to poverty as a result. Under the social security law, widows are entitled to welfare payments in the form of a percentage of their deceased husband's pension. However, in practice, due to bureaucratic inefficiencies, these payments appear to be difficult for women to collect.'[283]

Freedom of movement

22.26 'Women's rights in the Middle East and North Africa: citizenship and justice', by Sameena Nazir and Leigh Tomppert and published in 2005, stated:

'Officially women have freedom of movement and do not need to request permission to travel abroad. However, due to the overtly patriarchal nature of Libyan society, most women do not travel unless accompanied by a husband or male relative. Those who choose to travel alone or with other women are generally members of the elite and are still expected to secure the permission of their families in order to do so. Travelling inside Libya also presents difficulties for Libyan women if they wish to stay in hotels, as rooms are generally not rented to unaccompanied women due to cultural traditions.

'Libyan women are also restricted in their local environment. Due to social pressures, women rarely walk in the street in the evenings unless accompanied by a male family member or another female.' [284]

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[282] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[283] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[284] Women's rights in the Middle East and North Africa: citizenship and justice, 2005 by Sameena Nazir and Leigh Tomppert http://books.google.co.uk/books?id=5spje12_is4C&pg=PA170&lpg=PA170&dq=divorce+libya+women&source=bl&ots=t4oJlNYcew&sig=VtA_YB0ihTLs7mNqXO7Z2UkyyMw&hl=en&ei=JMToTojkOsSN4gTYksyICQ&sa=X&oi=book_result&ct=result&resnum=2&ved=0CE4Q6AEwATgK#v=onepage&q=divorce%20libya%20women&f=false Accessed 14 December 2011

22.27 The USSD Report 2011 added, 'In some rural areas societal discrimination restricted women's movements, even to local destinations, and impaired their ability to play an active role in the workplace.' [285]

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Freedom of dress

22.28 The Social Institutes and Gender Index website on its Libya page (accessed 17 January 2011) noted, 'Women in Libya enjoy freedom of dress, but the majority wear a veil in public (this is not necessarily the case in bigger cities). Many women choose to wear a veil for religious beliefs; others do so in response to social pressure. The niqab, a veil that covers the whole face except for the eyes, is less common.' [286]

Women and work

22.29 The USSD report 2011 noted, 'The government was the largest employer. Civil service salaries were set according to education and experience. Women and men with similar qualifications were paid at the same grade for positions that were substantially similar. The private sector did not formally discriminate on the basis of gender for access to employment or credit, although women tended to earn less than men for similar work.' [287]

22.30 The Freedom House, Women's Rights 2010 report noted:

'Despite the government's official stance on women's employment, which welcomes diversity in their choice of profession, women continue to work predominantly in fields that are traditionally associated with females, such as education, health services, and secretarial or cleaning work. Furthermore, Libyan men often prefer that their female family members work in jobs that do not entail mixing with the opposite sex. They also prefer that women not work too far from the home, further limiting the options available to female professionals.' [288]

22.31 The same report also noted, 'No legislation exists to protect women from sexual harassment in the workplace.' [289]

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[285] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[286] The Social Institutes and Gender Index, Libya http://genderindex.org/country/libya Accessed 17 January 2012

[287] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[288] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[289]

22.32 The USSD report 2011 added, 'The law criminalizes sexual harassment, but there were no reports on how or whether this law was enforced under the Qadhafi or new governments.' [290]

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Reproductive rights

22.33 The USSD report 2011 noted:

> 'Couples and individuals have the right to decide freely and responsibly the number, spacing and timing of their children and have the information and means to do so free from discrimination, coercion, and violence. In previous years virtually all births took place in hospitals, and more than 90 percent of mothers received pre- and postnatal care. The conflict caused a decrease in available skilled medical personnel, as many expatriate medical workers fled the country, which likely affected women's access to sufficient care during childbirth.' [291]

Sexual relations outside marriage

22.34 The Freedom House, Women's Rights 2010 report noted:

> 'Law No. 70 of 1973 criminalizes fornication, and both men and women may be prosecuted for engaging in sexual relations outside of marriage, the punishment for which is flogging. In October 2007, a Libyan government representative told the UN Human Rights Committee, which oversees the International Covenant on Civil and Political Rights, that Law No. 70 is based on the Koran and that the right to freedom of belief does not mean fornication should be practiced in society. Although few people are punished for fornication, women who are discovered to have engaged in illicit sexual relations often find themselves shunned by society and their families, and are deemed to have violated the family's honour.' [292]

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Abortion

22.35 Women on the Web's Abortion laws worldwide (undated) stated that in Libya 'Abortion [is] illegal in all circumstances or permitted only to save a woman's life.'[293]

22.36 The Freedom House, Women's Rights 2010 report added:

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[290] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[291] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[292] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[293] Women on the web, Abortion laws worldwide, http://www.womenonweb.org/set-298-en.html Accessed 14 December 2011

'Under Article 390 of the penal code, whoever procures an abortion without the woman's consent faces up to three years in prison. Under Articles 391 and 392, a woman who consents to or procures her own abortion, and anyone who procures an abortion with the woman's consent, is punished with a minimum sentence of six months in prison. Article 394 stipulates that if an abortion is carried out for the preservation of the honour of the offender, for instance in cases of pregnancy out of wedlock, the penalty is reduced by half. Some illegal abortions are carried out in Libya, although if they can afford it, women sometimes travel to Tunisia, where the service is more readily available.' [294]

VIOLENCE AGAINST WOMEN

22.37 Amnesty International on the Libya page of their website noted:

'There are no specific laws to criminalise acts of violence against women. Women who have suffered gender-based violence have little recourse to justice from the authorities. In cases of rape, women may be accused of zina (sexual relations outside of lawful marriage) and flogged under the Libyan Penal Code. The concept of marital rape is not recognised by the law.

'This makes it nearly impossible for women to report violence and has led to a climate of impunity.'[295]

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Domestic violence

22.38 The Freedom House, Women's Rights 2010 report noted:

'Domestic violence is a problem in Libya. Article 17 of Law No. 10 of 1984 states that husbands should not cause physical or mental harm to their wives, but Article 63 of the penal code stipulates that evidence of injury is needed to prove assault. As in most conservative societies, domestic violence remains a taboo issue, and its public airing is deemed to be something shameful that brings dishonour upon the victim as well as her entire family. At the official level, certain elements have been unwilling to acknowledge that violence against women exists. As the deputy of the Social Affairs Secretariat has stated, 'We don't have violence against women ... if there was violence, we would know.' Similarly, another Libyan official once explained to the UN Committee on the Rights of the Child that no organizations in Libya specifically defend the rights of women because 'women did not suffer from discrimination and that kind of organization therefore served no purpose.' However, awareness regarding this issue has grown in recent years, and the state has made some efforts to educate the population. In March 2007, the charity Al-Wattasimu launched a cultural project in Tripoli on women's equality that included a number of forums and publications related to violence against women.

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[294] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[295] Amnesty International, Libya. http://www.amnesty.org.uk/content.asp?CategoryID=12055 Accessed 22 October 2012

'Despite these efforts, many women do not raise complaints about domestic violence due to the social stigma attached to the issue. Women generally fear that they will be rejected by their husbands and extended families should they come forward with accusations. One senior Libyan judicial official said that 99 percent of victims who filed domestic violence complaints eventually withdrew their cases.' [296]

22.39 'WoMen Dialogue' which is 'a platform for cooperation and debate on gender and women's rights issues' carried an article on 14 August 2012 about the young Libyan women's rights campaigner Alaa Murabit who 'considers the greatest hurdle for women's rights across the Arab world to be her religion. But she also believes that religion can be these women's greatest strength – if they use it correctly':

'Alaa Murabit is herself a dedicated Muslim and she is proud of her religion. She is frustrated by how many people use Islam as a tool to repress women within society. Gender-based violence is a part of everyday life for many girls and women in Libya, and something they do not even bother to question. When Alaa Murabit is out visiting schools educating women about their rights, she often asks the girls how many of them have been on the receiving end of violence in the home or on the street. Usually, the majority of the girls' hands go up into the air. And it is precisely because this violence is such an integrated aspect of society that makes fighting against it so very difficult. So having your religious arguments in order is crucial, explains Murabit:

'"If you want to change anything, you have to answer back with the same logic that they use. You have to be able to give a religious 'no'; that's the only way you can get women to fight for their cause. By doing this, you let women have religion on their side, which is an extremely powerful tool."'[297]

22.40 Alaa Murabit went on to say:

'She continues to follow with concern the development that Libya is moving towards. The country's poor security situation is being used as an excuse to keep women in the home, and corruption among politicians is so widespread that only the fewest women really see any point of entering into politics. Alaa Murabit predicts that things will only start changing when the young women who have experienced the revolution begin to come out of the education system. They will have the courage and the desire to throw themselves into politics because they have seen that women, despite the odds being against them, can make a difference if they stand united.' [298]

22.41 In Depth News, in an undated article following the July 2012 elections, entitled 'Libya: the fight for women's rights goes on', spoke to Nadine Nasrat, from the Institute for Democracy and Electoral Assistance (IDEA). The article stated:

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[296] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[297] Women dialogue, Abuse of religion - women's major challenge, 14 August 2012. http://www.womendialogue.org/magazine/abuse-religion-greatest-challenge-women-libya Accessed 22 October 2012

[298] Women dialogue, Abuse of religion - women's major challenge, 14 August 2012. http://www.womendialogue.org/magazine/abuse-religion-greatest-challenge-women-libya Accessed 22 October 2012

'"We [also] want laws against domestic violence introduced. At present a man can only be penalised if he beats his wife to the extent that her injuries require hospitalisation for days, the same as any other case of assault," averred Nasrat.

'Several witnesses outside the family are also required if a man is to be penalised – something which is not easy for women to provide due to the stigma and shame of getting outsiders involved in affairs which are considered private.' [299]

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"Social rehabilitation" facilities

22.42 The USSD report 2011 noted:

'Qadhafi-era law allowed women and girls, some of whom were victims of gender-based or domestic violence and who were suspected of violating moral codes, to be detained in 'social rehabilitation' facilities. They could be detained indefinitely without access to legal representation or the opportunity to contest their detention in court. Women at these sites could be released only to their families, often the source of the threat to their safety. Following the conflict, it was unclear whether this practice of detention without review was considered legal or continued.' [300]

22.43 The previous USSD report of 2010, published 8 April 2011, gave background information on social rehabilitation facilities:

'The law allowed for arbitrary punishments for dishonoring family, and women and girls suspected of violating moral codes such as walking with a man unrelated to them could be detained indefinitely without being convicted or after having served a sentence and without the right to challenge their detention before a court. They were held in "social rehabilitation" facilities, in some cases because they had been raped and then ostracized by their families. The government stated that a woman was free to leave a rehabilitation home when she reached "legal age" (18 years), consented to marriage, or was taken into the custody of a male relative. According to HRW [Human Rights Watch], authorities transferred most women to these facilities against their will, and those who came of their own volition did so because no genuine shelters for survivors of violence existed. HRW maintained that the government routinely violated women's and girls' human rights in "social rehabilitation" homes, including violations of due process, freedom of movement, personal dignity, and privacy. One example of these violations is the practice of "virginity exams" in "social rehabilitation" facilities, where medical providers conducted invasive examinations to determine whether women detained in

[299] In Depth News, 'Libya: the fight for women's rights goes on' (undated) http://www.indepthnews.info/index.php/global-issues/1094-libya-the-fight-for-womens-rights-goes-on Accessed 24 September 2012

[300] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

such facilities had engaged in sexual intercourse. These exams were believed to be devoid of medical accuracy.'[301]

22.44 The February 2006 Human Rights Watch report referred to in the above paragraph can be accessed via the following link: A Threat to Society? The Arbitrary Detention of Woman and Girls for "Social Rehabilitation"[302]

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Sexual violence

22.45 The USSD report 2011 noted, 'Under Qadhafi, the law prohibited domestic violence, but there was scant information on the penalties for violence against women. The law criminalized rape. A convicted rapist must marry the victim, with her agreement, or serve a prison term of as long as 25 years. In previous years rape victims who failed to meet high evidentiary standards reportedly could face charges of adultery, according to HRW. The law did not address spousal rape. The PHR [the international NGO Physicians for Human Rights] and other groups reported that Qadhafi forces systematically raped female civilians during the siege of Misrata.' [303]

22.46 The Freedom House, Women's Rights 2010 report noted, 'Spousal rape is not a crime, and like other forms of domestic abuse, such cases are considered private matters that carry a great deal of shame if publicly reported.' [304]

22.47 The same report added:

'Gender-based violence that occurs outside the home is also deemed to be a matter of disgrace, and the female victim is often held responsible for the actions of the perpetrator. Only the most heinous of rapists are prosecuted, and rape victims themselves risk prosecution for extramarital sexual relations if they attempt to press charges. A rapist is expected to marry his victim to "save her honour" as a "social remedy." The woman's consent is needed for such a marriage, but given the reality of social pressures, she effectively has no option but to marry the perpetrator. Most families prefer to conceal any violation of the woman's honour, and such matters are rarely discussed outside of the home. Moreover, the regime's denials regarding the existence of violence against women extend to crimes like rape. The deputy director of social affairs in the General People's Congress, Amal Safar, declared in 2005 that

[301] The United States Department of State, Country Report on Human Rights Practices 2010, Libya. 8 April 2012. http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154467.htm Accessed 10 December 2012

[302] Human Rights Watch, A Threat to Society? The Arbitrary Detention of Women and Girls for "Social Rehabilitation" February 2006. http://www.hrw.org/sites/default/files/reports/libya0206webwcover.pdf Accessed 10 December 2012

[303] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 15 October 2012

[304] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

"violence and rape is very rare. You might find two cases [in Libya] from people belonging to non-Libyan cultures."'[305]

22.48 The BBC News, in a report of 13 December 2011 called 'Libyan women battle for empowerment', stated:

'[At a recent demonstration in Tripoli] Dozens of women covered their mouths with tape, to symbolise the silence with which rape victims were greeted by the interim authorities.

'And they refused to leave until the new Prime Minister, Abdurrahim al-Keib, came out to meet them. After a couple of hours, he did - promising to look into their demands.

'"Injured men are being looked after properly and sent abroad for treatment," said Amira Nayed, from another new women's group, Phoenix. 'The women who also suffered during the conflict should be cared for too. They need psychological help. And we need awareness programmes so people know that it's not their fault that they are victims of a crime.'

'In Libyan society, rape is seen as the ultimate shame and, because victims do not come forward, no-one knows how many women might have been raped by pro-Gaddafi forces.

'The International Criminal Court is currently investigating the rape allegations. "I've heard that 36 women committed suicide last month alone because of the shame of it," says activist Sara Shukri.'[306]

22.49 The United Nations General Assembly Security Council report of 13 January 2012 into Conflict-related sexual violence looked at the situation in Libya during the recent uprising:

'During the conflict in Libya between February and October 2011, allegations of sexual violence committed by parties to the conflict were reported. In its report of June 2011, the Commission of Inquiry mandated by the Human Rights Council to investigate alleged violations of international human rights law in Libya concluded that sufficient information had been received to justify further investigation to ascertain the extent of sexual violence. With a view to ascertaining the actual scope and scale of conflict-related sexual violence in Libya, the United Nations has begun to investigate, gather and analyse information on such violations.

'The preliminary findings from the initial phase of monitoring confirm that both women and men were subjected to rape and other forms of sexual violence. Women were reportedly abducted from their homes, from cars or from the streets and raped in places unknown to the victim, while men were raped in prisons and places of detention. Rape was reportedly used as a form of punishment against those who rebelled against the former Qadhafi regime. It has been alleged that rape was prevalent in Zawiyah, Zuwara,

[305] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[306] BBC News, Libyan women battle for empowerment, 13 December 2011 http://www.bbc.co.uk/news/world-africa-16160671 Accessed 14 December 2011

Ajdabiya, Misrata and Legzaya (Nafusa Mountains), which were besieged by the former Qadhafi forces. It is, however, too early to determine whether security forces of the former Qadhafi regime and its followers had received orders to carry out rape against women, men and children during the conflict. For example, in one case, a 23-year-old woman was raped on two occasions in the town of Beni Walid by armed men who were wearing military uniforms; she is currently five months pregnant. In another case, a 34-year-old woman reported that she had been taken into an interrogation room, thrown on the floor, beaten and raped by three men. She identified them as members of Qadhafi's forces. She also claimed that there were many women who were raped but feared to report it because of stigma. The absence of State structures to address sexual violence exacerbates the situation and strengthens the silence of victims and witnesses.' [307]

22.50 In Depth News, in an undated article following the July 2012 elections, entitled 'Libya: the fight for women's rights goes on', spoke to Nadine Nasrat, from the Institute for Democracy and Electoral Assistance (IDEA). The article stated:

'Rape victims are victimised twice. "As the law now stands, women who are raped are forced into marrying their rapists. The man is only sent to prison for a few years if he refuses to marry his victim. This is an incredibly traumatic experience for any woman to be forced into a partnership with her abuser. Rape is not seen as a major crime in Libya," explained Nasrat.

'"Many women were raped during the war but most will not come forward to report it because they are ashamed and some people believe the women brought it on themselves. These women should be encouraged to come forward as what they suffered is not morally worse than men who lost limbs during the fighting. The government has to address this," stated Nasrat.' [308]

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"Honour" crimes

22.51 The Freedom House, Women's Rights 2010, report stated:

'Although the existing penal code applies equally to both men and women, they are treated differently in some cases such as adultery. Both guilty partners face a possible penalty of 100 strokes of the whip, but Article 375 allows for a reduced punishment for a man who kills a female relative on account of her having committed adultery. Article 375 also asserts that if the man only inflicts bodily harm on the female relative, the prison sentence is limited to a maximum of two years, and a lesser beating or light injury should not be penalized at all. Despite this leniency, so-called "honor killings," in which a male relative kills a woman for moral or sexual transgressions, are not common in Libya.' [309]

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[307] United Nations General Assembly Security Council Conflict-related sexual violence, 13 January 2012 http://www.un.org/Docs/sc/sgrep12.htm (when link open - to access report click on S/2012/33). Accessed 23 January 2012

[308] In Depth News, 'Libya: the fight for women's rights goes on' (undated) http://www.indepthnews.info/index.php/global-issues/1094-libya-the-fight-for-womens-rights-goes-on Accessed 24 September 2012

[309] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-

22.52 The USSD report 2011 noted, 'In August [2011] the PHR [the international NGO Physicians for Human Rights] reported that a father killed his three daughters (ages 15, 17, and 18) in Tomina, near Misrata, after they were raped. The PHR reported that persons with knowledge of honor killings in the country claimed that the practice had "a strong foothold" and that, in previous years, those convicted of such killings sometimes received reduced sentences.' [310]

22.53 The same report also stated:

'Qadhafi-era law allowed women and girls, some of whom were victims of gender-based or domestic violence suspected of violating moral codes, to be detained in "social rehabilitation" facilities. They could be detained indefinitely without access to legal representation or the opportunity to contest their detention in court. Women at these sites could be released only to their families, often the source of the threat to their safety. Following the conflict, it was unclear whether this practice of detention without review was considered legal or continued.' [311]

22.54 The UNHCR, on its 14-15 June 2011 headlines page, noted, 'The armed conflict in Libya has had a strong impact on women in particular. Libyan aid organizations have reported that they have received information about cases of rape and honour killing in the more conservative parts of the country. "When a rape occurs in Libya, it is like a whole village or town has been dishonoured," said Arafat Jamal, Deputy Representative at the UN Refugee Agency (UNHCR).'"[312]

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SHELTERS AND ASSISTANCE FOR WOMEN

22.55 The Freedom House, Women's Rights 2010 report stated,

'There are no genuinely independent women's organizations working on the issues of women's autonomy and security, and no women's shelters exist aside from the social rehabilitation centers described [by the USSD report in "social rehabilitation" facilities above]. Aisha al-Qadhafi's Al-Watassimu charity, which maintains close ties to the government, has worked to raise awareness of violence against women with limited success. The project it launched in March 2007 included promoting the issue in mosques, schools, and other public places.' [313]

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bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 25 September 2012

[310] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[311] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[312] UNHCR, Effects of the conflict in Libya, 14/15 June 2012 http://www.unhcr.se/no/media/baltic-and-nordic-headlines/2011/june/14-15-june-2011.html Accessed 8 October 2012

[313] Freedom House, Women's Rights in the Middle East and North Africa 2010 – Libya http://www.unhcr.org/cgi-

22.56 The Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya [UNSMIL]', published 30 August 2012, noted, in the 'Human rights, transitional justice and rule of law'' section:

'In May [2012], the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict issued a report highlighting the limited availability of support and services to victims of sexual violence in Libya, assessing the scope and scale of conflict-related sexual violence in Libya between February and October 2011, and underscoring other challenges, including the need for continued monitoring of sexual violence and to ensure accountability, reparations and redress for survivors.' [314]

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23. CHILDREN

This section should also be read in conjunction with Women, particularly with regard to the treatment of girls.

OVERVIEW

23.01 Libya acceded to the UN Convention on the Rights of the Child on 15 April 1993. (UN Treaty Collection, accessed 21 December 2011).[315] Libya has also ratified the Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the UN Convention on the Rights of the Child on the involvement of children in armed conflict(Child Rights International Network (CRIN) – International Law).[316] However the country was not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction (The United States Department of State Country Report on Human Rights Practices 2011, Libya, published 24 May 2012 and covering 2011, (USSD Report 2011)). [317]

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bin/texis/vtx/refworld/rwmain?page=country&docid=4b99012091&skip=0&coi=LBY&querysi=nondiscrimination&searchin=fulltext&display=10&sort=date Accessed 23 January 2012

[314] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

[315] UN Treaty Collection, Convention on the Rights of the Child. http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en Accessed 21 December 2011

[316] CRIN – International Law http://www.crin.org/Law/instrument.asp?InstID=1002 Accessed 31 October 2012.

[317] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

23.02 The CIA World Factbook – 'Libya: people', updated 16 October 2012, notes that a 2012 estimate gives 27.7% of the population below 15 (male 795,748/ female 759,806).[318]

23.03 A report commissioned by Save the Children Sweden, published August 2011 and entitled Children's Rights Situation Analysis Middle East and North Africa – Libya (Save the Children report 2011) stated:

'Traditional attitudes towards children in society may limit the respect for their views, especially within the family and in schools. The United Nations Human Rights Committee has also reported widespread discrimination against vulnerable groups of children, including children of migrant workers, children born out of wedlock, and children whose mothers are married to non-Libyan nationals. Other groups of children that may be discriminated against include 13,000 children living with disabilities, registered with government social funds, 400 orphaned or abandoned children who live in social institutions, and nearly 700 girls and boys in juvenile institutions (for custody, pending investigations, or in detention).' [319]

Basic legal information

23.04 The basic facts on children included:

- Education: Education is free for all children and compulsory starting at 6 years of age until 15 years of age (Save the Children report 2011) [320]
- Minimum age of employment: 15 – part time and apprentice positions; 18 full time and hazardous occupations. (Right to education project - National law and policies on minimum ages – Libyan Arab Jamahiriya from second period report 19 September 2002). [321]
- Minimum age for marriage: 20 for both sexes (judicial discretion below that age, but in no circumstances under 15). (Right to education project - National law and policies on minimum ages – Libyan Arab Jamahiriya from second period report 19 September 2002). [322]

[318] CIA World Factbook, Libya – people, 16 October 2012. https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html Accessed 30 October 2012
[319] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012
[320] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012
[321] Right to education project - National law and policies on minimum ages – Libyan Arab Jamahiriya http://www.right-to-education.org/country-node/1082/country-minimum
[322] Right to education project - National law and policies on minimum ages – Libyan Arab Jamahiriya http://www.right-to-education.org/country-node/1082/country-minimum

- Minimum age for criminal responsibility: 14 (Right to education project - National law and policies on minimum ages – Libyan Arab Jamahiriya from second period report 19 September 2002). [323]

- Age of consensual sex: Sex is criminalised outside of marriage (International Lesbian and Gay Association, State-Sponsored Homophobia 5 May 2011).[324] [See also paragraph 23.08]

- Universal suffrage – 18 (Medea Institute, Libya elections and parliament). [325]

Corporal punishment and penal system

23.05 The Save the Children report 2011 gave details on the laws pertaining to corporal punishment:

'Libya has made no progress in ensuring a comprehensive ban on corporal punishment in the home and in alternative settings. Corporal punishment at school is a criminal offence under the School Discipline Ordinance for schools as well as the Child Protection Act. However, provisions against violence and abuse in Act No. 17 (1992), the Penal Code (1953), the Child Protection Act (1997), the Great Green Document on Human Rights (1988), the Constitutional Proclamation and the Promotion of Freedom Act No. 20 (1991) are not interpreted as prohibiting corporal punishment in childrearing. Furthermore, although capital punishment and life imprisonment are unlawful as judicial sentences for child offenders, corporal punishment is lawful. A draft new Penal Code has been under discussion since 2007, which may repeal corporal punishment as a sentence.' [326]

23.06 The USSD report 2011 noted, 'Human rights organizations reported that militias held minors with adults.' [327]

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VIOLENCE AGAINST CHILDREN

23.07 The USSD Report 2011 noted, 'There was no known information available on penalties for the commercial sexual exploitation of children, the minimum age of consensual sex, and whether any laws prohibit child pornography.' [328]

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[323] Right to education project - National law and policies on minimum ages – Libyan Arab Jamahiriya http://www.right-to-education.org/country-node/1082/country-minimum
[324] International Lesbian and Gay Association, State-Sponsored Homophobia 5 May 2011 http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2011.pdf , Accessed 3 January 2012
[325] Medea Institute, Libya, elections and parliament http://www.medea.be/en/countries/libya/libya-elections-and-parliament/ Accessed 23 January 2012
[326] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012
[327] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

See also Chapter 22: Women – "Honour crimes".

The effects of the conflict on children

23.08 The Save the Children report 2011 considered the status of child rights under emergencies, with particular regard to the February 2011 uprising:

'The conflict, which started in February 2011, illustrates that the protection of civilians under emergencies is a major concern in Libya: reported use of cluster bombs, sea and land mines, aerial bombing raise concerns about apparent disregard for protection of children. Children are also at risk of being recruited or coerced into participating in armed forces. Children as young as eight may have suffered sexual assaults, including rape, amid the worsening conflict across the country, according to accounts given to Save the Children UK. The conflict has also resulted in breaches of rights of children to education and health. According to UNICEF, with schooling being compulsory from age 6 to 15, there are likely to be over a million children currently suffering from the prolonged disruption to their education. In the medium to longer term a significant impact on the general health status of children in conflict affected can also be expected as a result of being unable to access to basic health services. The mental health of children may also have been severely affected with reports of children witnessing extreme violence, with no recourse to psycho-social services and treatment.' [329]

23.09 The Amnesty International report, published 13 October 2011, 'Detention Abuses Staining the New Libya' in the section on 'Arbitrary Arrests', noted, 'Children have not been spared. Some have been "arrested" alone; others have been taken along with their relatives. They have been held in the same facilities with adults, and treated as adults. Among the children interviewed by Amnesty International were Libyan "volunteers" and foreign nationals suspected of being mercenaries.'[330]

23.10 A report of 23 April 2012 by UNICEF, 'In Libya, explosive remnants of war continue to maim and kill after conflict ends', told the story of a nine year old boy from Zintan in the Nafusa Mountains, describing the day his right hand was lost and his left hand severely injured by a bullet he found on the ground, 'The bullet that blew off Mahmoud's hand was found only 500 meters from his house. Mahmoud, driven by a curiosity common to children his age, had gone to see where his father fought against the armed forces during the conflict. During the hostilities, rockets and grenades had been cast over his house on a daily basis for weeks, and ERW [explosive remnants of war] remained everywhere.'[331]

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[328] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[329] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012

[330] Amnesty International, Detention Abuses Staining the New Libya, 13 October 2011. http://www.amnesty.org/sites/impact.amnesty.org/files/PUBLIC/mde190362011en.pdf Accessed 31 October 2012

[331] UNICEF, In Libya, explosive remnants of war continue to maim and kill after conflict ends, 23 April 2012. http://www.unicef.org/infobycountry/laj_62270.html Accessed 31 October 2012

23.11 The report went on to describe how UNICEF is working in Libya to educate the community how to identify and help children with symptoms of trauma and to raise awareness of ERW:

'UNICEF is working with both national and international partners to reduce the impact of trauma among children in the aftermath of the conflict. Teachers, parents and social workers are being trained to identify the symptoms of anxiety, fear and stress-related disorders among children, and they are learning how to help these children cope.

'UNICEF is also working closely with the Ministry of Education, the New Libyan Mine Action Authority, as well as UN and NGO partners in the field to increase awareness about ERW among children and communities. ERW educational materials and sessions are teaching children how to protect themselves from injuries like Mahmoud's…

'In 2011, UNICEF, with donations from the Swedish Government, reached 13,000 children with direct mine-risk awareness activities in eastern Libya. These sessions will be expanded, and, with the additional support of the European Union and the Australian Government, a mine-risk education component is planned for integration into the Libyan school curriculum in 2012.' [332]

See also Chapter 10: Non-government armed forces – Proliferation of arms and related material

23.12 In an earlier report of 10 November 2011, UNICEF reported on how they are supporting the Libyan youth as they return to 'normality':

'Throughout Libya, boys… who have fought in Libya's uprising, are struggling to adapt to a normal life. They've become militarized in their fight for freedom. Some have been traumatized by what they did and what they saw. When asked, on camera, whether he has nightmares, Abdul [a 17 year old recruited into a militia] is dismissive, but later, walking across the base, he recounts in detail the horrors he saw. He may not have nightmares, but he relives the worst moments every day. 'I often think about what I did and I ask myself whether it was right or wrong, but I feel it was right and I feel I was doing my duty.' he said.

'UNICEF and partners are working with Libya's interim government to demilitarize the country's youth. As part of that process, leaders of 14 youth clubs under the Scouts in the East and Misrata have been trained and 20 adolescents are being trained in child protection and psychosocial support in their areas. They're also working to ensure that all children are able to return to school as soon as possible, the return to regular routines is a key part of the demilitarization and normalization process.' [333]

23.13 The Daily Beast, in an article of 30 June 2012, entitled 'Kids of War: Libyan Children Fight a New Battle at School', considered the problems facing children:

'Nowhere are the challenges of rebuilding and reconciliation played out more powerfully than in the lives of the city's children. For many, just walking to school has become

[332] UNICEF, In Libya, explosive remnants of war continue to maim and kill after conflict ends, 23 April 2012. http://www.unicef.org/infobycountry/laj_62270.html Accessed 31 October 2012
[333] UNICEF At a glance: Libya UNICEF provides support to Libyan youth as they return to normal life, 10 November 2011. http://www.unicef.org/infobycountry/laj_60482.html Accessed 21 December 2011

fraught. In Muammar's neighbourhood [Sirte], his path to school passes crumbling building after building, gaping with bomb holes, some almost perfect circles strafed with marks like the rays of a sinister sun. Everywhere there are shattered windows and the black stains of fire. Garbage piles are ubiquitous. The city aches with damage…

'The symptoms of Sirte's children - bedwetting and nightmares, difficulty sleeping and concentrating in school, refusal to think or talk about the war, over-attachment to their parents - can be signs of post-traumatic stress disorder, according to experts. Rune Stuvland, director of the Center for Stress and Trauma Psychology in Oslo, travelled to Libya in January to help the United Nations Children's Fund and the Libyan Ministry of Education assess the psychological needs of children and plan intervention programs. "It shatters a child's understanding of their community—of what is safe, what is not safe," he said of the man-made violence. The usual reassuring routines and structures for kids—schools, churches—are chaotic in war. Nothing can be counted on.

'In Sirte, nearly everything in children's lives has changed. Friends and teachers are missing from school. Parents and relatives are dead. A new flag flies; children sing a new national anthem. Even friendships are dangerous to navigate. Often, children who come from families that supported Gaddafi pick fights with friends who come from families that supported the revolution, and vice versa.'[334]

23.14 Amnesty International's report of 12 July 2012, 'Libya: Rule of Law or Rule of Militias?', noted, 'Armed clashes between Arab and black Tabu communities in the south of Libya in February and March 2012 resulted in dozens of deaths, including of men, women and children not involved in armed confrontations, and widespread destruction of property.' [335]

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Child labour

23.15 The USSD Report 2011 stated:

'Qadhafi-era law prohibited children younger than 18 from being employed, except when in a form of apprenticeship. No information was available concerning whether the law limited working hours or sets occupational health and safety restrictions for children. Under Qadhafi the General People's Committee for Manpower, Employment, and Training was responsible for enforcing laws on child labor. At year's end it was not clear whether the interim government had the capacity to enforce these laws or which agency would be responsible for doing so.

[334] The Daily Beast, Kids of War: Libyan Children Fight a New Battle at School, 30 June 2012. http://www.thedailybeast.com/articles/2012/06/30/kids-of-war-libyan-children-fight-a-new-battle-at-school.html Accessed 31 October 2012

[335] Amnesty International, Libya: Rule of Law or Rule of Militias?, 12 July 2012 http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 31 October 2012

'There was no information available on the prevalence of child labor or the effect that the conflict had on the practice.' [336]

23.16 The Save the Children report 2011, noted, 'The actual number of under-age working children is not known, and there have been no comprehensive assessments on whether labour laws are effectively enforced.' [337]

Child Soldiers

23.17 The 'Child Soldiers Global Report 2008 – Libya', published 20 May 2008, noted, 'Although the government stated that the minimum voluntary recruitment age was 18, no amendments to legislation had been made to reflect this. Under-18s were reportedly recruited into militias.' [338]

See also Chapter 10: Military Service, conscription – paragraph 9.04.

23.18 The United States Department of State 'Trafficking in Persons Report 2012: Libya', published 19 June 2012, stated:

'Government officials report there were approximately 6,500 children under the age of 18 who identified themselves as "revolutionaries," some of whom may have supported militias during the revolution, though their roles were unclear at the end of the reporting period. International organizations and NGOs report that adolescent males were involved in support roles for forces associated with the Transitional National Council (TNC), including manning checkpoints, securing strategic buildings, and driving cars; some were armed and uniformed, while others took part in active fighting. There are also reports of the recruitment and use of children by the Qadhafi-controlled armed forces and other pro-regime elements, including paramilitary forces from neighboring countries such as Chad.' [339]

23.19 The Save the Children report of April/May 2011, entitled 'Child Protection in Emergencies Rapid Needs Assessment', noted:

'Participants in the assessment reported the widespread "voluntary" participation of boys under 18 in fighting for the revolution against the government. In a number of focus groups discussions children reported witnessing other children carrying guns and said that their cousins and friends had departed to join the opposition forces…

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[336] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[337] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012

[338] The Coalition to Stop the use of child Soldiers, Global Report 2008-Libya http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=486cb113c&skip=0&coi=LBY&querysi=conscription&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

[339] United States Department of State Trafficking in Persons Report 2012: Libya, published 19 June 2012 http://www.state.gov/j/tip/rls/tiprpt/2012/192367.htm Accessed 30 November 2012

'Participation it was claimed was entirely voluntary, with no reports of forced recruitment of children by the opposition forces. According to one key informant, an ex-member of Libya's national army, "There are boys and girls under 18 years old that support the revolutionaries from the back-lines. They don't carry arms; they just supply food and water to the soldiers. They are not forced to do this; they simply want to contribute to the revolution."

'…There were numerous claims of children fighting in the conflict on the side of government forces, with many interviewees reporting the "deliberate use" of boys under 18 years by the regime. According to some interviewees, the opposition forces had captured a number of under 18 year old fighters from government forces, with one source claiming he had witnessed boy soldiers between the ages of 16-18 years (both from Libya and other African countries including Chad and Mali) swearing their allegiance to Gaddafi. Another interviewee claimed that boys under the age of 18 years old studying at Ajdabiya's military training school had been instructed to fight against the revolutionaries.' [340]

CHILD CARE AND PROTECTION

23.20 The Save the Children report 2011 stated:

'Legislative measures to protect children against violence and abuse include the Child Protection Act No. 5 of 1997 and Articles 407 and 408 of the Penal Code, which protect children from sexual violence. In its third and forth periodic report on the implementation of the Convention, Libya reported that hit [sic] had set up a helpline number (1515) to receive complaints about violence against women and children, under the supervision of a charitable organisation (Waatasemu Charity Association). Libya acknowledges that studies on the prevalence of violence and abuse are inadequate. The country has made no progress in the collection of sex-disaggregated data on the prevalence and forms of violence, including in the domestic sphere.

'Child protection provisions are not well enforced, and programmes as well as referral and rehabilitation services for victims of abuse are lacking. In addition, in its 2009 Concluding Observations, the Committee on the Elimination of All Forms of Discrimination against Women expressed its concerns that many women and girls are confined in social rehabilitation centres only because they were victims of sexual or domestic violence, without the provision of a possibility to challenge this confinement in a court. Libya has not addressed this issue…

'Libya furthermore has made no progress in ensuring a comprehensive ban on corporal punishment in the home and in alternative settings. Corporal punishment at school is a criminal offence under the School Discipline Ordinance for schools as well as the Child Protection Act. However, provisions against violence and abuse in Act No. 17 (1992), the Penal Code (1953), the Child Protection Act (1997), the Great Green Document on Human Rights (1988), the Constitutional Proclamation and the Promotion of Freedom Act No. 20 (1991) are not interpreted as prohibiting corporal punishment in childrearing. Furthermore, although capital punishment and life imprisonment are unlawful as judicial

[340] Save the Children, Child Protection in Emergencies Rapid Needs Assessment, April/May 2011. http://cpwg.net/wp-content/uploads/2012/03/Child-Protection-Needs-Assessment-Libya-SC-2011.pdf Accessed 31 October 2012

sentences for child offenders, corporal punishment is lawful. A draft new Penal Code has been under discussion since 2007, which may repeal corporal punishment as a sentence.' [341]

See also Chapter 22: Women - "Social rehabilitation" facilities.

23.21 The report commented on charitable institutions in Libya working with children, ' There are a few charitable associations operating within Libya, and presumably enjoying government support, and offering services to children, including Waatasemu Charity Association, which operates a government-sponsored hotline for victims of violence. The UN reports that there are more than 30 NGOs providing services to children or engaged in child issues.' [342]

23.22 The Save the Children report of April/May 2011, entitled 'Child Protection in Emergencies Rapid Needs Assessment', considered the provision of child protection prior to the outbreak of the conflict:

'Limited concrete information exists on the child protection situation in Libya [Prior to the outbreak of conflict]. Although a signatory to the Convention on the Rights of the Child (CRC), issues including non-discrimination, best interest of the child and juvenile justice are believed to have been inadequately reflected in Libya's national laws, with a Child Act (under draft prior to the conflict) falling short of implementing international standards on key child protection issues. Pre-existing child protection concerns are believed to include child labour, drug abuse, abandonment of illegitimate children, exposure to domestic violence and neglect, with lack of attention towards early childhood care and development (ECCD) and denial of quality education for all age groups also reported.

'At the Government level, child protection issues were coordinated through the Childhood Care Directorate (CCD), within the Department of Social Affairs. While a limited number of civil society organisations and NGOs with a focus on children had begun to emerge in recent years, these were constrained by their lack of capacity and independence under the Gaddafi regime.'[343]

23.23 The same report gave details of measures that were put in place in the eastern side of the country during the conflict:

'A Ministry of Social Welfare has been set up by the newly established TNC in eastern Libya, under the leadership of Dr. Haniya El Gamaty. Divided into three independent units (which broadly cover women's affairs, civil society and children's issues), child protection concerns are the responsibility of the Children's Affairs Department headed

[341] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012

[342] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012

[343] Save the Children, Child Protection in Emergencies Rapid Needs Assessment, April/May 2011. http://cpwg.net/wp-content/uploads/2012/03/Child-Protection-Needs-Assessment-Libya-SC-2011.pdf Accessed 31 October 2012

up by Ms. Burnia Elbekre. The Children's Affairs Department responds to orphaned and abandoned children, children in conflict with the law, children with disabilities, ECCD and exploitation, abuse and neglect of children.

'The Ministry of Social Welfare has been working actively with humanitarian agencies on protection issues, through participation in the Protection Cluster (which is co-led by UNHCR and LCHAR) as well as the recently established Child Protection Working Group (CPWG) which was set up in early June and is currently chaired by Save the Children. The CPWG brings together all relevant actors under one platform to coordinate child protection activities and to represent the best interests of children.

'The Libyan Scouts and Libyan Red Crescent, both of which have a large presence throughout the country, have also been playing a crucial role in working with humanitarian agencies to implement child protection activities. Since the outbreak of the conflict, the Libyan Boy Scouts, which is composed of a large force of boys between the ages of 7-18 years, has been mobilized under the leadership of adult scouts, to provide support to communities affected by the crisis. This includes delivery of mine awareness and psychosocial support activities to children as well as registration of IDPs and distribution of food and Non Food Items (NFIs) within a number of communities. The Libyan Red Crescent, one of the few other existing humanitarian agencies present prior to the conflict, is helping to manage a number of IDP settlements and to provide medical and first aid support. With technical support from the International Committee of the Red Cross (ICRC), they have also been assisting with the tracing and reunification of families separated by the crisis, particularly at the Tunisian border.' [344]

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Lost and abandoned children

23.24 The Save the Children report of April/May 2011, entitled 'Child Protection in Emergencies Rapid Needs Assessment', noted:

'There were also accounts of children being involuntarily separated from their families as a result of the crisis. Some assessment participants had heard that children as young as one week old had been orphaned or left behind when their families fled fighting in cities such as Ajdabiya. In cases where children were found unaccompanied, neighbours or volunteers reportedly handed them over to hospitals, mosques, children's care homes or to social workers for temporary safekeeping and care. Where possible, the children were then reunited with their families. It was noted that ICRC had been active in working with the Libyan Red Cross and the authorities to broadcast regular messages about missing children on the radio in Benghazi in the hope of reunifying them with their families.

'In some cases, children were also reportedly taken in by neighbours or friends. According to assessment participants, Libyan cultural values meant that the overall number of unaccompanied children in the conflict was likely to be low. "If the parents cannot be with them, then the relatives and neighbours keep them like their own

[344] Save the Children, Child Protection in Emergencies Rapid Needs Assessment, April/May 2011. http://cpwg.net/wp-content/uploads/2012/03/Child-Protection-Needs-Assessment-Libya-SC-2011.pdf Accessed 31 October 2012

children. This is our culture. You will not find any child left alone or abandoned," noted one interviewee. It was reported that children in orphanages and children's homes had been taken out and cared for by concerned staff when fighting broke out.' [345]

Family and community care

23.25 The same report noted:

'There were many accounts of spontaneous fostering of children separated from their families as a result of the conflict. This was attributed to Libya's strong extended family system, where children "on their own" (i.e. boys and girls whose parents are unable to take care of them) are traditionally taken in by relatives or close community members. "My uncle found a missing child … he is looking after him and looking for his parents," said one boy from Ajdabiya.

'TNC, religious and civic actors, including the Ministry of Social Welfare of the TNC, mosque authorities and volunteers from the Libyan Red Crescent were also reported to have helped with the provision of interim care for children separated from their families, particularly in the early days of the conflict. According to an earlier Save the Children child protection assessment in Benghazi it was noted that institutional care was generally considered a last resort and largely reserved for children born out of wedlock, known as "illegal children".' [346]

Residential care

23.26 The report continued:

'In Benghazi, where there are a small number of children's homes and orphanages, the assessment team visited the main children's institution, the Social Home of Child Care, to investigate the quality of care provided. Conditions were of high standard, with 51 children supported by 141 staff members (made up of teachers, social workers and support staff) and sufficient accommodation and recreational space provided. The majority of children were considered „illegal children", with only one child reported to have entered the institution since the beginning of April. A small number of other children's homes in Benghazi, Al Bayda and Al Abyar were also visited by members of the assessment team where care conditions were reported to be of a similar standard.

'In addition to the relatively high standards of physical care facilities, care institutions appeared to enjoy strong community support. For example since the crisis, families had been supporting girls and boys in the Social Home of Child Care in Benghazi, by

[345] Save the Children, Child Protection in Emergencies Rapid Needs Assessment, April/May 2011. http://cpwg.net/wp-content/uploads/2012/03/Child-Protection-Needs-Assessment-Libya-SC-2011.pdf Accessed 31 October 2012

[346] Save the Children, Child Protection in Emergencies Rapid Needs Assessment, April/May 2011. http://cpwg.net/wp-content/uploads/2012/03/Child-Protection-Needs-Assessment-Libya-SC-2011.pdf Accessed 31 October 2012

bringing their children to join them in supervised play activities (up to 300- 400 children daily).' [347]

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Migrant children

23.27 The Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya', published 30 August 2012, noted, in the 'Humanitarian' section:

'In the absence of a comprehensive legal framework governing their presence in Libya, irregular migrants and potential asylum seekers continue to be at risk of arrest, detention, deportation and exploitation with little legal recourse. While the Ministry of the Interior has gradually increased its control over some migrant detention facilities, many continue to be operated by different authorities without guidance or support. In the case of facilities in Gatroun and Umm al Aranib, more than 1,000 people, including women and children, endure overcrowding, food and water scarcity and poor sanitation.' [348]

23.28 Amnesty International's report of 12 July 2012, 'Libya: Rule of Law or Rule of Militias?', noted, 'More that 1,000 men, women and children are detained at Bou Rashada [detention centre for migrants] by an armed militia for being "undocumented migrants".'[349]

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EDUCATION

23.29 The USSD Report 2011 noted:

'The conflict disrupted the school year for thousands of students across the country; while school continued in some areas such as Tripoli, in other areas schools were not open. Schools partially reopened in September and October; however, many remained empty due to lack of materials, damage, or security concerns.

[347] Save the Children, Child Protection in Emergencies Rapid Needs Assessment, April/May 2011. http://cpwg.net/wp-content/uploads/2012/03/Child-Protection-Needs-Assessment-Libya-SC-2011.pdf Accessed 31 October 2012

[348] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

[349] Amnesty International, Libya: Rule of Law or Rule of Militias?, 12 July 2012 http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 31 October 2012

'Qadhafi-era law imposed high fees on noncitizens enrolled in primary and secondary schools. In previous years the UN Human Rights Council noted that schools discriminated against children born out of wedlock.' [350]

23.30 The UN Office for the Coordination of Humanitarian Affairs (OCHA) in its Libyan Response, Situation Report 67 of 4 December 2011 stated, with regard to education:

'The new school year is due to start 7 January 2012. UNICEF has compiled data on all school-aged IDP children in Benghazi and the surrounding areas, disaggregated by age, gender and the grades at which students will be starting the new school year. A data summary, including the names of children, was provided to Ministry of Education officials, to ensure that IDP children are able to attend school in their areas of displacement, should return not be possible by the new school year.

'The number of school-aged IDP children from Sirte is unknown. As a result, the Ministry of Education and the Education Working Group have developed an outreach plan to identify these children and enrol them in the local schools.' [351]

23.31 A press release of 6 January 2012 from UNICEF noted:

'More than 1.2 million children return to school in Libya on Saturday, 10 months after evacuating classrooms because of the fighting during the country's popular uprising.

'The conflict took a heavy toll on Libya's education system, with schools closed, damaged and used for military and humanitarian purposes…

'With support from UNICEF and other partners, the Government worked round the clock to rehabilitate infrastructure and clear rubble, landmines and unexploded ordnance from schools.

'A total of 27 million revised textbooks are being printed, 10 million of which are already being distributed by the Ministry of Education throughout the country. Severely distressed children and their families are receiving psycho-social support and work is underway to track internally-displaced and other vulnerable children to ensure that they are enrolled.

'Many challenges remain, including the plight of the displaced, a shortage of desks and books and transport for children to and from schools.

'With assistance from the European Union and other donors, UNICEF will support Libyan authorities in broad-based reforms. Libya has good levels of education indicators, though better quality and more relevant teaching are required to ensure that

[350] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[351] UN Office for the Coordination of Humanitarian Affairs, Libyan Response, Situation Report 67, 4 December 2011 http://northafrica.humanitarianresponse.info/sites/default/files/20111204_SituationReport.pdf Accessed 3 January 2012

the system is more responsive to gender disparities, minorities and children with disabilities.'[352]

23.32 A press release of 25 April 2012 from UNESCO (United Nations Educational, Scientific and Cultural Organisation) gave details of a visit to Libya by a team from UNESCO:

'In the wake of the revolution in 2011, the country's education sector is facing immense challenges, largely as a result of lack of proper planning processes in the past. Libyans are eager to reform their education system. They expect education to play a major role in building a political system and a more equitable society.

'Two new ministries (a Ministry of Education and a Ministry of Higher Education and Scientific Research) have been asked to prepare brief strategic plans with a timeframe (December 2011 – June 2012) for immediate or short-term objectives, namely:

- the maintenance of schools damaged during the 2011 upheavals;
- accommodating children of displaced families in schools in their original areas of residence;
- reviewing curricula and textbooks, and printing textbooks, especially for history, civic education, and Arabic language.

'In the medium and long term the Libyan authorities have identified many fields where improvements are needed: formulation of new educational policies and sector plans for the reform of education, curriculum development, development and dissemination of early childhood, inclusive education and technical and vocational education programmes, regulating private education, introducing e-learning, training teachers and developing institutional capacity within the ministry and the education system as a whole.

'Enrolment of children in schools does not appear to be a challenge at basic and secondary education levels. The challenge concerns rather the quality of education in general, and the relevance and type of educational provision at the secondary level.'[353]

23.33 The British Council - Libya, on its blog site, in a post of 6 August 2012, entitled 'Libya: Great Expectations', stated:

'Since reopening in October 2011, we have directly worked with 250 young Libyans, and engaged a further 12,000 in our programmes through social media, giving them a chance to connect with their peers in the UK and across the region. Our Paving the Future Youth Forum gave 140 speakers and participants the chance to debate some of the political, economic, social and global issues Libya will face in the future.

'We now have the opportunity to work with more young Libyans than ever before, and in recognition of that, our projects are focusing on encouraging young people to debate, promoting the role of women in local and national political processes, and working with the Libyan government to develop vocational skills.

[352] UNICEF Conflict over, 1.2 million children to return to school in Libya, 6 January 2012 http://www.unicef.org/media/media_61244.html Accessed 10 January 2012
[353] UNESCO, Libya: the will to change, 25 April 2012. http://www.unesco.org/new/en/media-services/single-view/news/libya_the_will_to_change/ Accessed 31 October 2012

'Alongside our activity in English, the arts, and education, we hope this work will continue to support Libya in its time of transition.' [354]

23.34 Amnesty International's report of 12 July 2012, 'Libya: Rule of Law or Rule of Militias?', when discussing displaced communities showed a photograph with the caption 'Displaced Tawargha children in poorly resourced classrooms inside the Janzour Naval Academy IDP camp. May 2012.' [355]

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HEALTH AND WELFARE

See also Chapter 25 Medical Issues

23.35 The World Health Organisation Health General Health Statistical Profile: Libya, last updated May 2012 and using data from 2009/10 noted:

- Births attended by skilled health professionals - 100%
- Children vaccinated against measles – 98%
- Children vaccinated against DTB3 (Diphtheria-tetanus-pertussis) - @97%

For more related statistics view the webpage (link above).'[356]

23.36 The Save the Children report 2011 assessed children's health provision:

'Article 3 of the Health Act also provides that: "The Ministry of Health shall provide full preventive health services and treatment for young people such as to ensure that the new generation is sound in body, mind and soul'. Article 4 of the Child Protection Act No. 5 furthermore stipulates that 'Health facilities of all levels shall be responsible for providing children with the necessary vaccinations and inoculations, free of charge". The government allocates approximately 7.5 per cent of its general budget to health care.'[357]

23.37 The World Health Organisation (WHO) 'Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2011–2015', published 2011, included statistics on the following:

[354] The British Council, Libya, Libya: Great Expectations, 6 August 2012 http://blog.britishcouncil.org/2012/08/06/libya-great-expectations/ Accessed 31 October 2012.
[355] Amnesty International, Libya: Rule of Law or Rule of Militias?, 12 July 2012 http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf Accessed 31 October 2012
[356] World Health Organisation Health, General Health Statistical Profile: Libya. May 2012 http://www.who.int/gho/countries/lby.pdf Accessed 5 December 2012
[357] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012

Health indicator	Value	Year
Neonatal mortality rate (per 1000 live births)	10.8	2007
Infant mortality rate (per 1000 live births)	17.6	2007
Maternal mortality ratio (per 100 000 live births)	27	2007
Under five–mortality rate (per 1000 live births)	20.1	2007
Newborns with birth weight at least 2.5 kg (%)	95	2007
Children with acceptable weight for age (%)	95	2007

[358]

23.38 The same report stated:

'Libyan Arab Jamahiriya is a dynamic society and hence children are exposed to variety of factors that both positively and negatively impact their health. While the health services provide good coverage and children and youth enjoy a good level of nutrition and access to relatively good schools, there are a number of concerns such as the use of tobacco among schoolchildren. The potential risks of HIV/AIDS and use of illicit drugs are other concerns that require vigilance by health and other authorities. A well developed and intersectoral adolescent health programme is required that is coordinated with school health, healthy cities, health-promoting schools, environmental health, lifestyles etc and integrated into the PHC [primary healthcare] system.' [359]

23.39 The report also noted '…almost 60% of schoolchildren do not have easy access to safe water in school.' [360]

DOCUMENTATION

23.40 The USSD Report 2011 noted, 'Citizenship is derived from either parent or birth in country. Under the Qadhafi government, births were registered in a government-issued family book.' [361]

See also Chapter 19: Ethnic Groups - Black Libyans, para 19.22 and Chapter 29: Documentation

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[358] The World Health Organisation (WHO), Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2011–2015, 2011 http://www.who.int/countryfocus/cooperation_strategy/ccs_lby_en.pdf Accessed 30 October 2012

[359] The World Health Organisation (WHO), Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2011–2015, 2011 http://www.who.int/countryfocus/cooperation_strategy/ccs_lby_en.pdf Accessed 30 October 2012

[360] The World Health Organisation (WHO), Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2011–2015, 2011 http://www.who.int/countryfocus/cooperation_strategy/ccs_lby_en.pdf Accessed 30 October 2012

[361] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

24. TRAFFICKING

24.01 The United States Department of State 'Trafficking in Persons Report 2012: Libya', published 19 June 2012 gave Libya 'a Tier ranking of 3' where 'Tier 3 are countries who governments do not fully comply with the minimum standards and are not making significant efforts to do so.' [362]

24.02 Jane's, in its Sentinel Country Risk Assessment for Libya, security section, posted 19 September 2012, noted that:

'Human trafficking is a major problem in Libya, primarily as a result of its proximity to Europe. It is a transit and a destination country for men, women, and children trafficked from Africa and Asia for the purposes of sexual and labour exploitation…

'Those who have been trafficked that are caught are punished, generally through imprisonment or deportation. However, Libya has begun working with foreign governments to tackle the problem. In 2003, Italy and Libya signed a bilateral agreement to patrol their waters jointly to try to prevent human trafficking…

'In May 2010, the regime took a more robust approach and tried over 450 defendants on human trafficking charges. The defendants, who were reportedly tried in groups of 30 in special security courts, are alleged by the local media to have included members of the armed forces and navy as well as members of the public security services.' [363]

24.03 The United States Department of State 'Trafficking in Persons Report 2012: Libya', published 19 June 2012, stated:

'Libya is a destination and transit country for men and women from sub-Saharan Africa and Asia subjected to forced labour and forced prostitution. Migrants typically seek employment in Libya as labourers and domestic workers or transit Libya en route to Europe. Due to the violent nature of the conflict that seized Libya from February to October 2011, there are no accurate figures available regarding the number of foreigners in Libya. Prior to the February 17, 2011 revolution, there were an estimated 1.5 to 2 million foreigners in Libya, most of whom subsequently fled the country. Many of those that remained in the country, especially migrants from Sub-Saharan Africa, were detained by both pro- and anti-Qadhafi forces as suspected mercenaries; some of these migrants may be trafficking victims. The government estimates that there are currently 8,300 people in prisons and detention centers, many of whom are migrants. Of those, 2,300 are held in Ministry of Justice-controlled prisons, and nearly 6,000 detainees remain outside of government control. Some militia-controlled detention centers have begun to sell detained migrants into conditions of forced labor. NGOs have reported that migrant flows are steadily returning to their pre-revolutionary levels…

'Trafficking networks from Niger, Nigeria, and other sub-Saharan states have also returned to Libya. These networks use a variety of techniques to hold people in conditions of forced labor and forced prostitution, including fraudulent recruitment practices, confiscation of identity and travel documents, withholding or nonpayment of wages, and debt bondage. While most migrants are typically destined for Europe, a

[362] United States Department of State Trafficking in Persons Report 2012: Libya, published 19 June 2012 http://www.state.gov/j/tip/rls/tiprpt/2012/192367.htm Accessed 30 November 2012
[363] Jane's Sentinel Country Risk Assessment – Security 17 September 2012. Subscription only – hard copies available on request. (Current copies kept at British Library)

combination of continued civil unrest, disrupted shipping lanes, and European coastal patrols have resulted in trafficked persons remaining in Libya for extended periods of time. While in Libya, many of the trafficked men are forced into manual labor, and there are credible reports of prostitution rings involved in trafficking sub-Saharan women into brothels, particularly in southern Libya.' [364]

24.04 With regard to prosecution, the report continued, 'Neither the Qadhafi regime nor the TNC demonstrated any discernible anti-trafficking law enforcement efforts over the past year. Libyan law does not prohibit all forms of trafficking. In November 2010, the General People's Committee for Justice drafted amendments to Articles 336-339 of the Libyan Criminal Code, which would have criminalized trafficking in persons, although some of the definitions, as drafted, appear overly broad.' [365]

24.05 Commenting on protection, the report noted:

'The Libyan government took no discernible steps to improve the protection of trafficking victims during the reporting period. The government did not develop or implement procedures for authorities to identify trafficking victims, nor did it demonstrate efforts to refer victims detained by authorities to protective facilities. Furthermore, some reporting indicates that detained foreign migrants, some of whom may be trafficking victims, are further vulnerable to being sold into conditions of forced labor.' [366]

24.06 The Freedom House report, Countries at the Crossroads 2011 - Libya, published 10 November 2011, noted:

'Migration and human trafficking are another serious area of human rights abuse in Libya, which is a common transit point for migrants and refugees fleeing Sub-Saharan Africa for Europe. Libya's 2009 Treaty of Friendship with Italy was in part designed to stem the flow of these migrants into Europe, and Italy has provided Libya with significant funding, patrol boats, and weapons to target these groups. Libyan security forces have been criticized for using live fire against boats they suspect of carrying migrants to Europe, and they routinely repatriate refugees to hostile countries, particularly Eritrea.' [367]

24.07 The UN Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya', published 30 August 2012 noted, 'In view of prevailing Libyan and international concerns over the smuggling of arms and drugs, human trafficking and illegal migration and the spread of transnational organized crime throughout the Sahel, the protection of Libya's southern border remains a top national security priority.'[368]

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[364] United States Department of State Trafficking in Persons Report 2012: Libya, published 19 June 2012 http://www.state.gov/j/tip/rls/tiprpt/2012/192367.htm Accessed 30 November 2012
[365] United States Department of State Trafficking in Persons Report 2012: Libya, published 19 June 2012 http://www.state.gov/j/tip/rls/tiprpt/2012/192367.htm Accessed 30 November 2012
[366] United States Department of State Trafficking in Persons Report 2012: Libya, published 19 June 2012 http://www.state.gov/j/tip/rls/tiprpt/2012/192367.htm Accessed 30 November 2012
[367] Freedom House, Countries at the Crossroads 2011: Libya http://www.unhcr.org/refworld/country,,,,LBY,,4dcbf517c,0.html Accessed 8 February 2012
[368] UN Security Council, Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012

See also Foreign Refugees and Migrants

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25. MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

This information will have been compiled primarily before the uprising so should be read in conjunction with the section 'Since the February 2011 uprising'.

25.01 A report commissioned by Save the Children, Sweden, published August 2011 and entitled 'Children's Rights Situation Analysis Middle East and North Africa – Libya' (Save the Children report 2011) stated, 'The right to free health care as a human right is enshrined in the Health Act No. 106 of 1973. Article 50 of the Act provides that: "Access to medical treatment and related services in State-run hospitals, clinics and therapy units of all types and designations is the established right of each and every citizen on a basis of equality"'. [369]

25.02 Jane's Sentinel Country Risk Assessment, Libya, section on Demography, posted on 17 September 2012, stated:

'All Libyans are entitled to free universal and comprehensive health care through a network of hospitals and clinics. The country's two major hospitals are in Tripoli and Benghazi - both of which are attached to medical schools and other training establishments - while smaller towns and villages have clinics or small hospitals. Primary care to isolated villages and towns is provided by mobile medical facilities…

'However, the health system continues to be beset with problems and those Libyans who can afford it tend to travel abroad for treatment, either to Tunisia or to Europe. The system suffers from under-funding, poor training of personnel, administrative inefficiency, a lack of information due to low levels of computerisation and insufficient numbers of qualified medical staff. In addition, given the low levels of public sector wages many doctors work in state-run facilities in the mornings and have their own private clinics in the afternoons and evenings.

'One of the major challenges for Libya is reducing the levels of communicable diseases, especially HIV/AIDS and tuberculosis. National plans are in place to tackle and arrest the surging rise in HIV infection rates, due mainly to an explosion of drug use in the country since 2000.'[370]

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http://unsmil.unmissions.org/Portals/unsmil/Documents/SGReport30August2012.pdf Accessed 30 October 2012

[369] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012

[370] Jane's Sentinel Demography- Health and Medical. 17 September 2012. Accessed 30 September 2012 Subscription only – hard copies available on request. (Current copies kept at British Library).

25.03 The World Health Organisation (WHO) 'Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2011–2015', published 2011, described how the health system was structured:

'The organization of primary health care services starts at the periphery. Basic health care is offered at this first level through PHC [primary health care] units and centres. There is an intermediary level between the first and second PHC level, where more elaborate services are rendered through polyclinics and clinics at workplaces. At the second level the district and general hospitals provide care to those referred from the first level. At the third level, in specialized and teaching hospitals, advanced care is provided to those referred from the second level.

- Almost all levels of health services are decentralized and all hospitals are managed by secretariats of health at shabia level except Tripoli Medical Centre and Tajoura Cardiac Hospital, which are centrally run.

- First level (unit/centre) usually serves a population of 5000–10 000. The primary health care centres are staffed by: a physician, a nurse, a dentist, a laboratory technician, an X-ray assistant, a pharmacist and a medical records clerk. In some large centres maternal child health, paediatrics and outpatient surgical services are provided.

- In a few urban areas, 3–4 PHC centres are supported by polyclinics, where the specialists from the catchment areas hospital provide services to patients. There are a total of 45 polyclinics in the country…

'Many hospitals operate at very low occupancy rate, employ excess staff and use resources inefficiently. The ratio of hospital beds to population is the highest (37 per 10 000) among the countries of the Region.' [371]

25.04 The same report gave details of the number of facilities and health professionals, citing the Health Information Centre health statistical report, 2009 as its source:

'Specialized hospitals: 25
Central hospitals: 19
General hospitals: 21
Rural hospitals: 32
Total no. of public hospitals: 96
Total no. of beds in public hospitals: 20 289
Total no. of beds in welfare clinics: 1 060
Total no. of beds in private clinics: 1433
Total no. of beds all hospitals: 22 782
Beds per 10 000 population: 37
Primary health care facilities: 1 424'[372]

[371] The World Health Organisation (WHO), Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2011–2015, 2011 http://www.who.int/countryfocus/cooperation_strategy/ccs_lby_en.pdf Accessed 30 October 2012
[372] The World Health Organisation (WHO), Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2011–2015, 2011

25.05 A report of January 2012 by Hani Benamer entitled 'Healthcare System in Libya Factual Report' listed the hospital beds in 2010 by region:

Region	Hospital beds
Tripoli	6497
Benghazi	3645
Jabal Gharbi	1662
Jabal Akhdar & Marj	1367
Darnah & Albetnan	1172
Misratah & surrounding areas	1360
Marqab	864
Jifarah	402
Zawiyah & surrounding areas	616
Zuwarah & surrounding areas	843
Mantiqa Wusta (Adjabyia, Wahat, Sirte, Jufrah & Kufrah)	1061
Mantiqa Janubiya (Sabha, Murzuq, Ghat, Awbari & Adiri)	1200
Total	20689

[373]

SINCE THE 2011 UPRISING

25.06 The World Health Organisation (WHO), in a February 2012 report entitled 'Rebuilding the Libyan health system, post-revolution', noted:

'Libya's new Ministry of Health has moved swiftly to tackle its daunting reconstruction challenge. At the end of 2011, it asked WHO to help revitalize the country's shattered health system.

'One critical problem is the lack of primary health care facilities, such as local clinics and district hospitals. Libya has less than 1 500 of these, for a population of 6.5 million. As a result, people seeking basic or routine care have to line up outside the country's specialist hospitals.

'In some places, facilities were always scarce. In others, they have been badly damaged. The situation is further exacerbated by the fact that many of the foreign health workers who staffed Libya's health services fled the country during the 2011 conflict. Few have returned, creating a need for trained doctors and nurses – particularly in remote and rural areas.

http://www.who.int/countryfocus/cooperation_strategy/ccs_lby_en.pdf Accessed 30 October 2012

[373] Healthcare System in Libya Factual Report, January 2012 http://wmclibya.org/wp-content/uploads/2012/01/Libya%20Health%20report.pdf Accessed 30 October 2012

'The conflict has brought new health needs. As Libya's Deputy Minister of Health, Adel Mohamed Abushoffa, points out: "There are a lot of critical areas that we need to address now, for example mental health and psychosocial support. After the conflict, a lot of people need help in this area. We have a real shortage of psychiatrists. We currently have just fourteen in the whole country."

'Meanwhile, there is still a chronic need for services to make pregnancy and childbirth safer and to give children a healthy start in life, alongside the ongoing need for good emergency health services.

'A direct result of the lack of domestic services is that tens of thousands of Libyans are currently receiving health care abroad, which costs the Government millions of dollars per day.' [374]

25.07 The International Committee of the Red Cross [ICRC] report of 17 October 2012 'Facts and figures, January – September 2012', in the section on 'health care and first aid', stated:

- 'The ICRC provided emergency medical supplies for 52 health facilities, including enough materials to treat 300 weapon-wounded patients, triage equipment, first-aid items, wound-dressing materials, emergency drugs, body bags and drugs for the treatment of chronic illnesses in Al-Urban in response to acute shortages.
- Following clashes in Zwara, Jmeil, Ragdaline, Sgeiga, Mizdah, Ghadamis, Kufra, Brak and Bani-Walid that resulted in the death of more than 250 people and in injury to over 1,200, the ICRC brought aid directly to the health facilities and ambulance services in those areas and provided them with emergency medical supplies.
- In its capacity as a neutral intermediary, the ICRC evacuated a total of 93 weapon-wounded patients from the above areas.
- Around 240 people, including 75 from the Libyan Red Crescent, attended three-day first-aid workshops.
- Eleven ICRC drivers in Tripoli attended a two-day first-aid workshop.' [375]

25.08 The International Medical Corps 'Libya Response External Sit-Rep 87' of 18 January 2012, stated:

'International Medical Corps has been on the ground responding in Libya since the initial onset of the crisis and is continuing to provide ongoing support as the country recovers and rebuilds…

'Nursing Support: In response to critical shortages of skilled nurses, International Medical Corps is providing nursing staff to address acute gaps at hospitals in Sirte, Misurata, Zintan, Jadu, Gharyan, Tripoli and Sabha. At the same time, these specialized

[374] WHO, Rebuilding the Libyan health system, post-revolution, February 2011 http://www.who.int/features/2012/libya_health_system/en/index.html Accessed 30 October 2012

[375] ICRC Facts and figures, January – September 2012, 17 October 2012. Accessed 30 October 2012

staff are also conducting on-the-job trainings to strengthen the capacity of Libyan nurses. At the shortages for skilled nursing staff extend to the primary health care level, trainings are also being undertaken at International Medical Corps-supported clinics in the Western Mountains and Sirte regions.

'Primary Health Care Support: Mobile medical teams are supporting 15 primary health care clinics across Libya. In Tarhuna (Tripoli region), Kararim (Misurata region) and the Sirte region, International Medical Corps is providing medical care for internally displaced persons (IDPs) at clinics located in settlement areas. While in the Western Mountains, mobile teams are supporting eight community clinics and complimenting these services with health education sessions for patients diagnosed with, or at risk of developing, chronic diseases. Teams are also assisting clinics to have needed medical supplies in-stock, by facilitating clinic supply requests from the MoH central warehouse and distributing urgently needed supplies. Furthermore, International Medical Corps is mapping primary health care services in districts of operations to assist in building upon limited information on primary health care services throughout Libya. On the Libyan/Tunisian border, health post consultations for those who fled Libya during the conflict at the Shousha refugee camp are ongoing.

'Mental Health and Psychosocial Support: International Medical Corps has undertaken mapping of mental health and psychosocial support services across Libya to assist in the identification of current capacity and gaps. Furthermore, teams are undertaking trainings to strengthen local mental health capacity and are working to address the needs for both specialized mental health staff as well as to train primary health care level staff, as part of efforts to integrate mental health into general health care, making services more accessible, widely available and less stigmatizing.'[376]

25.09 The Sydney Morning Herald, in a report of 16 July 2012, 'Libya's crumbling health system worsened by rise in medical tourism', stated:

'A multimillion-dollar medical tourism industry catering to Libyan patients has emerged in neighbouring countries, stripping the already struggling health system of investment and blocking efforts to rebuild a sector rife with corruption.

'The extent of Libya's crumbling infrastructure is most apparent in the health system. Hospitals are poorly staffed, many have endured long periods of unfinished construction work and medical equipment is outdated or sits unused because no one in Libya has the technical expertise to operate it.

'As a result, Libyans' faith in their health system is dangerously low, undermined by the government's investment of millions to send people overseas to get treatment for even simple conditions and fears that hospitals are so badly resourced that they are dangerous.

'"Some people go to Europe just to get physiotherapy," says Salama Aghila, a surgeon at Tripoli's General Hospital…And every time the health ministry agrees to a patient's request for such surgery to be performed overseas, it is $US10,000 spent in another country's health system and a loss for Libya, he says. "The trust in the system has been lost - now people have started going to Tunisia for the simplest things."

[376] International Medical Corps, Libya Response External SitRep 87, http://nftc.org/default/uslba/Libya-response.pdf 18 January 2012 Accessed 30 October 2012

'…But this health tourism is creating regional tensions, with Tunisia and Jordan several times over the last 12 months threatening to cut off medical services to Libyans unless millions in outstanding health bills are paid. As of last month, Libyan authorities were believed to owe private hospitals in Jordan as much as 60 million Jordanian dinars ($82.9 million).' [377]

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HIV/AIDS – ANTI-RETROVIRAL TREATMENT

25.10 The Save the Children report 2011 noted, 'The country has a low HIV/AIDS prevalence rate. Treatment and medicine are provided to patients free of charge.' [378]

25.11 UNGASS [United Nations General Assembly Special Session] Country Progress Report, 'Libya: Reporting period: January 2010 – December 2011', submission date: March 31, 2012 noted:

'HIV treatment is currently provided to an estimated 2000–2500 PLHIV [people living with HIV] according to NCDC [National Center for Diseases Control-Libya] data More accurate data are not available since there is no central reporting system in place. Treatment services are available at two governmental infectious disease hospital departments in Tripoli, another two in Benghazi, and one in Sabha. ARVs [anti-retrovirals] are supplied by the NCDC. Although ART [anti-retroviral treatment] is free for all Libyan citizens, recent shortages have led to prolonged treatment interruptions over the past several months.

'Due to the conflict, the ARV supply was disrupted for over six months in 2011, leading to an emergency situation for PLHIV. Among those who are not able to buy drugs from neighboring countries, sharing of ARVs and relying on partial treatment with one- or two-drug regimens are reportedly common. In this scenario, development of resistance to first-line ARV drugs is a serious concern, which is further complicated by the lack of capability for resistance monitoring in Libya. Doctors at the Infectious Diseases Department of the Tripoli Central Hospital report increasing numbers of PLHIV admitted in very advanced stages of disease with high mortality.

'National guidelines for treatment of adults and children were developed in 2009 in collaboration between NCDC and the European Union.' [379]

25.12 The World Health Organisation (WHO) 'Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2011–2015', published 2011, noted:

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[377] The Sydney Morning Herald, Libya's crumbling health system worsened by rise in medical tourism, 16 July 2012. http://www.smh.com.au/world/libyas-crumbling-health-system-worsened-by-rise-in-medical-tourism-20120715-2245y.html Accessed 30 October 2012

[378] Save the Children Sweden Children's Rights Situation Analysis Middle East and North Africa – Libya, August 2011 http://mena.savethechildren.se/PageFiles/2867/Regional%20MENA%20CRSA.pdf Accessed 23 January 2012

[379] UNGASS Country Progress Report, Libya: Reporting period: January 2010 – December 2011, 31 March 2012. http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_LY_Narrative_Report[1].pdf Accessed 30 October 2012

'National guidelines have been formulated for management of people living with HIV/AIDS. A special centre is providing treatment to AIDS patients.

'The strategic plan for 2008–2012 for HIV/AIDS prevention and control has been developed. The strategy includes the introduction of a harm reduction programme and establishment of voluntary testing and counselling in major cities. To mobilize local leaders and resources, AIDS prevention committees have been established in each shabia. A revised school curriculum has also been developed to fight HIV/AIDS. Recently a memorandum of understanding was signed for technical and financial support from the European Union for building national capacity on HIV/AIDS and other infectious diseases.' [380]

25.13 The Libyan-European Partnership for Infectious Disease Control in a 2008 document (Annex 1) noted:

'In each region there are hospitals, which function as reference centres with infectious diseases units where patients who are HIV/AIDS positive can obtain treatment. The Tripoli Medical Centre is the reference for half of the country. The Tripoli Central Hospital is also considered a regional hospital. The Jamahiriya hospital is the reference for the Benghazi region. Three regional laboratories fall under the NCIDC [National Centre for Infectious Diseases and Control] and are responsible for the investigations related to infectious diseases. The one in Tripoli is the national reference laboratory for infectious diseases. There is a regional NCIDC laboratory in Benghazi and NCIDC is planning one in Sabha. The hospitals infectious diseases units also have laboratories.

'The NMPECO (National Pharmaceutical and Medical Supplies Company) is a semiprivate company. A Ministry's decree states that NMPECO is the only company allowed to import antiretroviral treatment in Libya. Antiretroviral and Tuberculosis treatments for all infectious diseases units are distributed by the NCIDC's pharmacy in Tripoli, which obtains the antiretroviral medicines from the NMPECO.'[381]

25.14 UNAIDS in a report of 24 January 2012, entitled 'New government of Libya identifies AIDS as a priority' noted:

'Between 2000 to 3000 people living with HIV were accessing antiretroviral (ARV) treatment before the war. Now the ARV supply has been interrupted for more than six months. Despite efforts from the Ministry of Health to procure the HIV drugs, challenges remain. The ministry of Health together with WHO has discussed the possibility to launch an appeal to get immediate supply of ARVs on loan from other countries or from drug companies. UNAIDS will coordinate the work of the UN in collaboration with the

[380] The World Health Organisation (WHO), Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2011–2015, 2011 http://www.who.int/countryfocus/cooperation_strategy/ccs_lby_en.pdf Accessed 30 October 2012

[381] The Libyan-European Partnership for Infectious Disease Control, 2008 Document http://ec.europa.eu/europeaid/documents/aap/2008/af_aap-spe_2008_lby.pdf Accessed 4 January 2011

transitional government in order to re-construct the procurement and supply system of ARVs to restore the continuity of services and support to people living with HIV.' [382]

25.15 The Medical Advisor's Office (BMA) of the Netherlands Ministry of the Interior and Kingdom Relations, Immigration and Naturalisation Service stated on 13 September 2012 in a response provided through the MedCOI service (European Commission funded project to share medial information in countries of origin) that the following antiretroviral medication (Nucleoside / nucleotide reverse transcriptase inhibitors) was available: Zidovudine, lamivudine and tenofovir, and that this medication could be obtained at the Tripoli Medical Centre and the Al Sheffa hospital in Tripoli. [383]

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CANCER TREATMENT

25.16 With regard to the availability of cancer treatment, the Medical Advisor's Office (BMA) of the Netherlands Ministry of the Interior and Kingdom Relations, Immigration and Naturalisation Service stated in a response provided through the MedCOI service (European Commission funded project to share medial information in countries of origin) on 11 September 2012, 'In- and outpatient medical treatment and follow up by an oncologist [is] available at Tripoli Medical Centre, Tripoli.'[384]

MENTAL HEALTH

25.17 With regard to the availability of psychiatry, the Medical Advisor's Office (BMA) of the Netherlands Ministry of the Interior and Kingdom Relations, Immigration and Naturalisation Service stated in a response provided through the MedCOI service (European Commission funded project to share medial information in countries of origin) on 13 September 2012, that in- and out-patient treatment by a psychiatrist and by a psychologist was available at Tripoli Medical Centre, and Al Sheffa hospital in Tripoli.' [385]

25.18 The World Health Organisation, in a news release of February 2012, 'Rebuilding the Libyan health system, post-revolution', quoted Libya's Deputy Minister of Health, Adel Mohamed Abushoffa, as saying, 'There are a lot of critical areas that we need to address now, for example mental health and psychosocial support. After the conflict, a

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[382] UNAIDS, New government of Libya identifies AIDS as a priority, 24 January 2012. http://www.unaids.org/en/resources/presscentre/featurestories/2012/january/20120124libya/ Accessed 30 October 2012

[383] Medical Advisor's Office (BMA) of the Netherlands Ministry of the Interior and Kingdom Relations, Immigration and Naturalisation Service (MedCOI). Response ref BMA-4333 Tripoli, 13 September 2012
Hard copy available from COIS on request.

[384] Medical Advisor's Office (BMA) of the Netherlands Ministry of the Interior and Kingdom Relations, Immigration and Naturalisation Service (MedCOI). Response ref BMA-4341 Tripoli, 11 September 2012
Hard copy available from COIS on request.

[385] Medical Advisor's Office (BMA) of the Netherlands Ministry of the Interior and Kingdom Relations, Immigration and Naturalisation Service (MedCOI). Response ref BMA-4334 Tripoli, 13 September 2012
Hard copy available from COIS on request.

lot of people need help in this area. We have a real shortage of psychiatrists. We currently have just fourteen in the whole country.'[386]

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26. FREEDOM OF MOVEMENT

26.01 The United States Department of State 'Country Report on Human Rights Practices 2011, Libya' published 24 May 2012 and covering 2011, (USSD Report 2011) stated:

'The Qadhafi government generally did not restrict freedom of movement within the country, apart from conflict zones. In-country movement became more dangerous as a result of the conflict, and after the conflict ended in October some autonomous militias imposed barriers to movement.

'Under the Qadhafi regime, freedom to travel outside the country was at times restricted by the arbitrary seizure or non-issuance of passports.' [387]

For information about women – see Women: Freedom of Movement.

26.02 The Foreign and Commonwealth Office, on the 'Travel and Living abroad – Libya' page of its website, updated 5 October 2012, noted, 'Land border crossing points may close with little or no notice. The road to the Egyptian land border is open but has numerous checkpoints and may be temporarily restricted without notice, most recently on 10 April. Access to the Tunisian land border may also be temporarily restricted without notice. Tunisian security in the border area has been increased.' [388]

26.03 Integrated Regional Information Networks (IRIN), in a report of 29 December 2011, 'Libya's long road to disarmament' noted, 'At the western entrance to Misrata from the main coastal highway, cars line up before an archway made from stacked shipping containers. Armed men wave through some drivers and check the IDs of others. This is one of a series of militia-controlled and coordinated checkpoints that have earned the city nickname 'Republic of Misrata' - for its order and some say autocratic nature.' [389]

26.04 Aljazeera, in an article of 30 October 2012, entitled 'Libyan army has "no control" in Bani Walid', noted:

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[386] WHO, Rebuilding the Libyan health system, post-revolution, February 2012. http://www.who.int/features/2012/libya_health_system/en/index.html Accessed 14 November 20122

[387] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. 24 May 2012 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[388] Foreign and Commonwealth Office, Travel and Living Abroad – Libya, 5 October 2012 http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/middle-east-north-africa/libya Accessed 7 November 2012

[389] Integrated Regional Information Networks (IRIN), Libya's long road to disarmament, 29 December 2011 http://www.unhcr.org/refworld/country,,,,LBY,,4f0ab5ee2,0.html Accessed 17 January 2012

'Libya's defence minister has said that the army has no control over Bani Walid, one of the last bastions of Muammar Gaddafi's regime, and that armed groups there prevent families from returning home.

'"The chief of staff has no control over the town and therefore armed men are able to prevent families from coming back," Osama al-Jueili told journalists in Tripoli on Monday [29 October 2012], adding that "gunmen" hold a checkpoint leading to the town…

'His bleak assessment came five days after the army chief-of-staff officially announced the end of all military operations in Bani Walid, which was branded by the authorities as a hideout for criminals and former regime loyalists…

'Clashes between pro-government forces and Bani Walid fighters this month killed dozens of people and wounded hundreds, exacerbating tribal tensions and underscoring the difficulties of achieving national reconciliation.

'Tribal elders and commanders in the town had repeatedly called into question the neutrality of the army, which is still being formed, and accused "lawless Misrata militias" of seeking to destroy Bani Walid.'[390]

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27. FOREIGN REFUGEES AND MIGRANTS

27.01 The UNHCR (UN High Commissioner for Refugees) noted in its June 2012 fact sheet on Libya, 'Libya is a signatory to the 1969 Convention of the Organization of the African Union (OAU) governing the specific aspects of refugee problems in Africa but is not party to the 1951 Convention relating to the Status of Refugees. In the absence of a national asylum system, registration, documentation and refugee status determination activities have been carried out by UNHCR.' [391]

27.02 Amnesty International, in a report of 13 November 2012, entitled 'We are foreigners, we have no rights', stated:

'In a prevailing atmosphere of lawlessness, racism and xenophobia, undocumented foreign nationals in Libya are at continuous risk of exploitation, arbitrary and indefinite detention in harsh conditions, as well as beatings, sometimes amounting to torture.

'Despite the risks, large numbers of foreign nationals continue to arrive in Libya through its porous borders, fleeing war or persecution or searching for better economic opportunities. People from countries such as Burkina Faso, Cameroon, Chad, Eritrea, Ethiopia, Ghana, Niger, Nigeria, Somalia and Sudan make long, dangerous and expensive journeys, crossing into Kufra in the south-east or Sabha in the south-west.

[390] Aljazeera, Libyan army has 'no control' in Bani Walid, 30 October 2012. http://www.aljazeera.com/news/africa/2012/10/20121029234922385278.html Accessed 7 November 2012

[391] UNHCR, Fact sheet – Libya June 2012 http://www.unhcr.org/4c907ffe9.html Accessed 12 November 2012

Some embark on further perilous journeys across the Mediterranean to reach Europe. Many perish at sea. Others are intercepted by the Libyan coastguard and placed in indefinite detention.

'Foreign nationals are held at a plethora of detention facilities including "holding centres" specially designed for irregular migrants. Others are held directly by militias in makeshift detention centres like military camps or hangars. Militiamen told Amnesty International that they felt that it was their "national duty" to arrest and detain "irregular migrants". Between May and September 2012, Amnesty International visited nine detention centres where foreign nationals were held for "migration-related offences" in and around Az-Zawiya, Benghazi, Gharyan, Khoms, Kufra, Sabrattah and the capital, Tripoli. At the time of Amnesty International's visits, these centres held around 2,700 detainees in total. Detainees included pregnant women and women with young children, as well as unaccompanied children held alongside adult strangers. Detainees shared stories of appalling conditions, beatings, insults and exploitation. Many showed Amnesty International their fresh injuries or scars as a result of beatings meted out as punishment for trying to escape or for other "disruptive" behaviour.'[392]

27.03 The report continued:

'For those held indefinitely for "migration offences" pending deportation, there is no possibility to challenge their forcible removal from the country. The head of the Department of Combating Irregular Migration under the Ministry of Interior told Amnesty International in September 2012 that some 4,000 individuals have been deported so far in 2012 to countries including Chad, Niger, Nigeria and Sudan. In some cases, those deported are required to pay their own travel expenses. Libyan officials blamed delays in deportations – resulting in prolonged detention – on financial constraints and a lack of cooperation from detainees' embassies.' [393]

27.04 The report also noted, 'Abuses take place against a backdrop of widespread racism, whereby foreign nationals are blamed for crime, disease and other purported ills in Libyan society. Widespread rumours of the use of "African mercenaries" by al-Gaddafi's government further fuelled racism and xenophobia.' [394]

For specific details of claimed abuses read the full report, published 13 November 2012: Amnesty International - We are foreigners, we have no rights

27.05 The UNHCR, in its September 2012 external update on Libya noted:

'In September, UNHCR Libya renewed the documents of 170 refugees and asylum seekers. With the closure of Al Wafa's Office in Gargarish, renewal activities are now taking place in UNHCR's office…In September; UNHCR conducted a number of monitoring visits to assess protection needs of persons of concern in detention centres

[392] Amnesty International, We are Foreigners we have no rights, 13 November 2012 http://www.amnesty.org/en/library/asset/MDE19/020/2012/en/775a355f-61eb-41d8-a3d8-b96dffe17504/mde190202012en.pdf
[393] Amnesty International, We are Foreigners we have no rights, 13 November 2012 http://www.amnesty.org/en/library/asset/MDE19/020/2012/en/775a355f-61eb-41d8-a3d8-b96dffe17504/mde190202012en.pdf
[394] Amnesty International, We are Foreigners we have no rights, 13 November 2012 http://www.amnesty.org/en/library/asset/MDE19/020/2012/en/775a355f-61eb-41d8-a3d8-b96dffe17504/mde190202012en.pdf

in Libya (see below). Furthermore the office in Tripoli set up an information telephone hot-line for refugees and asylum seekers. In East Libya, UNHCR continued to receive numerous requests through the hot-line. Most calls regarded information on legal documentation from UNHCR, renewal of attestations, resettlement and assistance with studies. Some also reported fear of arbitrary arrest. In East Libya, requests related to medical or financial assistance are now referred to UNHCR's implementing partner, CESVI [an Italian NGO].'[395]

27.06 This report contained information about the UNHCR's monitoring visits to detention centres in Libya:

'**Tawysha detention centre**: On 6 September, UNHCR conducted a mission to Tawysha detention centre to monitor protection needs of the detainees. 754 individuals are detained in this detention centre and half of them are Somali nationals. UNHCR interviewed a minor with extended family members in The Netherlands and one serious medical case was identified by International Medical Corps. The concerned person was subsequently released and transferred to a hospital for medical treatments.

'Al Khums detention centre: On 12 September, third country nationals detained in Al Khums went on strike lamenting the poor detention conditions. The situation escalated and 45 of them escaped. Eventually, 10 of them were rearrested by detention authorities. Few of the detainees who were injured were transferred to a hospital the same day.

'Ganfuda detention centre: UNHCR conducted a protection monitoring visit to Ganfuda detention centre where the number of detainees has increased. As of September, 832 persons are detained in the detention centre. Detainees include 31 Eritreans, 78 Somali, 30 Ethiopians, 61 Bangladeshi, 124 Egyptians, 120 Chadians, 360 Sudanese, 15 Niger, 2 Malians, 1 Cameroon, 1 Ghanaian, 1Ivorian and 8 Pakistani. 12 unaccompanied minors are also detained and the office is assisting them in collaboration with CESVI. UNHCR is also following up on the Eritreans and Ethiopians who were recently transferred from the Libyan Red Crescent site in Benghazi to Ganfuda detention centre.

'Obari detention centre: A new detention centre has been recently established by the Department of Irregular Migration in Obari in South-West Libya. As of 21 September, 196 Sub-Saharan Africans were detained in Obari.'

See also Trafficking and Military service: Conscription during 2011 uprising.

27.07 A report, published on 1 May 2012 by the UN High Commissioner for Refugees, 'Refugees struggle to get by in Tripoli', noted:

'[There are] almost 6,700 refugees and 2,700 asylum-seekers from about 20 countries registered with UNHCR in Libya, though the true figure could be considerably higher. Most stayed in Libya during last year's crisis, with about 1,200 seeking shelter in Tunisia and Egypt.

[395] UNHCR, September 2012 external update Libya. http://www.unhcr.org/501f781e9.html Accessed 12 November 2012

'The Iraqis form the largest group (3,100 refugees and asylum-seekers), followed by Palestinians, Eritreans, Sudanese and Somalis. UNHCR believes up to 10,000 Syrians have entered Libya recently.

'The refugee agency stopped new registrations in June 2010 on orders from the Gaddafi regime and is currently seeking a new agreement with the interim Libyan authorities. But it monitors the situation of refugees and provides assistance with international and local partners, including health care, psycho-social counselling, cash assistance, non-food items and dry food packages. UNHCR also helps find jobs for refugees and is setting up a community centre to help make refugees self-reliant with vocational and training opportunities.'[396]

27.08 Aljazeera, in an article of 12 March 2012, entitled, 'For refugees in Libya, hard to stay or go', noted 'Migrants who were interviewed, often had their passports confiscated or lost early on, and none possessed entry visas. Libya is not a destination country for most, but a stepping-stone to Europe. While stigma towards Sub-Saharan migrants may have lessened since the war - when Muammar Gaddafi employed black mercenaries to fight against the rebels - racism is still pervasive, they say.'[397]

27.09 Amnesty International, in a report of 18 September 2012, entitled 'Migrants in Libya: "They don't treat us like humans"' described conditions in the Khoms detention centre for "irregular migrants":

'On the evening of 12 September, a dispute between Eritrean and Nigerian detainees at the Khoms detention centre for "irregular migrants" had escalated into violence. During the chaos a group of Somalis chose their moment to escape.

'The nine guards on duty were overwhelmed and they called in reinforcements.

'According to detainees, some 10 vehicles with mounted machine guns arrived around 9pm and then men in military uniforms forced all Eritrean detainees into the courtyard for a beating.

'A 29-year-old man from the Eritrean capital Asmara, who has spent six months in various detention centres across Libya, told Amnesty International that one man in military uniform hit him on the head with a metal bar and deliberately stepped on his hand with his military boots.

'Other Eritreans said they were forced to lie down on the ground and were hit with rifle-butts or metal wires. The severest beatings were reserved for the recaptured Somali escapees…

'During a previous visit to Khoms, detainees - mainly from Sub-Saharan African countries like Cameroon, Chad, Eritrea, Niger, Nigeria, Somalia and Sudan - recounted their long list of grievances: overcrowding, inadequate nutrition, no regular access to healthcare, lack of recreational activities and outdoor time, occasional beatings, racism, insults and poor hygiene.

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[396] UNHCR, Refugees struggle to get by in Tripoli, 1 May 2012. http://www.unhcr.org/4f9fb16b9.html Accessed 7 November 2012

[397] Aljazeera, For refugees in Libya, hard to stay or go, 12 March 2012. http://www.aljazeera.com/indepth/features/2012/03/201231183925246482.html 12 November 2012

'Their top concern remained that they were detained indefinitely and did not know what fate awaited them.

'Detention centre guards and administrators also expressed concern about the lack of resources to meet the needs of the some 370 detainees including about 30 women. They complained about delays in repatriating migrants and the frequent escape attempts.

'The detention facility is managed by the Department of Combating Irregular Migration under the Ministry of Interior, but police officers and guards-on-duty rely on local armed groups nominally part of the Libyan army to contain riots and recapture escapees.' [398]

27.10 The Security Council's 'Report of the Secretary-General on the United Nations Support Mission in Libya', published 30 August 2012, noted, in the 'Humanitarian situation' section:

'In the absence of a comprehensive legal framework governing their presence in Libya, irregular migrants and potential asylum seekers continue to be at risk of arrest, detention, deportation and exploitation with little legal recourse. While the Ministry of the Interior has gradually increased its control over some migrant detention facilities, many continue to be operated by different authorities without guidance or support. In the case of facilities in Gatroun and Umm al Aranib, more than 1,000 people, including women and children, endure overcrowding, food and water scarcity and poor sanitation. The Office of the United Nations High Commissioner for Refugees, the International Organization for Migration and other organizations have responded with humanitarian assistance to these and other facilities. Early in July, several hundred migrants were deported to Chad without legal review and in difficult conditions, during which time two died.

'According to estimates by the Office of the United Nations High Commissioner for Refugees, more than 1,300 people, including potential asylum seekers, children and pregnant women, attempted the dangerous sea crossing from Libya to Europe in 2012. Since May, more than 103 people have been declared dead or lost at sea attempting the journey.' [399]

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[398] Amnesty International, Migrants in Libya: "They don't treat us like humans", 18 September 2012 http://www.amnesty.org/en/news/blog-migrants-libya-they-don-t-treat-us-humans-2012-09-18 Accessed 7 November 2012

[399] The Security Council Report of the Secretary-General on the United Nations Support Mission in Libya, 30 August 2012. http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=5053275c2&skip=0&coi=LBY&querysi=children&searchin=fulltext&display=10&sort=date Accessed 31 October 2012

28. CITIZENSHIP AND NATIONALITY

28.01 The March 2001 United States Office of Personnel Management's comprehensive record of 'Citizenship Laws of the World' reported the following information on Libyan citizenship:

'**Citizenship**: Information is based upon the Nationality Law #17, dated 1954, and Law #3, dated 1979. Persons born before October 7, 1951 (date of Libyan Constitution), who did not have a previous citizenship and had been residing in Libya, obtained citizenship under the following conditions:
Person was born in Libya.
Person was born abroad of a mother or father born in Libya.
Person had been living in Libya for at least 10 years before October 7, 1951.

- **By Birth**: Birth within the territory of Libya, on or after October 7, 1951, does not automatically confer citizenship.

- **By Descent**: Child born on or after October 7, 1951, of a Libyan mother, father, grandmother, or grandfather, regardless of the child's country of birth.

- **Marriage**: A foreign woman who marries a citizen of Libya may obtain Libyan citizenship if she renounces former citizenship, resides with her husband in marriage for at least two years, and notifies the Minister of Foreign Affairs of her desire to obtain Libyan citizenship. If the marriage ends in divorce, the woman's citizenship will only be removed if she remarries a non-Libyan and leaves the country.

- **By Naturalisation**: Libyan citizenship may be acquired upon fulfilment of the following conditions:

  Person has renounced previous nationality, is a legal adult, has good morality and mental health, and desires to remain in Libya. Residency requirements vary:

  Arab man married to a Libyan woman - four years.

  Person of Arab descent - five years.

  Children (of father's nationality) of Libyan mother and foreign father – three years.

'Dual Citizenship: Not recognised.

'**Loss of citizenship**:

- **Voluntary**: No information was provided.

- **Involuntary**: The following are grounds for involuntary loss of Libyan citizenship:

  Person obtains new citizenship without government permission.
  Person enlists in foreign military or attempts to avoid Libyan conscription.
  Person seeks asylum in another country.
  Person attempts to smuggle money out of the country.
  Person converts to a religion other than Islam.

Person deserted country after 1969 revolution.
Person refuses to return home within 6 months of state request.
Person commits treasonous acts against the state.

Additional grounds for a naturalized citizen:

Person commits crimes against the security of the state.
Person remains outside the country more than two years.
Person obtained citizenship through fraud or false statement.'[400]

28.02 The Africa Governance Monitoring and Advocacy Project in its 'Citizenship Law in Africa: A comparative study updates and corrections', October 2010 noted with regard to Libya:

'In 2010, Libya adopted a new nationality law (Law No. 24 of 2010) that brought in important reforms, in particular to remove ethno-religious discrimination in favour of the grant of nationality to Arabs and Muslims, and to limit the draconian powers of the state to take away Libyan nationality. However, Libyan nationality law still discriminates on gender grounds. Libyan women cannot pass their nationality to their foreign husbands, while only the child of a Libyan father has the right to nationality, whether born in country or abroad. Although the 2010 law allows for the grant of nationality to the child of a Libyan mother and foreign father, this is at the discretion of the state, and regulations are required to implement it. Until 2010, Libyan law allowed for deprivation of nationality, however acquired, on an extraordinarily wide range of grounds. The 2010 amendments allow revocation of citizenship from birth only if based on fraud or false information, and of naturalised citizenship only within ten years of obtaining it and on the basis of fraud or 'actions affecting Libya's security or interests', or residence outside the country for more than two years without permission. Unusually and problematically, the law provides for children to be deprived of nationality if the father's is revoked.' [401]

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29. DOCUMENTATION

29.01 The United States Department of State, Country Reciprocity Schedule: Libya, undated, but accessed 4 December 2012 gave the following information about the procedures to obtain documents:

'Birth Certificates:

'Available. To obtain a Libyan birth certificate, non-national applicants must send all pertinent information (including name, date and place of birth, and full names of parents) to their respective Embassy in Tripoli. That Embassy will then make a formal request to the Ministry of Foreign Affairs to obtain the certificate from the appropriate

[400] United States Office of Personnel Management, Citizenship Laws of the World, 2001 (p. 120) http://www.opm.gov/extra/investigate/is-01.pdf Accessed 12 November 2012
[401] The Africa Governance Monitoring and Advocacy Project in its Citizenship Law in Africa: A comparative study Updates and corrections, October 2010 http://www.opensocietyfoundations.org/sites/default/files/citizenship-updates-20101221_0.pdf Accessed 12 November 2012

municipality. Libyan applicants, or a friend or relative of the applicant, must appear in person at the appropriate municipality office.

'Marriage Certificates:

'Available. Non-national applicants must follow the same procedures as for birth certificates. Libyan applicants, or a friend or relative of the applicant, must appear in person at the appropriate Sharia (Moslem religious) court.

'Divorce Certificates:

'Unavailable for non-nationals. Available for Libyans. See Marriage Certificate for procedures.

'Police and Prison Records:

'A "Criminal Status Certificate," issued by the Criminal Identification Department of the General Administration for Criminal Investigation of the General People's Committee for Public Security, is available to residents of Libya. The individual must submit an application with two 2 photographs and proof of residency to his/her local neighborhood People's Security Office for a minimal fee (currently LD 3-5). The certificates are not available to former residents or to non-residents.

'Military Records:

'Unavailable.'[402]

29.02 Associated Press reported on 19 March 2012 that The Libyan government approved changing the colour of Libyan passports from green, symbolic of Gadhafi's rule, to dark blue. [403]

See also Chapter 23 Children - documentation

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30. EXIT AND RETURN

The information contained in this section relates to that during the Gaddafi era. Information could not be found as to whether or not the situation has changed under the new administration.

30.01 The United States Department of State Country Report on Human Rights Practices 2011, Libya, published 24 May 2012 and covering 2011, stated, 'Under the Qadhafi

[402] US Department of State, Country Reciprocity Schedule – Libya (undated) http://travel.state.gov/visa/fees/fees_5455.html?cid=9671#docs Accessed 4 December 2012
[403] Find Law, Associated Press Law Libya sending ex-rebels abroad for police training, 19 March 2012. http://news.findlaw.com/apnews/9f9765865dc945d786b3869da2e0d85d Accessed 3 December 2012

regime, freedom to travel outside the country was at times restricted by the arbitrary seizure or non-issuance of passport.'[404]

30.02 Research published 12 November 2009 by the Immigration and Refugee Board of Canada, 'Libya: Process and procedures to follow for a Libyan citizen wanting to exit the international airport in Tripoli', stated:

'In 26 October 2009 correspondence, an official with the Canadian Embassy in Tunis (responsible for Libya) stated that, [with regard to] exit procedures and requirements: There are no restrictions on travel, in fact, Libyan citizens have not needed exit visas for almost fifteen years… However the Official reported that travel letters are sometimes requested 'randomly' from the following people:

'- If the person is a civil servant - they could be asked for a letter of permission for them to take their annual leave.

'- If the person is a young male - they may be asked for proof of their military service.

'- If it is a woman - she could be asked for a letter for permission to travel from her father to her husband.

'[With regard to] citizens facing judicial proceedings, the Official stated that …if the crime was not serious they would have been able to leave. If the crime was serious the name goes on a security list and the passport is seized.' [405]

30.03 Minority Rights Group International, in their 'World Directory of Minorities and Indigenous Peoples - Libya: Overview', updated August 2011, noted, 'Currently, Berbers who live in the south of Libya have not been granted Libyan citizenship and also face serious discrimination: they have no rights to…get a passport.' [406]

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31. EMPLOYMENT RIGHTS

31.01 The United States Department of State 'Country Report on Human Rights Practices 2010, Libya', published 24 May 2012 and covering 2011 (USSD 2011), stated:

[404] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[405] Immigration and Refugee Board of Canada, Libya: Process and procedures to follow for a Libyan citizen wanting to exit the international airport in Tripoli, 12 November 2009 http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=4e4270ba2&skip=0&coi=LBY&querysi=exit&searchin=title&display=10&sort=date Accessed 18 January 2012

[406] Minority Rights Group International, World Directory of Minorities and Indigenous Peoples – Libya: Overview, August 2011 http://www.minorityrights.org/4171/libya/libya-overview.html Accessed 18 January 2012

'The minimum wage was 250 dinars (approximately $200) per month. Although some public sector employees, such as professors, received pay increases in recent years, a freeze imposed more than a decade before continued to depress earnings. The Qadhafi government paid an additional pension of 90 dinars ($72) for a single person, 130 dinars ($104) for a married couple, and 180 dinars ($144) for a family of more than two. The interim government generally continued these payment practices, except when wages were frozen for periods during the conflict. The government heavily subsidized rent and utilities, and government workers received an additional 130 dinars ($104) per month for food staples during the year. One-third of Libyans lived below the poverty line.

'The legal workweek was 40 hours. Under Qadhafi, the law stipulated the standard working hours, night shift regulations, dismissal procedures, and training requirements. The law did not specifically prohibit excessive compulsory overtime.

'The Qadhafi government set occupational health and safety standards. The Qadhafi-era law granted workers the right to court hearings regarding these standards and provided workers with the right to remove themselves from unhealthy or unsafe working conditions without jeopardizing their employment.

'Under Qadhafi, labor inspectors were assigned by municipal governments to inspect places of work for compliance with government-defined health and safety standards. Certain industries, such as the petroleum sector, attempted to maintain standards set by foreign companies. There was no information on whether workers could remove themselves from an unhealthy or unsafe work situation without jeopardizing their employment. There was no information available on whether inspections continued during the conflict.' [407]

31.02 The Freedom House report, Countries at the Crossroads 2011 - Libya, published 10 November 2011 and commenting on the Gaddafi era, noted,

'There are no independent labour unions in Libya. Independent trade unions are banned, and all workers are required to be members of the government-run General Trade Union Federation of Workers. The right to strike exists in theory, under chapter 150 of the Labor Code, but workers cannot legally protest without union consent, which is never granted because of government control. Migrant workers cannot unionize, and a significant proportion of workers suffer harsh working conditions.' [408]

31.03 The USSD 2011 report stated, 'Under the TNC and interim government, the status of unions, strikes, and employment law was not clear. During the 10 weeks that the TNC interim government was in control of the entire country, there were sporadic reports of strikes by professional groups, such as teachers and lawyers, who used strike as a

[407] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

[408] Freedom House, Countries at the Crossroads 2011 – Libya, 10 November 2011 http://www.unhcr.org/refworld/country,,,,LBY,,4dcbf517c,0.html Accessed 8 February 2012Accessed 23 January 2012

method to protest political policies and actions. The TNC and interim government did not take any actions to prevent or hinder these strikes.' [409]

See also Economy.

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[409] The United States Department of State, Country Report on Human Rights Practices 2011, Libya. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper Accessed 24 September 2012

Annex A

CHRONOLOGY OF MAJOR EVENTS

As reported in the BBC News 'Timeline: Libya', updated 21 November 2012: [410]

1969 King Idris deposed in military coup led by Col Muammar Gaddafi, who pursues a pan-Arab agenda by attempting to form mergers with several Arab countries, and introduces state socialism by nationalising most economic activity, including the oil industry.

1969 Bloodless coup in Libya

1970 Libya orders the closure of a British airbase in Tobruk and the giant US Wheelus air force base in Tripoli; property belonging to Italian settlers nationalised.

1971 National referendum approves proposed Federation of Arab Republics (FAR) comprising Libya, Egypt and Syria. However, the FAR never takes off.

1972 Libya and Egypt agree on a merger, but this fails to materialise.

1973 Col Gaddafi declares a 'cultural revolution', which includes the formation of 'people's committees' in schools, hospitals, universities, workplaces and administrative districts; Libyan forces occupy Aozou Strip in northern Chad.

1974 Libya and Tunisia agree on a union state - the "Islamic Arab Republic" - but this proves to be stillborn.

1977 Col Gaddafi declares a 'people's revolution', changing the country's official name from the Libyan Arab Republic to the Great Socialist People's Libyan Arab Jamahiriyah and setting up 'revolutionary committees' - heralding the start of institutionalised chaos, economic decline and general arbitrariness.

1980 Libya and Syria agree on a merger, but this too fails to materialise; Libyan troops start intervening on a large scale in civil war in northern Chad.

1981 US shoots down two Libyan aircraft which challenged its warplanes over the Gulf of Sirte, claimed by Libya as its territorial water.

1984 UK breaks off diplomatic relations with Libya after a British policewoman is shot dead outside the Libyan People's Bureau, or embassy, in London, while anti-Gaddafi protests were taking place.

1986 US bombs Libyan military facilities, residential areas of Tripoli and Benghazi, killing 101 people, and Gaddafi's house, killing his adopted daughter. USsays raids were in response to alleged Libyan involvement in bombing of Berlin disco frequented by US military personnel.

1988 Gaddafi orders the release of some political prisoners and embarks on limited economic liberalisation.

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[410] BBC News, Timeline: Libya http://www.bbc.co.uk/news/world-africa-13755445 Accessed 3 December 2012

1989 Libya, Algeria, Morocco, Mauritania and Tunisia form the Arab Maghreb Union.

1992 UN imposes sanctions on Libya in an effort to force it to hand over for trial two of its citizens suspected of involvement in the blowing up of a Pan Am airliner over the Scottish town of Lockerbie in December 1988.

1994 Libya returns the Aozou Strip to Chad.

1995 Gaddafi expels some 30,000 Palestinians in protest at the Oslo accords between the Palestine Liberation Organisation and Israel.

1999 Lockerbie suspects handed over for trial in the Netherlands under Scottish law; UN sanctions suspended; diplomatic relations with UK restored.

2000

Sept Dozens of African immigrants are killed by Libyan mobs in the west of Libya who were said to be angry at the large number of African labourers coming into the country.

2001

31 Jan Special Scottish court in the Netherlands finds one of the two Libyans accused of the Lockerbie bombing, Abdelbaset Ali Mohamed al-Megrahi, guilty and sentences him to life imprisonment. Megrahi's co-accused, Al-Amin Khalifa Fahimah, is found not guilty and freed.

May Libyan troops help to quell a coup attempt against President Ange-Felix Patasse of the Central African Republic.

2002

Jan Libya and the US say they have held talks to mend relations after years of hostility over what the Americans termed Libya's sponsorship of terrorism.

14 Mar The Libyan man found guilty of the Lockerbie bombing, Abdelbaset Ali Mohmed al-Megrahi, loses his appeal against the conviction and begins a life sentence of at least 20 years.

2003

Jan Libya is elected chairman of the UN Human Rights Commission despite opposition from the US and human rights groups.

Aug Libya signs a deal worth $2.7bn to compensate families of the Lockerbie bombing victims. Libya takes responsibility for the bombing in a letter to the UN Security Council.

Sept UN Security Council votes to lift sanctions.

Dec Libya says will abandon programmes to develop weapons of mass destruction.

2004

Jan Libya agrees to compensate families of victims of 1989 bombing of French passenger aircraft over Sahara.

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Mar British Prime Minister Tony Blair visits, the first such visit since 1943.

May Five Bulgarian nurses and a Palestinian doctor are sentenced to death having been accused of deliberately infecting some 400 children with HIV. Their case goes to appeal.

Aug Libya agrees to pay $35m to compensate victims of the bombing of a Berlin nightclub in 1986.

2005

Jan Libya's first auction of oil and gas exploration licences heralds the return of US energy companies for the first time in more than 20 years.

2006

Feb At least 10 people are killed in clashes with police in Benghazi, part of a wave of international protests by Muslims who are angered by a Danish newspaper's cartoon depictions of the Prophet Muhammad.

May The US says it is restoring full diplomatic ties with Libya.

Sept Human Rights Watch accuses Libya of abusing the human rights of African migrants trying to enter the EU by forcibly repatriating them. Some of the migrants face possible persecution or torture at home, according to the report.

2007

Jan Prime minister announces plan to make redundant 400,000 government workers - more than a third of the total workforce - to stimulate the private sector and ease public spending.

2008

Jan Libya takes over one-month rotating presidency of the UN Security Council in a step back to respectability after decades as a pariah of the West.

Aug Libya and US sign agreement committing each side to compensate all victims of bombing attacks on the other's citizens.

Italian Prime Minister Silvio Berlusconi apologises to Libya for damage inflicted by Italy during the colonial era and signs a five billion dollar investment deal by way of compensation.

Sept US Secretary of State Condoleezza Rice makes historic visit - the highest-level US visit to Libya since 1953. Ms Rice says relations between the US and Libya have entered a ‘new phase’.

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2009

Feb Gaddafi elected chairman of the African Union by leaders meeting in Ethiopia. Sets out ambition of 'United States of Africa' even embracing the Caribbean.

June Gaddafi pays first state visit to Italy, Libya's former colonial ruler and now its main trading partner.

Aug Lockerbie bomber Abdelbaset Ali al-Megrahi is freed from gaol in Scotland on compassionate grounds and returned to Libya. His release and return to a hero's welcome causes a storm of controversy.

Dec Diplomatic row with Switzerland and European Union after one of Gaddafi's sons is held in Switzerland on charges of mistreating domestic workers.

2010

Jan Russia agrees to sell Libya weapons in a deal worth $1.8bn. The deal is thought to include fighter jets, tanks and air defence systems.

June UN refugee agency UNHCR expelled.

July US senators push for inquiry into claims that oil giant BP lobbied for Lockerbie bomber's release.

BP confirms it is about to begin drilling off Libyan coast.

Aug European Union and Libya sign agreement designed to slow illegal migration.

Dec US diplomatic cables published by WikiLeaks indicate that Gaddafi threatened to cut trade with Britain if Lockerbie bomber died in prison.

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Anti-Gaddafi uprising

2011

Feb Arrest of human rights campaigner sparks violent protests in eastern city of Benghazi that rapidly spread to other cities. Authorities use aircraft to attack protestors. Gaddafi insists that he will not quit, and remains in control of the capital, Tripoli.

March UN Security Council authorises a no-fly zone over Libya and air strikes to protect civilians, over which NATO assumes command.

Backed by extensive NATO air raids, Libyan rebels initially capture territory but are then forced back by better-armed pro-Gaddafi forces. Rebels ask West for arms.

July The international Contact Group on Libya formally recognises the main opposition group, the National Transitional Council (NTC), as the legitimate government of Libya.

Aug Rebels swarm into Col Gaddafi's fortress compound in Tripoli, six months after the uprising began. With only a few remaining strongholds under his control, Col Gaddafi goes into hiding. His wife and three of his children flee to neighbouring Algeria.

Aug - Sept African Union joins 60 countries which have recognised the NTC as the new Libyan authority.

20 Oct Col Gaddafi is captured and killed.

Three days later, the NTC declares Libya to be officially "liberated" and announces plans to hold elections within eight months.

Nov Saif al-Islam, the fugitive son of former Libyan leader Muammar Gaddafi, is captured, becoming the last key Gaddafi family member to be seized or killed.

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2012

Jan Clashes erupt between former rebel forces in Benghazi in sign of discontent with the pace and nature of change under the governing NTC. The deputy head of the NTC, Abdel Hafiz Ghoga, resigns.

Feb Scores killed in clashes between Arab Zawi and African Tebu groups in Al-Kufra in the remote south-east.

Mar NTC officials in the oil-rich east, centred on Benghazi, launch a campaign to re-establish autonomy for the region, further increasing tension with the central NTC in Tripoli.

Mauritania arrests Gaddafi-era intelligence chief Abdullah al-Senussi at Nouakchott Airport, and insists it will investigate him before considering an extradition request from Libya. The International Criminal Court and France also seek his extradition.

May Gunmen burst into government headquarters in Tripoli during a protest against the suspensions of bounty payments to groups that had fought against the Gaddafi government. Security forces restore order.

Lockerbie bomber Abdelbaset Ali al-Megrahi dies in Tripoli. A private funeral is held.

June Government struggles to control local militias, especially in Zintan in the West. The Al-Awfea Brigade briefly takes over Tripoli International Airport, and a pro-autonomy mob ransacks the election commission building in Benghazi.

Tunisia extradites former prime minister Al-Baghdadi al-Mahmoudi.

Aug Transitional government hands power to the General National Congress, which was elected in July. The Congress elects Mohammed Magarief of the liberal National Front Party as its chairman, thereby making him interim head of state.

Sept US ambassador and three other Americans are killed when armed men storm the consulate in Benghazi. The US believes Islamist armed groups used protests against a film produced in the US that mocks the Muslim prophet Muhammad as cover for the attack. Crowds in Benghazi drive out the Ansar al-Sharia and other militias from the city and the nearby Islamist stronghold of Derna, prompting head of state Mohammed Magarief to vow to disband all illegal militias.

Mauritania extradites former spy chief Abdullah al-Senussi to Libya to stand trial over crimes allegedly committed under Col Gaddafi's rule.

Oct Mustafa Abu Shagur, prime-minister-elect, fails in two attempts to gain parliamentary approval for his government. The National Congress elects Ali Zidan, a liberal and leading opposition envoy during the civil war, to succeed him.

Pro-government forces fight Gaddafi loyalists in their former stronghold of Bani Walid. The Libyan authorities allege that Gaddafi loyalists are still present in the town - a claim rejected by local militiamen.

Nov New government led by Ali Zidan is sworn in.

Benghazi police chief is assassinated by unknown gunmen.

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Annex B

LIST OF ABBREVIATIONS

AI	Amnesty International
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
EU	European Union
EBRD	European Bank for Reconstruction and Development
FCO	Foreign and Commonwealth Office (UK)
FGM	Female Genital Mutilation
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
MSF	Médecins sans Frontières
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
RSF	Reporters sans Frontières
STD	Sexually Transmitted Disease
STC	Save The Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme

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Annex C

PROMINENT PEOPLE

As included in the Libya Herald, Curriculum Vitae of Ali Zeidan's government ministers, 3 November 2012[411] and BBC Timeline: Libya. [412] The Libya Herald reported on 16 November 2012 that the Integrity Commission announced that four ministers in Ali Zeidan's new government [marked vacant below], had failed to meet its required criteria whilst four more remained under investigation.[413]

President	Mohammed Magarief
Prime Minister	Ali Zeidan
First Deputy Prime Minister	Sadiq Abdulkarim Abdulrahman
Second Deputy Prime Minister	Awad Al-Barasi
Third Deputy Prime Minister	Abdussalam Al-Qadi
Minister of Justice	Salah Bashir Margani
Minister of Foreign Affairs	Ali Al-Aujali
Minister of Interior	Vacant
Minister of Defence	Mohammed Mahmoud Al-Bargati
Minister for International Cooperation	Mohamed Imhamid Abdulaziz
Minister of Education	Vacant
Minister of Higher Education	Abdulasalm Bashir Duabi
Minister of Agriculture	Ahmed Ayad Ali Al-Urfi
Minister of Industry	Suleiman Ali Al-Taif Al-Fituri
Minister of Tourism	Ms Ikram Abdulsalam Imam
Minister of Labour and Retraining	Mohamed Fitouri Sualim
Minister of Transport	Abdel-Qader Mohamed Ahmed Al-Ayib
Minister of Finance	Dr Alkilani Abdel-Qadir Al-Jazi
Minister of Oil	Abdulbari Ali Abdel-Hadi Al-Arusi
Minister of Electricity	Vacant
Minister of Economy	Mustafa Mohammed Abufunas
Minister of Religious Affairs	Dr Abdulsalam Mohammed Abusaad
Minister of Culture	Habib Mohammed Al-Amin
Minister of Health	Dr Nurideen Abdulhamid Dagman
Minister of Social Affairs	Ms Kamila Khamis Al-Mazini
Minister of Housing	Ali Hussein Al-Sharif
Minister of Planning	Mahdi Ataher Genia
Minister of Martyrs and Missing	Sami Mustafa Al-Saadi
Minister of Communications	Osama Abdurauf Siala
Minister of Sports and Youth	Abdulsalam Abdullah Guaila

[411] Libya Herald, Curriculum Vitae of Ali Zeidan's government ministers, 3 November 2012 http://www.libyaherald.com/2012/11/03/curriculum-vitae-of-ali-zeidans-government-ministers/
[412] BBC News, Timeline: Libya http://www.bbc.co.uk/news/world-africa-13755445
[413] Libya Herald, Integrity Commission denounced. 16 November 2012 http://www.libyaherald.com/2012/11/16/human-rights-watch-denounces-integrity-commission-following-disbarring-of-zeidan-ministers/ Accessed 3 December 2012

Minister of Local Government	Abubaker Al-Hadi Mohammed
Minister of Water Resources	Alhadi Suleiman Hinshir
Minister for GNC Affairs	Muaz Fathi Al-Kujah
Minister of the Injured	Ramadan Ali Mansour Zarmuh

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