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Libya Country Report

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Explanatory Note

This report presents country of origin information (COI) on Libya up to 5th July 2013 on issues identified by UNHCR to be of relevance in refugee status determination for Libyan nationals. The COI presented is illustrative, but not exhaustive, of the information available in the public domain, nor is it determinative of any individual human rights or asylum claim. All sources are publicly available and a direct hyperlink has been provided. A list of sources and databases consulted is also provided, to enable users to conduct further research and to undertake source assessments. Research focused on sources published in 2012 and 2013 and all sources were accessed between April 2013 and July 2013.

This document is intended to be used as a tool to help to identify relevant COI and the COI referred to in this report can be considered by decision makers in assessing asylum applications and appeals. However, this document should not be submitted in full or in isolation as evidence to refugee decision making authorities. Whilst every attempt has been made to ensure accuracy, the authors accept no responsibility for any errors included in this report.

Sources and Databases Consulted

Not all of the sources listed here have been consulted for each issue addressed in the report. Additional sources to those individually listed were consulted via database searches. This non-exhaustive list is intended to assist in further individualised case-specific research and source assessments.

To find out more about an organisation, view the 'About Us' tab of a source's website.

Databases

[Anti Trafficking Legal Project \(ATLeP\)](#)

[Child Rights International Network \(CRIN\)](#)

[European Country of Origin Information Network \(ECOI\)](#)

[Human Trafficking Search](#)

[Relief Web](#)

[UNHCR Refworld](#)

Sources

[Al Arabiya](#)

[Al Jazeera](#)

[Amnesty International](#)

[Arabs4Tolerance](#)

[Article 19](#)

[Brookings Institution](#)

[Cairo Institute for Human Rights Studies](#)

[Carnegie Endowment for International Peace](#)

[Centre for Strategic and International Studies](#)

[Christian Science Monitor](#)

[CIA World Factbook](#)

[Committee to Protect Journalists](#)

[The Economist](#)

[Freedom House](#)

[Gay Star News](#)

[GlobalGayz](#)

[GayWorldsNews](#)

[Human Rights Watch](#)

[Institute for War and Peace Reporting](#)

[International Crisis Group](#)

[International Federation for Human Rights](#)

[Internal Displacement Monitoring Centre](#)

[International Committee of the Red Cross](#)

[International Gay and Lesbian Human Rights Commission](#)

[International Lesbian, Gay, Bisexual and Trans and Intersex Association](#)

[International Organization for Migration](#)

[Integrated Regional Information Networks](#)

[Lawyers for Justice in Libya](#)

[Libya Herald](#)

[The Libya Initiative](#)

[Magharebia](#)

[Medecins Sans Frontieres/Doctors Without Borders](#)

[Minority Rights Group](#)

[Open Society Foundations](#)
[Reporters Without Borders](#)
[Save the Children](#)
[Small Arms Survey](#)
[UK Foreign and Commonwealth Office](#)
[United Nations Children's Fund](#)
[UNAIDS](#)
[UN Commission on the Status of Women](#)
[UN Committee on Economic, Social and Cultural Rights](#)
[UN Committee on the Rights of the Child](#)
[UN Human Rights Council](#)
[UN News Centre](#)
[United Nations Office for the Coordination of Humanitarian Affairs](#)
[UN Office on Drugs and Crime](#)
[United Nations Support Mission in Libya](#)
[UN Universal Periodic Review](#)
[Voice of Libyan women](#)
[World Bank](#)
[World Health Organisation](#)

List of Acronyms

DDR- Disarmament, Demobilization and Reintegration
GNC- General National Congress
ICC- International Criminal Court
ICRC- International Committee of the Red Cross
IRIN- Integrated Regional Information Networks
LSF- Libyan Shield Forces
MANPADS- Man-Portable Air Defense Missile Systems
MOI- Ministry of Interior
NATO- North Atlantic Treaty Organisation
NTC/TNC- National Transitional Council
SSC- Supreme Security Committee/Council
TNC/NTC- Transitional National Council
UN- United Nations
UNICEF-United Nations Children's Fund
UNSMIL- United Nations Support Mission in Libya
UNOCHA- United Nations Office for the Coordination of Humanitarian Affairs
UNODC- United Nations Office on Drugs and Crime
USSD- United States State Department
WAC- Warriors Affairs Commission
WHO-World Health Organisation

1. Background Information

1.1 Geographical Information¹



1.1.1 Libya's three distinct parts: Tripolitania, Cyrenaica, and Fezzan²

The BBC explains that historically Libya was divided into three states; Tripolitania, Cyrenaica, and Fezzan, which enjoyed federal power following Libya's independence in 1951, until the country became a unitary state in 1963.³



¹ Map courtesy of [National Geographic Education](#). National Geographic does not review or endorse content added to this background by others.

² Map courtesy of BBC, [Libya: Semi-autonomy declared by leaders in east](#), 6 March 2012

³ BBC, [Libya: Semi-autonomy declared by leaders in east](#), 6 March 2012

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The International Crisis Group reports that the divisions between these three distinct areas are partly geographical as the main towns in the east, west and south are separated by desert with limited transportation.⁴ However, it also notes that strong tribal differences also distinguish east from west.⁵ See [1.3 Geographic and Tribal Issues](#).

1.1.2 Libya's rate of population growth

The 2013 CIA World Factbook provides the following breakdown of the age structure in Libya:

0-14 years: 27.3% (male 837,984/female 800,423)
15-24 years: 18.6% (male 578,780/female 535,828)
25-54 years: 45.6% (male 1,432,265/female 1,302,187)
55-64 years: 4.6% (male 143,862/female 134,414)
65 years and over: 3.9% (male 120,043/female 116,561) (2013 est.).⁶

It goes on to report that the media age is 27.1 years; 27.2 years for women and 26.9 years for men.⁷ According to 2013 estimates, Libya has a population growth rate of 4.85%, which is the highest in the world.⁸ The population growth rate is the average annual percent change in the population, resulting from a surplus (or deficit) of births over deaths and the balance of migrants entering and leaving a country.⁹

1.2 Ethnic Groups

According to the 2013 CIA World Factbook, the main ethnic groups in Libya are “Berber and Arab 97%, other 3% (includes Greeks, Maltese, Italians, Egyptians, Pakistanis, Turks, Indians, and Tunisians)”.¹⁰

The 2012 U.S. State Department report notes that “the principal minorities were Amazigh, Tuareg, and Tebou. These minority groups were predominantly Sunni Muslim but identified with their respective cultural and linguistic heritage rather than with Arab traditions. Several nomadic groups lived in areas along the country's desert borders, including Tuareg and Tebou”.¹¹ The International Crisis Group reports that the Gaddafi regime refused to recognise Libya's small minority populations, which has several explanations; “minorities do not fit in with the regime's pan-Arabist ideology; if recognised, they might demand representation which is ruled out in the Jamahiriya as a matter of principle; and, more generally, Qaddafi was determined to prevent the emergence of any alternative power centre”.¹² For further information see [4.5.2 Treatment of minority groups](#).

⁴ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, B. Minorities: Berbers, Tebu and Tuareg, p. 21

⁵ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, IV. The Issue of the East, A. Geographic and Tribal Issues, p. 17

⁶ CIA, [World Factbook: Libya](#), 15 May 2013, People and Society

⁷ CIA, [World Factbook: Libya](#), 15 May 2013, People and Society

⁸ CIA, [World Factbook: Libya](#), 15 May 2013, People and Society

⁹ CIA, [World Factbook](#), 15 May 2013, Country Comparison: Population Growth Rate

¹⁰ CIA, [World Factbook: Libya](#), 15 May 2013, People and Society

¹¹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, National/Racial/Ethnic Minorities

¹² International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. Opposition Currents, p. 19

1.3 Geographic and Tribal Issues¹³

1.3.1 Main Tribes

In a June 2011 report, the International Crisis Group notes that Libya is estimated to have around 140 tribes and clans, of which 20-30 were considered to have 'real influence'.¹⁴ It further reports that when Gaddafi took power he attempted to downplay the tribal system, which he saw as "both backward and associated with the monarchy's reactionary practices".¹⁵ As a result he altered administrative boundaries based on tribal delineations and removed all officials who had been appointed by the king due to their tribe.¹⁶ However, it explains that because tribes remained a social identifier, particularly in the east, Gaddafi continued to use tribal divisions and loyalties as instruments of power, by courting tribal leaders and allocating political posts to dominant tribes, through distributing patronage, and by playing tribes off against each other.¹⁷ An article in the Middle East Policy Council Journal reports that this use of tribal divisions and loyalties as instruments of power "had been evident since the mid-1970s in the establishment of alliances with major tribes through family marriages and appointments of senior officials, particularly in the security apparatus".¹⁸

The International Crisis Group explains that in the 1990s, Gaddafi implemented a collective punishment law, "according to which a criminal's family or tribe can be stripped of its civil rights and social services for failure to denounce one of its member's illegal activities".¹⁹ Gaddafi also installed 'Social People's Leaderships' which brought tribal leaders into a single regime-controlled organisation tasked with spreading the revolution and countering deviation, but which operated as a means of control.²⁰ According to George Joffé in an article for the Norwegian Peacebuilding Resource Centre, "the tribe is a political and social reality in Libya, despite the displacement of rural populations and the modernisation of urban society".²¹ The same author describes that in addition to making tribal leaderships collectively responsible for the behaviour of tribal members, Gaddafi's regime "instrumentalised some tribes as its own supporters against those it perceived as enemies".²² 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".²³ It further reports that "the consequence of these issues can be seen in the conflicts in Sirt and Bani Walid, strongholds of pro-regime tribes, and in the attacks on the Tawarga,

¹³ Please note that various transliterations are provided for the spellings of Libya's tribes. Spellings used in this report correspond to the source cited.

¹⁴ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships", p. 11

¹⁵ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships", p. 11

¹⁶ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships", p. 11

¹⁷ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships", p. 11

¹⁸ [Families, Tribes and Cities in the Libyan Revolution](#), Winter 2011

¹⁹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships", p. 12

²⁰ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships", p. 12

²¹ George Joffé (Norwegian Peacebuilding Resource Centre), [Balanced on a knife-edge: the future of Libya's new state](#), September 2012, *Geography and Tribalism*, p. 7

²² George Joffé (Norwegian Peacebuilding Resource Centre), [Balanced on a knife-edge: the future of Libya's new state](#), September 2012, *Geography and Tribalism*, p. 7

²³ George Joffé (Norwegian Peacebuilding Resource Centre), [Balanced on a knife-edge: the future of Libya's new state](#), September 2012, *Geography and Tribalism*, p. 7

Warshfanna, Amazight in Zuwara, Tibu in Kufrah and Sebha and Touareg in Ghadames all seen as pro-Gaddafi".²⁴ See section [3.3 Tribal Clashes](#) and [4.5.2 Treatment of minority groups](#).

The June 2011 International Crisis Group report further notes that tribal structures are more tightly preserved in the east than the west and the east has been heavily associated with Islamism.²⁵ It reports that in the east, tribal structures were sustained by the Sanussi brotherhood; a religious order in Cyrenaica, tied with local tribal structures.²⁶ The east has also provided recruits for various Islamist opposition groups.²⁷ See section [1.4 Islamism](#). The following overview provides an introduction to the main tribes in Libya:

Qaddadfa An August 2011 Reuters article describes that 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".²⁸ The International Crisis Group describes that Gaddafi's informal network of advisors and trusted confidants, 'the men of the tent', comprised members of his own family and the Qaddadfa tribe.²⁹ To strengthen his relatively small tribe of 100,000, Gaddafi allied his tribe with the Margarha and Warfalla.³⁰

Warfalla The same August 2011 Reuters article reports that the Warfalla was based primarily to the east of Tripoli with its origins in Misrata and is "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".³¹ Misrata was initially besieged by Gaddafi forces and was home to some of the rebels that took Tripoli.³² The International Crisis Group reports that in 1993 Warfalla members attempted a coup and Gaddafi responded by executing them and heavily punishing their families.³³

Magarha This is reported by Reuters to be the second largest tribe in Libya, originally from the interior, with mixed relations with Gaddafi's regime.³⁴

Tuareg Reuters reports that "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".³⁵ See section [4.5.2.2 Tuareg \(Twareg, Touareg\)](#) for further information.

Berbers Reuters notes that "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 favor of the majority

²⁴ George Joffé (Norwegian Peacebuilding Resource Centre), [Balanced on a knife-edge: the future of Libya's new state](#), September 2012, *Geography and Tribalism*, p. 7

²⁵ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships" p.12

²⁶ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships" p.12

²⁷ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, IV. The Issue of the East, B Islamism p.17

²⁸ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

²⁹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 1. Men of the Tent, p. 10

³⁰ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships", p. 11

³¹ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

³² Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

³³ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *D. Informal Power Networks*, 3. Tribes and "Social People's Leaderships", p. 11

³⁴ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

³⁵ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

Arabs. Many of them helped take Tripoli”.³⁶ See section [4.5.2.1 Amazigh \(pl. Imazighen, Berber\)](#) for further information.

Bara'sa According to the same August 2011 Reuters article, “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”.³⁷

Zuwayyah Reuters reports “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”.³⁸

Bani Walid According to Reuters, “the Bani Walid overlap geographically with the Warfalla, and was reported to have defected from military units early in the uprising”.³⁹ See [3.3.1 Fighting in Bani Walid](#)

Tarhuna The Tarhuna are reported by Reuters to have made up around a third of the population of Tripoli, and whilst heavily represented in the military, to have joined early protests.⁴⁰

Zentan Reuters reports that the Zentan are located between Tripoli and the Tunisian border, and as with the Tarhuna, heavily represented in the military, but reported to have joined early protests.⁴¹

For information on the Tebu, Tawergha and Mashashiya, see [4.5.2 Treatment of minority groups](#).

The following map⁴² published in March 2012 provides an overview of the geographical location of Libya's main tribes:

³⁶ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

³⁷ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

³⁸ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

³⁹ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

⁴⁰ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

⁴¹ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

⁴² Fragile States, [Understanding Libya: The Role of Ethnic and Tribal Groups in Any Political Settlement](#), 1 March 2012



1.3.2 Gaddafi policy toward the East

The International Crisis Group reports that “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”.⁴³ According to the Congressional Research Service, “some Libyans saw the 1969 Qadhafi-led revolution as having been partly facilitated by western and southern Libyan resentments of the Al Sanusi monarchy based in the eastern Libyan region of Cyrenaica”.⁴⁴

The International Crisis Group further explains that this feeling towards the east was exacerbated when Gaddafi uncovered several militant Islamist cells there in the late 1980s and in the mid-1990s, after militant

⁴³ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, IV. *The Issue of the East*, C. *State Policy Toward the East*, p. 18

⁴⁴ Congressional Research Service, [Transition and U.S. Policy](#), 8 December 2011, *Libyan Political Dynamics and Islamists*, p. 18

groups led an insurgency, the regime arrested thousands and turned the east “into a virtual security zone”.⁴⁵ The International Crisis Group further notes that:

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.⁴⁶

The Centre for Security and International Studies reports that “regardless of the truth, most easterners are convinced Qaddafi kept them impoverished and second-class citizens as a tool of suppression”.⁴⁷

The International Crisis Group also describes how these undercurrents came to the fore in 2006 when a regime-orchestrated demonstration against the Danish cartoons of Prophet Mohammad turned into an anti-regime protest in which ten protestors were killed.⁴⁸

According to George Joffé in an article for the Norwegian Peacebuilding Resource Centre, “common Libyan destiny is increasingly open to question, to be replaced by a regional or tribal ethos, particularly in rural areas”.⁴⁹ The author goes on to explain that this is in part due to insecurity, but also due to 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 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.⁵⁰

1.3.3 Geographical divisions during 2011 uprising

An August 2011 Reuters article explains that the early stages of the uprising divided Libya once again along old federal state lines; with the area around Benghazi (Cyrenaica) under opposition control and the rebels taking the flag of the former Cyrenaican monarchy.⁵¹ A March 2011 German Institute for International and Security Affairs article describes that north-eastern tribes first supported the uprising, and then were joined by tribes from other areas including the Berber tribes of the Jebel Nafusa, the Toubou minority in Libya’s south, and parts of the Warfalla.⁵² The western revolutionary brigades were led primarily by Zintanis and Misratans.⁵³

⁴⁵ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, IV. *The Issue of the East, C. State Policy Toward the East*, p. 18

⁴⁶ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, IV. *The Issue of the East, C. State Policy Toward the East*, p. 18

⁴⁷ Centre for Strategic and International Studies, [The Libyan Uprising: an Uncertain Trajectory](#), 20 June 2011, *The East-West Divide as Symbolic of Distributive Problems*, p.67

⁴⁸ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, IV. *The Issue of the East, C. State Policy Toward the East*, p. 18

⁴⁹ George Joffé (Norwegian Peacebuilding Resource Centre), [Balanced on a knife-edge: the future of Libya’s new state](#), September 2012, *Geography and Tribalism* p.8

⁵⁰ George Joffé (Norwegian Peacebuilding Resource Centre), [Balanced on a knife-edge: the future of Libya’s new state](#), September 2012, *Geography and Tribalism* p.8

⁵¹ Reuters, [Factbox: Libya’s tribal, cultural divisions](#), 25 August 2011

⁵² German Institute for International and Security Affairs, [Libya after Qaddafi](#), March 2011

⁵³ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September 2012, A. *Legacies of Qadhafi and the 17 February Revolution*, p. 2

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Reuters reports that “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”.⁵⁴ Gaddafi's support was strongest in his own tribe, Qaddadfa, as well as southern, often African tribes from Libya's old desert state of Fezzan.⁵⁵

An article by Wolfram Lacher of the German Institute for International and Security Affairs explains that whilst the National Transitional Council (NTC) was in Benghazi, it was overrepresented by figures from the east due to the early liberation of north eastern Libya, the isolation of other revolutionary strongholds (Misrata, Western Mountains) and because the former elites of the northeast had held much more influence during the Sanusi monarchy and were particularly severely persecuted by Gaddafi.⁵⁶ The same source further reports that during the conflict, each side sought to use tribal loyalties to mobilize support, with both the regime and NTC organising conferences featuring representatives of Libya's main tribes.⁵⁷ However it goes on to note that “to characterize the conflict as a power struggle between tribes would be misleading. Though important, tribal loyalties were not the only factor at play. Mobilization for the revolutionary militias largely occurred on the basis of towns and cities, rather than tribes. Moreover, support for the revolution cut across most regions and cities, excluding strongholds of the three tribes whose members formed the backbone of the Qadhafi regime”.⁵⁸ The same source further reports that tribal loyalties have historically been weaker in cities with a longstanding urban history, including Tripoli, Misrata and Benghazi, where prominent families played a leading role.⁵⁹ Also see [6.1.1 Role of militias in the 2011 uprising](#).

1.4 Islamism

1.4.1 Salafism Movement

A February 2013 article in The Guardian reports that Salafism is an ultra-conservative religious reform movement within Sunni Islam which calls for a return to the moral practices of the first Muslims.⁶⁰ It states that it has incorrectly become associated with jihadi ideology, but Salafists reject violence.⁶¹ It further notes that “following the fall of Gaddafi, Salafist violence and intimidation has been a growing trend. Salafist jihadis [Ansar al-Sharia] were implicated in the lethal attack on the US consulate in Benghazi while Salafists have been active in destroying Sufi landmarks in the country and campaigning for gender segregation in education”.⁶² The Congressional Research Service notes that “during January 2012, public gatherings in the low thousands emerged in Benghazi and Misuratah to demand that sharia be codified and enforced as the primary component of Libya's new constitution. Salafist groups such as Ansar al Sharia and Hizb al Tahrir, which support that position, are growing more organized and have been increasingly publicly active”.⁶³ The Congressional Research Service also notes that in June 2012, ‘The Imprisoned Sheikh Omar Abdul Rahman

⁵⁴ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

⁵⁵ Reuters, [Factbox: Libya's tribal, cultural divisions](#), 25 August 2011

⁵⁶ Wolfram Lacher (Middle East Policy Council Journal), [Families, Tribes and Cities in the Libyan Revolution](#), Winter 2011

⁵⁷ Wolfram Lacher (Middle East Policy Council Journal), [Families, Tribes and Cities in the Libyan Revolution](#), Winter 2011

⁵⁸ Wolfram Lacher (Middle East Policy Council Journal), [Families, Tribes and Cities in the Libyan Revolution](#), Winter 2011

⁵⁹ Wolfram Lacher (Middle East Policy Council Journal), [Families, Tribes and Cities in the Libyan Revolution](#), Winter 2011

⁶⁰ The Guardian, [Violent tide of Salafism threatens the Arab spring](#), 9 February 2013

⁶¹ The Guardian, [Violent tide of Salafism threatens the Arab spring](#), 9 February 2013

⁶² The Guardian, [Violent tide of Salafism threatens the Arab spring](#), 9 February 2013

⁶³ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Political Developments and Challenges*, p. 6

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Brigades', another armed Salafist group, reportedly claimed responsibility for a bomb attack that damaged the entrance of a U.S. compound in Benghazi in an attack meant as a retaliation for the death of Al Libi, a former Libyan Islamic Fighting Group (LIFG) and Al Qaeda member, in Pakistan.⁶⁴

See [4.4.3 Attacks against places of worship, predominantly Sufi shrines](#); section [3.2 Attack on US Consulate, Benghazi](#) and section [6.2.1 Use of Libyan Penal Code versus Islamic legal principles](#) for further information.

1.4.2 Current Islamic Opposition Groups

According to a June 2011 International Crisis Group report, Islamist groups have been the best coordinated and most influential opposition groups in Libya, amongst which the two most important are the Libyan Islamic Group and the Libyan Islamic Fighting Group.⁶⁵

1.4.2.1 Libyan Islamic Group

The International Crisis Group explains that the Libyan Islamic Group is the Libyan branch of the Muslim Brotherhood, which originates from the 1950s when King Idris offered refuge to Egyptian Brothers fleeing President Gamal Abdul Nasser's regime.⁶⁶ When Gaddafi came to power, he arrested Libyan Brothers and only by the late 1980s, did the movement set up its own shura (council) in Libya.⁶⁷ The Brotherhood grew in the 1990s, appealing to the middle and professional classes, but in 1998 the regime detained 152 members, including the Guide Dr Abdullah Ahmad Izideen, and his deputy, Dr Salem Mohamed Abu Hanek, leaving it impossible for the group to operate.⁶⁸ Dr Abu Hanek and Dr Abdullah Izideen were sentenced to death and 37 other members were sentenced to life imprisonment, others to lengthy prison sentences.⁶⁹ Detainees were eventually released in 2006 after a long process led by Saif Al-Islam's 'Qaddafi International Development Foundation'.⁷⁰ According to the International Crisis Group, movement members abroad continued to operate as an organisation and early in the uprising, came out strongly against the regime.⁷¹ A March 2011 German Institute for International and Security Affairs article notes that "while the group's leadership had long been exiled and lacks prominent figures, the Muslim Brotherhood played an important role in initiating the uprising by calling for protests from early February onwards".⁷² The Muslim Brotherhood subsequently launched the Justice and Development Party. See [2.3 General National Congress Political Parties](#).

⁶⁴ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Attacks on U.S. Special Mission in Benghazi*, p. 3

⁶⁵ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 19

⁶⁶ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 19

⁶⁷ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 20

⁶⁸ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 20

⁶⁹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 20

⁷⁰ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 20

⁷¹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 20

⁷² German Institute for International and Security Affairs, [Libya after Qaddafi](#), March 2011

1.4.2.2 Libyan Islamic Fighting Group

The International Crisis Group reports that the origins of the Libyan Islamic Fighting Group (LIFG) can be traced to small groups of jihadists which emerged in the 1970s around specific sheikhs and who joined the struggle in Afghanistan against the Soviet Union in the 1980s.⁷³ Following the 1989 Soviet withdrawal, Abdul Ghafar Al-Dawoudi, the group's first emir, and Abu Munder Al-Saidi, its spiritual leader, formed the LIFG which announced its existence in 1995 after a base was discovered by the regime.⁷⁴ In mid-1996, Gaddafi's regime launched major offensives throughout the east against LIFG bases in the Jebel Akhdar mountains and arrested suspected members and sympathisers, with the result that in 1998 the LIFG announced an end to its struggle.⁷⁵ Since then, the LIFG has existed primarily in exile and the exiled organisation joined al-Qaeda in 2007, reportedly infuriating the Libyan based leadership.⁷⁶ The International Crisis Group further explains that in 2009 after long negotiations and dialogue with Saif Al-Islam, the LIFG renounced the use of weapons against the state, resulting in the release of LIFG members under close surveillance.⁷⁷ Its founder Abdel Hakim Belhaj, who had been held in the infamous Abu Slim prison, was then released along with 214 other members.⁷⁸ A March 2011 German Institute for International and Security Affairs article reports that the LIFG represents a "marginal phenomenon", mainly based in the north-east.⁷⁹ According to a July 2012 Jamestown Foundation article, "ex LIFG fighters were soon numbered amongst the most important players in the revolution. These fighters, above all those who had gained previous experience in other war theaters such as Afghanistan, the Balkans, the northern Caucasus and Iraq, were particularly efficient and effective in carrying out military operations".⁸⁰ Following the 2011 uprising, a group that grew out of the LIFG took the name of the Libyan Islamic Movement for Change and expressed its desire to be part of any new political process.⁸¹

⁷³ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 20

⁷⁴ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 21

⁷⁵ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 21

⁷⁶ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 21

⁷⁷ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 21

⁷⁸ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, 2. *The question of Islamism*, p. 10

⁷⁹ German Institute for International and Security Affairs, [Libya after Qaddafi](#), March 2011

⁸⁰ Jamestown Foundation, [Between Electoral Politics and Global Jihad: Libya's Islamist Groups Consider New Options](#), *Terrorism Monitor Volume: 10 Issue: 15*, 26 July 2012

⁸¹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, V. *Opposition Currents*, p. 21

2. Main Political Developments following the death of Gaddafi

2.1 National Transitional Council

The National Transitional Council (NTC) was formed, unelected, on 27 February 2011 in Benghazi to represent the rebel movement during the uprising.⁸² The BBC reports that the NTC “aimed to provide political and military leadership, organise basic services and represent Libyans abroad” as an interim administration, not as a government.⁸³ Originally the NTC consisted of 31 members representing their respective areas and selected from local councils set up after the uprising, although not all the Council members were made public.⁸⁴ Mahmoud Jibril was head of the Executive Board, which functioned like a cabinet, and sometimes referred to as the NTC’s prime minister.⁸⁵ In August 2011, the NTC published a 14-page ‘Draft Constitutional Charter for the Transitional Stage’.⁸⁶ See section [4.1 Drafting of new Libyan Constitution](#).

A February 2012 German Institute for International and Security Affairs article describes the NTC as “an elitist leadership comprising a coalition of regime defectors and dissidents” and that both the political leadership and the forces leading the revolution “were heterogeneous and fragmented”.⁸⁷ It further considers that the clearest divide in the NTC was between former senior regime officials and longstanding members of the exiled opposition.⁸⁸ The International Crisis Group notes that whilst the NTC was the face of the uprising to the outside world, the reality on the ground was different.⁸⁹ It describes that the NTC, which focused on obtaining international support from the eastern city of Benghazi, “never fully led the uprising, nor could it establish a substantial physical presence in much of the rest of the country”.⁹⁰ The same source further notes that:

As an unelected body, comprising a patch-work of defectors, lawyers and other professionals primarily from the east, it lacked the mandate to govern –a function for which it had not truly been designed. As an NTC official said, “The transitional council is not a government. It never claimed to be one. It is a council and will only exist to represent Libya until the declaration of liberation”. Rebels from other regions welcomed the international legitimacy and support it acquired for the uprising as a whole. Yet, as areas were liberated, each determined its own local leaders, and virtually all resisted NTC attempts to control the process. Libya’s long tradition of local government reinforced this resistance to and suspicion of central authority.⁹¹

Freedom House further notes that the NTC “eventually relocated to Tripoli and began operating as a de facto national government, but its popular legitimacy and control over territory and armed groups were tenuous. Under mounting pressure, the executive board of the NTC resigned in November 2011, and a new interim cabinet incorporated members of competing regional and tribal militias, as well as business community representatives”.⁹² The German Institute for International and Security Affairs article describes

⁸² Freedom House, [Freedom in the World 2013 – Libya](#), January 2013

⁸³ BBC, [Key figures in Libya’s rebel council](#), 25 August 2011

⁸⁴ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, VI. The New Revolutionaries A. The Interim Transitional National Council, p. 24

⁸⁵ BBC, [Key figures in Libya’s rebel council](#), 25 August 2011

⁸⁶ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September 2011

⁸⁷ German Institute for International and Security Affairs, [Protest, Revolt and Regime Change in the Arab World](#), February 2012, *The Libyan Revolution: Old Elites and New Political Forces*, p. 11

⁸⁸ German Institute for International and Security Affairs, [Protest, Revolt and Regime Change in the Arab World](#), February 2012, *The Libyan Revolution: Old Elites and New Political Forces*, p. 11

⁸⁹ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, *Executive Summary i*

⁹⁰ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, *Executive Summary i*

⁹¹ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, *II The Origins of Security Fragmentation*, p. 6

⁹² Freedom House, [Freedom in the World 2013 – Libya](#), January 2013

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that between August and December 2011, the NTC significantly broadened its membership, having asked local councils to nominate representatives based on a calculation that intended to ensure that all regions and towns were adequately represented.⁹³

The International Crisis Group further reports that much of the NTC's time was spent negotiating the makeup of a new interim cabinet and "mistrust of Jibril's proposals was so great that the council put it off until after the 23 October declaration of liberation. As a result, several ministries and state companies, although resuming their work, lacked empowered leadership, notably the health, defence and interior ministries, which – due to a dearth of decision-makers and experts – struggled to provide critical services, despite private donor and local non-governmental support".⁹⁴ Parallel institutions – both local councils and armed militias – developed on the ground.⁹⁵ See [6.1.2 Integration of militias into the military following Gaddafi's death](#). The NTC was dissolved with the election of the General National Congress on 7 July 2012.⁹⁶

2.2 July 2012 Election and General National Congress

On 7 July 2012, the General National Congress (GNC) became the first elected legislature with 200 members in Libya's first nationwide election for nearly 50 years.⁹⁷ The Congressional Research Service reports that over 60% of registered voters participated and "with the exception of some violent attempts to disrupt voting in eastern Libya, domestic and international observers reported that voting in the July 2012 election was administered professionally and transparently, without critical interruptions or serious irregularities".⁹⁸ According to the U.S. State Department, during the elections "there was violence in the east, including in Benghazi, and attempts to destroy election materials and threaten voters on election day. Some irregularities were reported in registering residents of Kufra, in the southern part of the country, but these incidents did not compromise the overall integrity of the election. One candidate was killed in the south before the campaign period, and there were a few deaths on election day or immediately prior".⁹⁹

The election featured a mixed electoral system of 120 individual candidate seats elected from 69 constituencies and 80 political entity list seats elected from 20 constituencies.¹⁰⁰ Seats were distributed nationally on the basis of population, with western Libyan districts receiving 100 seats, eastern districts receiving 60 seats, and southern districts receiving 40 seats.¹⁰¹

The Centre for Strategic and International Studies reports that whilst "the electoral system was under construction, many in the eastern provinces sought greater autonomy through a federal system because they feared that the law would empower Libya's western areas, which dominated Libyan politics under

⁹³ German Institute for International and Security Affairs, [Protest, Revolt and Regime Change in the Arab World](#), February 2012, *The Libyan Revolution: Old Elites and New Political Forces*, p. 13

⁹⁴ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, *B The Question of Government Capacity*, p. 15

⁹⁵ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, *B The Question of Government Capacity*, p. 15

⁹⁶ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Political Transition*

⁹⁷ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Summary*

⁹⁸ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Political Developments and Challenges*, p. 5

⁹⁹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *Section 3. Elections and Political Participation*

¹⁰⁰ CIA, [World Factbook: Libya](#), 15 May 2013, *Government*; Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *July 2012 General National Congress Election and Results*, p.17

¹⁰¹ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *July 2012 General National Congress Election and Results*, p. 17

Qaddafi”.¹⁰² It further notes that the NTC’s allocation of seats for the GNC election granted more populous western Libya more seats than the east or the south, but fewer seats than a directly proportional ratio would have guaranteed.¹⁰³

In the election, former NTC interim-Prime Minister Mahmoud Jibril’s Alliance of National Forces won 39 of 80 “political entity” (party-list) seats, followed by the Muslim Brotherhood-affiliated Justice and Construction party led by Muhammad Sawan, which won 17 seats.¹⁰⁴ Overall, 21 political entities won seats, of which 15 entities received only one seat, and women won 33 seats, 32 of which were “political entity” seats.¹⁰⁵ The Congressional Research Service explains that “the 120 individual candidates elected include a variety of activists, locally prominent persons, and party affiliates”.¹⁰⁶ It further notes that “anecdotal reporting from Libya suggests that some groups and movements may withhold support for the government based on the individuals selected for cabinet positions”.¹⁰⁷

The GNC elected Mohamed Magariaf of the National Front Party as GNC President in August 2012 and Mustafa Abu Shugur as interim prime minister-designate in September 2012.¹⁰⁸ The Congressional Research Service explains that Abu Shugur was later removed in a no-confidence vote after his proposed cabinet list was rejected by elected officials and members of the public.¹⁰⁹ The GNC selected independent Ali Zeidan (also Zidan) as prime minister designate on 14 October 2012 and his cabinet was approved by the Congress.¹¹⁰ The BBC reports that Zeidan was a diplomat for Gaddafi before defecting in 1980 and joining the opposition National Front for the Salvation of Libya in exile.¹¹¹ The Guardian notes that Zeidan, a former human rights lawyer, is seen as a liberal.¹¹² Zeidan’s cabinet gave an equal number of seats to the Coalition of National Forces and the Justice and Construction Party, and included two women and a member of a minority community.¹¹³

Following the May 2013 passing of Political Isolation Law, Mohamed Magariaf resigned as President of the GNC in order to comply with the legislation.¹¹⁴ See [4.2.1.2 Political Isolation Draft Law](#) for further information. On 25 June 2013, Nuri Ali Abu Sahmain was elected as the new President of the GNC, securing 96 votes compared to 80 for Sharif Al-Wafi Muhamed in a second run-off ballot.¹¹⁵ Abu Sahmain was backed by the Justice and Construction Party and represents the town of Zuara near the border with

¹⁰² The Centre for Strategic and International Studies, [The Maghreb in Transition: Seeking Stability in an Era of Uncertainty](#), January 2013, *Libya*

¹⁰³ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Federalism and Regional Politics* p. 7

¹⁰⁴ CIA, [World Factbook: Libya](#), 15 May 2013, *Government*; Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Political Developments and Challenges*, p. 5

¹⁰⁵ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *July 2012 General National Congress Election and Results*, p.17

¹⁰⁶ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Political Developments and Challenges*, p. 5

¹⁰⁷ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Political Developments and Challenges*, p. 5

¹⁰⁸ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Political Developments and Challenges*, p. 5

¹⁰⁹ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Political Developments and Challenges*, p. 5

¹¹⁰ Freedom House, [Freedom in the World 2013 – Libya](#), January 2013

¹¹¹ BBC, [Ali Zidan elected Libya's new prime minister](#), 14 October 2012

¹¹² The Guardian, [Libya's national congress elects Ali Zidan as interim prime minister](#), 14 October 2012; BBC, [Ali Zidan elected Libya's new prime minister](#), 14 October 2012

¹¹³ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 4

¹¹⁴ Libya Herald, [Nuri Ali Abu Sahmain elected Congress President](#), 25 June 2013

¹¹⁵ Libya Herald, [Nuri Ali Abu Sahmain elected Congress President](#), 25 June 2013

Tunisia; he is the first member of minority Amazeigh community to achieve a leadership role in Libya since Sulaiman Barouni became the President of the short-lived Tripolitanian Republic in 1919.¹¹⁶

Human Rights Watch explains in January 2013 that the GNC “was originally tasked to form a body to draft a constitution, but the NTC revoked that power just prior to elections in an attempt to defuse tension between eastern and western Libya”.¹¹⁷ If voters approve a constitution in a referendum, then new elections are to be held by mid-2013.¹¹⁸ See [4.1 Drafting of new Libyan Constitution](#) and [4.2.2 Treatment of political opponents, protestors](#). On 5 July 2013 the Libya Herald reported that the two largest political parties in the GNC, the National Forces Alliance and the Justice and Construction Party, had each announced that, for different reasons, they will be boycotting sittings and will only attend to help work on the creation of the new constitution.¹¹⁹

2.3 General National Congress Political Parties: Homeland Party, Justice and Construction Party, National Centrist Party, National Forces Alliance, National Front Party

According to a July 2012 Al Jazeera report, after the fall of Gaddafi a total of 130 political parties formed, of which only 10 had candidates running in the July 2012 election across Libya’s 13 consistencies.¹²⁰ Al Jazeera identified the following five parties it believed to be influential political forces as of July 2012:

The Homeland Party 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.¹²¹ See [1.4.2.2 Libyan Islamic Fighting Group](#). Al Jazeera further reports that “the party is endorsed by the influential Salafi cleric Ali Sallabi, a long-time foe of Gaddafi, who was detained for eight years in the infamous Abu Salim prison where Belhadj was also held and allegedly tortured”.¹²² It further describes that during the elections the Homeland Party called for a “moderate” Islamic democracy with a constitution based on Sharia law.¹²³

The Justice and Construction Party (JCP) led by Muhammad Sawan, won 21.3% (17) of the party list seats.¹²⁴ This party is widely seen as affiliated with the Muslim Brotherhood, although according to the July 2012 Al Jazeera report, the party’s leaders denied this.¹²⁵ Sawan was a political prisoner under Gaddafi.¹²⁶

The National Centrist Party was founded by Ali Terhouni, the former deputy prime minister in charge of oil and finance in Jibril’s interim NTC cabinet.¹²⁷ Al Jazeera reports that he was supposed to join Jibril in the National Forces Alliance but left due to conflict over strategy.¹²⁸

The National Forces Alliance (NFA) led by former interim Prime Minister Mahmoud Jibril which includes many political organizations, NGOs, and independents, won 48.7% (39) of the vote for party list seats.¹²⁹ The NFA was created in February 2012 and according to Al Jazeera, “presents itself as a liberal

¹¹⁶ Libya Herald, [Nuri Ali Abu Sahmain elected Congress President](#), 25 June 2013

¹¹⁷ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Political Transition*

¹¹⁸ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Summary*

¹¹⁹ Libya Herald, [The two biggest parties to boycott GNC except for work on constitution](#), 5 July 2013

¹²⁰ Al Jazeera, [Libya’s political parties](#), 3 July 2012

¹²¹ Al Jazeera, [Libya’s political parties](#), 3 July 2012

¹²² Al Jazeera, [Libya’s political parties](#), 3 July 2012

¹²³ Al Jazeera, [Libya’s political parties](#), 3 July 2012

¹²⁴ CIA, [World Factbook: Libya](#), 15 May 2013, *Government*

¹²⁵ Al Jazeera, [Libya’s political parties](#), 3 July 2012

¹²⁶ Al Jazeera, [Libya’s political parties](#), 3 July 2012

¹²⁷ Al Jazeera, [Libya’s political parties](#), 3 July 2012

¹²⁸ Al Jazeera, [Libya’s political parties](#), 3 July 2012

¹²⁹ CIA, [World Factbook: Libya](#), 15 May 2013, *Government*

movement”.¹³⁰ In January 2013 the NFA temporarily withdrew from the national assembly reportedly in protest over the delays in drafting a constitution, chaotic proceedings and a lack of security at the assembly.¹³¹

The National Front was created in May 2012, formed from the National Front for the Salvation of Libya, a diaspora opposition group established in 1981.¹³² Its leader remains Muhamad Yousef al-Magariaf, who in 1984 led a failed coup against Gaddafi.¹³³ Al Jazeera reports that “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”.¹³⁴

¹³⁰ Al Jazeera, [Libya's political parties](#), 3 July 2012

¹³¹ BBC, [Libya's liberal NFA group boycotts national assembly](#), 7 January 2013

¹³² CIA, [World Factbook: Libya](#), 15 May 2013, Government; Al Jazeera, [Libya's political parties](#), 3 July 2012

¹³³ Al Jazeera, [Libya's political parties](#), 3 July 2012

¹³⁴ Al Jazeera, [Libya's political parties](#), 3 July 2012

3. Security Situation since the formation of the National Transitional Council

3.1 Gaddafi's security forces during and after the 2011 uprising

The 2011 U.S. State Department report describes with regards to Gaddafi's security forces that:

The Qadhafi regime maintained an extensive security apparatus of police and military units, multiple intelligence services, local 'revolutionary committees', 'people's committees', and 'purification committees'. The result was a multilayered, pervasive surveillance system that monitored and controlled the activities and everyday lives of individuals. In theory military and internal security forces were under direct civilian control through the Jamahiriya, or 'sovereignty of the masses' system. In practice an inner circle of elites close to Qadhafi wielded total control. The police and ISO [Internal Security Organization] shared responsibility for internal security. The armed forces and External Security Service were responsible for external security.¹³⁵

The Centre for Strategic and International Studies provides the following overview of the security forces at the outset of the uprising:

At the start of the uprising, unclassified sources estimated that the 50,000-man Libyan Army, included 25,000 poorly trained conscripts, and constituted the bulk of Libya's 76,000 active forces. The 40,000 strong People's Militia, a paramilitary organization was sometimes included as part of the army, but was really an additional and autonomous defense institution. The Libyan army seemed to lack anything approaching an effective and well- trained reserve system and was deliberately weakened by Qaddafi, who did not trust in its loyalty, particularly after an attempted military coup in 1969.¹³⁶

The same source further notes that certain 'elite' units that Gaddafi perceived as loyal received high levels of training and resourcing such as the 32nd Reinforced Brigade and the 'Khamis Brigade', commanded by Gaddafi's son.¹³⁷ It also reports on Libya's paramilitary forces which it describes as the "primary instruments for regime protection" with loyalty not just to the regime, but to Gaddafi personally.¹³⁸ It notes that several other forces include:

Qadhafi's personal bodyguards, local Revolutionary Committees, and People's Committees, as well as the —Purification Committees, which were formed in 1996 form a multi-layered and, pervasive surveillance system to monitor and control the activities of individuals. There is also a People's Cavalry Force that acts largely as a parade unit. Many of these forces had major command centers inside the sprawling Bab al-Aziziyah military compound in Tripoli, which included the personal residence of Qaddafi himself, and his personal intelligence agency, the Maktab Ma'lumat al-qa'id (Intelligence Bureau of the Leader).¹³⁹

The June 2011 report of the 'International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya' provides further information on the pro-Gaddafi actors involved in the conflict.¹⁴⁰

¹³⁵ U.S. State Department, [Country Reports on Human Rights Practices 2011: Libya](#), 24 May 2012, 1d. Role of the Police and Security Apparatus

¹³⁶ Centre for Strategic and International Studies, [The Libyan Uprising: an Uncertain Trajectory](#), 20 June 2011, *The Libyan Army*, p. 21

¹³⁷ Centre for Strategic and International Studies, [The Libyan Uprising: an Uncertain Trajectory](#), 20 June 2011, *The Libyan Army*, p. 21

¹³⁸ Centre for Strategic and International Studies, [The Libyan Uprising: an Uncertain Trajectory](#), 20 June 2011, *Paramilitary Forces and Internal Security Agencies*, p. 24

¹³⁹ Centre for Strategic and International Studies, [The Libyan Uprising: an Uncertain Trajectory](#), 20 June 2011, *Paramilitary Forces and Internal Security Agencies*, p. 24

¹⁴⁰ UN Human Rights Council, [Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya](#), 1 June 2011, C. Categories of security groups participating in the events paragraphs, para. 46ff

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Human Rights Watch reports that when protests against Gaddafi's rule broke out in February 2011, the government's security forces responded by opening fire on the protesters.¹⁴¹ It continues to note that when the initially peaceful protest movement transformed into an armed uprising, Gaddafi pledged to chase down the "cockroaches" and "rats" who had taken up arms against him "inch by inch, room by room, home by home, alleyway by alleyway, person by person".¹⁴²

The Centre for Strategic and International Studies explains that "various defections of high-ranking government officials soon followed, and in several cities such as Benghazi, Tobruk and Misurata anti-government militias took control. After a brief period, government forces soon recovered".¹⁴³ It further notes that "Government forces utilized heavy equipment including armor, air and artillery assets to confront opposition forces, and the use of foreign mercenaries was widely reported".¹⁴⁴ Furthermore it notes that the elite units appeared to take the lead in the fighting.¹⁴⁵

The International Crisis Group describes that as the conflict continued in late February and early March 2011, army defections increased, sometimes involving whole battalions.¹⁴⁶ The defector-led army found itself defending eastern parts of the country against Gaddafi loyalists based principally in Sirte and Tripoli.¹⁴⁷ The Congressional Research Service reports that "a number of military officers, their units, and civilian officials abandoned Qadhafi. Qadhafi and his supporters denounced their opponents as drug-fueled traitors, foreign agents, and Al Qaeda supporters".¹⁴⁸

Amnesty International provides the following summary of the conflict:

Within two weeks, the protests developed into an internal armed conflict as people overpowered and took up arms against government forces in eastern Libya, the Nafusa Mountain area and the coastal city of Misratah. When armed confrontations intensified as al-Gaddafi forces sought to regain territory lost to the opposition and the latter tried to gain new ground, the UN Security Council adopted Resolution 1973 on 17 March, authorizing the establishment of a no-fly zone over Libya and the implementation of all necessary measures, short of foreign occupation, to protect civilians. Two days later, an international alliance began aerial attacks on al-Gaddafi forces, poised on the outskirts of Benghazi, and began assisting opposition forces to drive them back. In late March, NATO took over military operations, carrying out thousands of air strikes on al-Gaddafi forces and infrastructure until 31 October. The forces opposing Colonel al-Gaddafi gained control of most of Libya, including Tripoli, by late August but fighting continued, notably in Beni Walid and in Sirte. On 23 October, NTC Chairman Mostafa Abdeljalil formally declared the "liberation of Libya".¹⁴⁹

The International Crisis Group continues that "of all the battles, Misrata's, which lasted from 23 February to 15 May, arguably was the bloodiest and most traumatic. Misratans faced some of the most violent attacks emanating from loyalist armoured columns arriving from Tripoli and Sirte. Qadhafi's forces based themselves in the neighbouring town of Tuwergha, whose inhabitants – according to Misratans – ardently

¹⁴¹ Human Rights Watch, [Death of a Dictator: Bloody Vengeance in Sirte](#), 17 October 2012, Summary p. 4

¹⁴² Human Rights Watch, [Death of a Dictator: Bloody Vengeance in Sirte](#), 17 October 2012, Summary p. 4

¹⁴³ Centre for Strategic and International Studies, [The Libyan Uprising: an Uncertain Trajectory](#), 20 June 2011, A Backgrounder on the Fighting, p. 10

¹⁴⁴ Centre for Strategic and International Studies, [The Libyan Uprising: an Uncertain Trajectory](#), 20 June 2011, A Backgrounder on the Fighting, p. 10

¹⁴⁵ Centre for Strategic and International Studies, [The Libyan Uprising: an Uncertain Trajectory](#), 20 June 2011, *The Libyan Army*, p. 21

¹⁴⁶ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, I. Introduction: The Road to Post-Qadhafi Libya, p. 1

¹⁴⁷ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, I. Introduction: The Road to Post-Qadhafi Libya, p. 2

¹⁴⁸ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Libyan History, Civil War, and Political Change*, p. 16

¹⁴⁹ Amnesty International, [Annual Report 2012 State of the World's Human Rights: Libya](#), 24 May 2012

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joined the battle against the rebellious town and engaged in atrocities including theft, murder and rape”.¹⁵⁰ See [4.5.2.4 Tawergha](#) for further information.

With regards to the conduct of Gaddafi’s security forces during the armed conflict, the final March 2012 report of the International Commission of Inquiry on Libya concluded that “Qadhafi forces engaged in excessive use of force against demonstrators in the early days of the protests, leading to significant deaths and injuries. The nature of the injuries indicates an intention to kill; the level of violence suggests a central policy of violent repression. These actions breach international human rights law as an arbitrary deprivation of life”.¹⁵¹ It also found that “the Qadhafi forces executed and tortured to death large numbers of prisoners in detention centres. Executions tended to occur immediately prior to retreats. During the armed conflict, this amounts to a war crime. Insofar as many of the detainees were part of the civilian population rather than captured fighters, the systematic and widespread executions constitute a crime against humanity”.¹⁵² Furthermore, the Commission concluded that Qadhafi forces unlawfully detained persons it suspected were supporting *Thuwar* and that “Qadhafi forces committed torture and ill -treatment in a widespread and systematic manner”.¹⁵³ It also noted that “the Qadhafi forces launched sustained shelling on many towns and cities across Libya during the conflict. Some of these towns, such as Misrata, still contained civilians. The use of unguided weapons in these cases constituted an indiscriminate attack”.¹⁵⁴ For information on sexual violence being perpetrated during the conflict by Gaddafi forces, see section [4.6.3 Sexual violence against women during the armed conflict](#). Also see [6.3 Impunity for war crimes committed in the course of the armed conflict in 2011](#).

On 27 June 2011, during the conflict, the International Criminal Court (ICC) issued arrest warrants for Muammar Gaddafi, Saif al-Islam Gaddafi, Muammar Gaddafi’s son and Abdallah Sanussi, Gaddafi’s head of intelligence.¹⁵⁵ Human Rights Watch explains that “the three were wanted for crimes against humanity for attacks on civilians, including peaceful demonstrators, in Tripoli, Benghazi, Misrata, and other locations in Libya”.¹⁵⁶ See section [6.4 ICC Jurisdiction in Libya](#).

3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings

In July 2012 Amnesty International reported that “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”.¹⁵⁷ The same source notes that 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.¹⁵⁸

The July 2012 Amnesty International report further notes that entire communities accused of supporting Gaddafi were displaced during the conflict and were still unable to return to their homes, which were looted and burned by armed militias seeking revenge.¹⁵⁹ The report of the International Commission of

¹⁵⁰ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, I.

Introduction: The Road to Post-Qadhafi Libya, p. 2

¹⁵¹ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph 22

¹⁵² UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph 35

¹⁵³ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraphs 42 and 52

¹⁵⁴ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph 81

¹⁵⁵ Human Rights Watch, [Libya: Ensure Abdallah Sanussi Access to Lawyer](#), 17 April 2013

¹⁵⁶ Human Rights Watch, [Libya: Ensure Abdallah Sanussi Access to Lawyer](#), 17 April 2013

¹⁵⁷ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, 1. Introduction, p. 6

¹⁵⁸ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, Arbitrary Arrests p. 16

¹⁵⁹ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, 1. Introduction, p. 8

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Inquiry on Libya also found that “*Thuwar* [“Revolutionaries”] also used inherently indiscriminate weapons in their military offensives against cities perceived as loyalist. Of particular concern is their conduct in Sirte”.¹⁶⁰

The March 2012 report of the International Commission of Inquiry on Libya concluded with regards to the *Thuwar* treatment of perceived Gaddafi loyalists that:

Thuwar have executed and tortured to death perceived Qadhafi loyalists and suspected mercenaries. These were either hors de combat fighters or members of civilian population. During the armed conflict, this amounts to the war crime of murder. Once the conflict ended, it constituted an arbitrary deprivation of life. [...]

Thuwar have been involved in arbitrary arrest and enforced disappearance of perceived Qadhafi loyalists, security officers and members of the former government. The Commission is concerned that the *Thuwar* have applied a presumption of guilt to those who fought against them or who are believed to have supported the Qadhafi Government. Moreover, many detainees are being held outside the framework of the law rendering their continued detention arbitrary per se.¹⁶¹

An October 2012 Human Rights Watch report presents evidence that “Misrata-based militias, after capturing and disarming members of the Gaddafi convoy and bringing them under their total control, subjected them to brutal beatings before apparently executing dozens of them. One year later, Libyan authorities have neither investigated nor held accountable those who committed these crimes”.¹⁶² The same source further notes that “these killings apparently comprise the largest documented execution of detainees committed by anti-Gaddafi forces during the eight-month conflict in Libya. The execution of persons in custody is a war crime”.¹⁶³

The U.S. State Department observes that during 2012, hostility to real and perceived Qadhafi loyalists continued to spread throughout the country:

There were numerous reports of arbitrary and unlawful killings, particularly of real or suspected Qadhafi supporters. Primary targets included Qadhafi soldiers or supporters, possible sub-Saharan mercenaries, dark-skinned Libyans, former members of the security forces, as well as foreign diplomats.¹⁶⁴

Sources document the on-going human rights abuses against the inhabitants of the town of Tawergha who are widely viewed as having supported Gaddafi.¹⁶⁵ Amnesty International reports that “the Mashashiya community from the areas of Awaniya, Zawiyat al-Bajoul and Omer in the Nafousa Mountain faces a similar plight at the hands of Zintan militias”.¹⁶⁶ For further details, see section [4.5.2 Treatment of minority groups](#). The UN Secretary-General reports that the GNC also sanctioned the use of force against elements alleged to be loyal to Gaddafi in Bani Walid in October 2012.¹⁶⁷ For further information see section [3.3.1 Fighting in Bani Walid](#).

The Jamestown Foundation reports in September 2012 that “assassinations have also become commonplace in Libya as the armed groups controlling the Libyan streets eliminate rivals and dispose of challenges to their influence. Some of these attacks seem to be a settling of accounts for grudges nursed

¹⁶⁰ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph 79

¹⁶¹ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012 paragraphs 36 and 43

¹⁶² Human Rights Watch, [Death of a Dictator: Bloody Vengeance in Sirte](#), 17 October 2012, Summary, p. 6

¹⁶³ Human Rights Watch, [Death of a Dictator: Bloody Vengeance in Sirte](#), 17 October 2012, Summary, p. 8

¹⁶⁴ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 1a Arbitrary or Unlawful Deprivation of Life

¹⁶⁵ Human Rights Watch, [Libya: Stop Revenge Crimes Against Displaced Persons](#), 20 March 2013

¹⁶⁶ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, 1. Introduction, p. 8

¹⁶⁷ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 7

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since the Qaddafi era, particularly against those who were part of the security structure”.¹⁶⁸ Amnesty International reports in July 2012 that whilst foreign nationals, especially those from Sub-Saharan Africa, are no longer being arrested on a large scale and accused of being employed as mercenaries by Gaddafi, they continue to be rounded up from their homes or seized at checkpoint for remaining in the country ‘illegally’.¹⁶⁹ Also see [4.5.2.6 Sub-Saharan Africans](#).

In an April 2013 report on the Libyan justice system, the International Crisis Group observes that “Qadhafi-era victims, distrusting an apparatus they view as a relic, take matters in their hands; some armed groups, sceptical of the state’s ability to carry out justice, arbitrarily detain, torture or assassinate presumed Qadhafi loyalists”.¹⁷⁰ The report continues “the mere possession of pro-Qadhafi songs or photographs saved on a mobile telephone often justified immediate detention, as did hailing from a town or community accused of siding with Qadhafi forces during the war. In many cases presumed ties to the former regime appear to have been little more than pretexts to retaliate against people against whom the armed brigades held personal or professional grudges or as a means of extorting a ransom”.¹⁷¹ The International Crisis Group report further notes that the government is unable to control armed groups from exacting justice against former Gaddafi supporters:

Most importantly the state has been unable or unwilling to prevent individuals and armed groups from applying “victor’s justice”. Hundreds of armed groups that emerged victorious and refused to lay down their arms after the regime’s fall still function as parallel police forces, at times working against state interests. Although some armed groups nominally fall under the authority of a civilian or military prosecutor’s office – depending on whether they have been recognised by the interior or defence ministry – they tend to act both independently and arbitrarily. Such bodies for the most part also lack investigative capacity, and their members have never undergone formal police or legal training. Having compiled lists of “wanted” individuals – without reference to any judicial procedure – they have carried out arbitrary arrests, kidnappings and killings of alleged “anti-revolutionary” figures well after the end of hostilities. Indeed, more than 7,000 people captured by so-called revolutionary brigades during and after the 2011 conflict remain in arbitrary detention, for the most part in makeshift prisons.¹⁷²

The Brookings Institution considers in a February 2013 report that “the issue of how to deal with members of the former regime is one of the most high-stakes and controversial challenges to realizing Libyan national reconciliation”.¹⁷³ Human Rights Watch reported that as of November 2012, an estimated 8,000 persons remained in detention, of which most were former Gaddafi security force members, former government officials, suspected Gaddafi loyalists, suspected foreign fighters, or migrants from sub-Saharan Africa and have been in custody for over a year without charge.¹⁷⁴ Amnesty International reports that “very few lawyers are willing to represent alleged “Gaddafi loyalists”, either for ideological reasons or out of fear of reprisals” and that it has documented several instances of violence, threats and harassment against lawyers defending alleged al-Gaddafi supporters.¹⁷⁵ See [6.5 Due process](#) for further information. In October 2012 Amnesty International reported that Anoud Abdallah al-Senussi, whose father was Mu’ammar al-Gaddafi’s military intelligence chief, was arrested and held incommunicado with fears for her safety.¹⁷⁶ Her

¹⁶⁸ Jamestown Foundation, [Bombs, Assassinations and Kidnappings become Daily Events as the Battle for Benghazi Continues](#), 10 September 2012

¹⁶⁹ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, 1. Introduction, p. 8

¹⁷⁰ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, Executive Summary, i

¹⁷¹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, B. Collapse of the State Security Apparatus, p. 23

¹⁷² International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. Introduction p. 4

¹⁷³ Brookings Institution, [The Libyan Revolution at Two](#), 22 February 2013

¹⁷⁴ Human Rights Watch, [Libya: New Government Should End Illegal Detention](#), 16 November

¹⁷⁵ Amnesty International, [Libya must seek justice not revenge in case of former al-Gaddafi intelligence chief](#), 18 October 2012

¹⁷⁶ Amnesty International, [Libya: Safety Concerns For Loyalists’ Daughter: Anoud Abdallah Al-Senussi](#), 31 October 2012

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father al-Senussi is being held in Libyan detention, although the ICC has issued a warrant for his arrest.¹⁷⁷ See [6.4 ICC Jurisdiction in Libya](#).

Amnesty International notes that “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”.¹⁷⁸ See [6.7 Prison conditions](#) for further information on the treatment of Gaddafi loyalists in detention.

Amnesty International reports that public criticism of the *Thuwar*, who are widely considered heroes is uncommon and notes that:

Even officials, activists, journalists, lawyers and victims of human rights violations who privately acknowledge the prevailing lawlessness and abuses committed by the *thuwwar* do not raise their concerns in public, fearing reprisals. Their fears are justified. Outspoken individuals have been dubbed the “fifth column”, as alleged al-Gaddafi loyalists are commonly called, and faced threats and intimidation – entrenching the climate of self-censorship.¹⁷⁹

For further information on the impunity for the *Thuwar* see [6.2.3 Amnesty Law](#) and [6.3 Impunity for war crimes committed in the course of the armed conflict in 2011](#).

With regards to reconciliation for former Gaddafi regime members, the Brookings Institution notes that:

The National Congress has agreed in principle to a Law of Political Exclusion that will prohibit old-regime figures from participating in politics or occupying leadership roles in the new Libya. The criteria for defining a “member of the former regime,” however, have yet to be determined -- and raise difficult questions. There seems to be overwhelming support from revolutionaries and militia members for the exclusion of anyone who was part of the Qaddafi regime. That could include up to 80 percent of the current National Congress, however, if the law is implemented in the broadest sense. There is not even consensus on whether regime defectors should be integrated into the new order. Some say only those who defected in the first four days of the revolution should qualify, others that it should be anyone who joined the rebels before NATO strikes began.¹⁸⁰

Also see [4.2.1.2 Political Isolation Draft Law](#).

3.2 Attack on US Consulate, Benghazi

The Congressional Research Service reports that “U.S. Ambassador to Libya Christopher Stevens and three other U.S. personnel were killed on September 11, 2012 during an assault by armed terrorists on two U.S. interim diplomatic sites in Benghazi”.¹⁸¹ Radio Free Europe/Radio Liberty reports that according to locals, the attacks were the result of outrage of a low-budget film produced in the U.S. that insulted the Prophet Muhammad.¹⁸² Initially the exact circumstances of the attacks and the identity of the perpetrators had not been confirmed, although according to Libyan eyewitnesses, armed members of the Salafist militia group

¹⁷⁷ *ibid*

¹⁷⁸ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, 1. Introduction, p. 6

¹⁷⁹ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, 1. Introduction, p.10

¹⁸⁰ Brookings Institution, [The Libyan Revolution at Two](#), 22 February 2013

¹⁸¹ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Attacks on U.S. Special Mission in Benghazi*, p. 3

¹⁸² Radio Free Europe/Radio Liberty, [Libya: U.S. ambassador, staff killed in attack on Benghazi consulate](#), 12 September 2012

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Ansar al Sharia were present during the first attack, however the group's leaders have issued statements denying that they ordered their members to participate or use force.¹⁸³ See [1.4.1 Salafism Movement](#).

The February 2013 report of the UN Secretary-General notes that "reflecting the public's anger against the attack and a desire for a return to stability in the city, some 30,000 demonstrators took part in the 'Save Benghazi' rally on 21 September, calling for the police and military to assume their responsibilities as the sole, legitimate State security provider and for the dismantlement and integration of all armed groups".¹⁸⁴ Protesters were reported to have seized paramilitary bases, and torched the compound of Ansar al-Sharia, in clashes that resulted in the deaths of 10 people.¹⁸⁵ An April 2013 report from the International Crisis Group reports that Libya has insisted that it will lead investigations, but that so far they have come to a standstill, noting that "the absence of an effective national police force, widespread availability of weapons and persistent assassination of security officials have hampered the state's investigative capacity as well as its ability to carry out justice".¹⁸⁶

3.2.1 Attacks on vehicles carrying the Italian consul

The BBC reports that on 12 January 2013, there was an attack by unidentified gunmen on the car carrying the Italian consul, in which he was unharmed.¹⁸⁷ The February 2013 report of the UN Secretary-General reporting on the incident stated that "the Government has since reiterated its plan to establish a special unit for diplomatic security. A marked increase has been noted in the assassination of senior police and military officials in eastern Libya and of attacks against various State security facilities".¹⁸⁸

In June 2013 Italian diplomats escaped from their booby-trapped car before it exploded during a shopping trip in Tripoli.¹⁸⁹

3.2.2 Attack on French Embassy

On 23 April 2013, a car bomb attack on the French Embassy in Tripoli injured two guards and caused extensive damage.¹⁹⁰ UN News reported that "Secretary-General Ban Ki-moon and the United Nations Security Council today condemned, in the strongest terms, a deadly attack on the French Embassy in Libya's capital, Tripoli, affirming the responsibility of Libyan authorities to ensure protection for diplomatic premises".¹⁹¹

¹⁸³ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Attacks on U.S. Special Mission in Benghazi*, p. 3

¹⁸⁴ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 11

¹⁸⁵ Radio Free Europe/Radio Liberty, [At Least 10 Dead After Libyan Protesters Expel Islamist Militia From Bases](#), 22 September 2012

¹⁸⁶ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, *Introduction*, p. 3

¹⁸⁷ BBC, [Italian consul in Benghazi escapes shooting unhurt](#), 12 January 2013

¹⁸⁸ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 11

¹⁸⁹ Al Arabiya, [Italian diplomats in Libya escape car blast](#), 11 June 2013

¹⁹⁰ Radio Free Europe/Radio Liberty, [Reports: French Embassy In Tripoli Hit By Car Bomb](#), 23 April 2013

¹⁹¹ UN News Service, [Ban, Security Council strongly condemn attack on French Embassy in Libya](#), 23 April 2013

3.3 Violence in Benghazi in May and June 2013

Amnesty International reported that the 13 May 2013 deadly car bombing near Al-Jala hospital in the centre of Benghazi appeared to have been the first bombing to deliberately target Libyan civilians in post-conflict Libya.¹⁹² The final death toll remained unclear, with the hospital announcing 3 dead, but witnesses reporting up to 17 dead.¹⁹³ Meanwhile, Benghazi police chief Tarek al-Kharaz said at least 13 people were killed and 41 wounded.¹⁹⁴ UN figures put the number of dead at 12.¹⁹⁵

Amnesty International further reported in response to the 13 May 2013 attack that:

The security situation in Benghazi has been steadily deteriorating since the end of the 2011 conflict. Previously bomb attacks appear to have targeted state security agencies and officers, such as police stations, as well as former Internal Security and police officers. Libyan civilians are not known to previously have been deliberately attacked.

Since January 2013, there have been at least five bombings against police stations in Benghazi, including three since the beginning of May. These bombings follow the attack against the French embassy in Tripoli on 23 April and the US consulate in Benghazi on 11 September 2012, which resulted in the death of ambassador J. Christopher Stevens and three other Americans. Although suspected perpetrators were subsequently arrested in relation to this attack, the results of the investigation, as well as other attacks targeting police stations and former police officers have not been made public.¹⁹⁶

On 18 May 2013 Libya Herald reported that “the last 24 hours Benghazi have seen four new bomb attacks, albeit with only one minor injury and no fatalities, while angry protestors gathered outside the Tibesti hotel denouncing the men of violence and demanding that the army, security forces and elected government be supported”.¹⁹⁷

On 8 June 2013 Agence France Presse reported that at least 28 people had been killed and 60 wounded when demonstrators, some of them armed, attacked the Benghazi headquarters of the ‘Shield of Libya Brigade’.¹⁹⁸ The Libya Herald reported that “the fighting started when as many as 200 protestors gathered outside the headquarters of the First Brigade of the Libya Shield forces (Deraa 1) in the Sidi Khalifa district in eastern Benghazi, demanding it vacate the premises and disband. [...] What happened next is unclear. According to Congressman Langhi, the protestors ‘were unarmed’ but then others [with] weapons came and joined them. Who fired the first shots has not been disclosed”.¹⁹⁹ Reportedly most of the dead were protestors, not Libya Shield members.²⁰⁰ Agence France Presse cited armed forces spokesman Colonel Ali al-Shikhi as stating that the brigade was “a reserve force of the Libyan army”, and that an attack on them was equivalent to an “attack on the legitimate authorities”.²⁰¹ Human Rights Watch reported that “witnesses said the protest escalated from protesters throwing rocks and shots being fired to disperse the crowd, to shooting on both sides and the militia firing anti-aircraft weapons, killing and wounding scores of people. After several hours, the national army’s special forces took over the brigade’s base”.²⁰² Human

¹⁹² Amnesty International, [Amnesty International Condemns Benghazi Bombing Targeting Civilians](#), 14 May 2013

¹⁹³ Magharebia, [Benghazi hospital blast highlights security crisis](#), 28 May 2013

¹⁹⁴ Al Arabiya, [Car bomb near hospital kills at least 10 in eastern Libya](#), 13 May 2013

¹⁹⁵ UN Security Council Report, [June 2013 Monthly Forecast](#), 31 May 2013

¹⁹⁶ Amnesty International, [Amnesty International Condemns Benghazi Bombing Targeting Civilians](#), 14 May 2013

¹⁹⁷ Libya Herald, [Defence Minister Barghati calls Benghazi attacks “unbearable”](#), 18 May 2013

¹⁹⁸ Agence France Presse, [28 dead as protesters attack ex-Libya rebel HQ: medics](#), 9 June 2013

¹⁹⁹ Libya Herald, [Benghazi Libya Shield Protests: at least 27 dead](#), 9 June 2013

²⁰⁰ Libya Herald, [Benghazi Libya Shield Protests: at least 27 dead](#), 9 June 2013

²⁰¹ Agence France Presse, [28 dead as protesters attack ex-Libya rebel HQ: medics](#), 9 June 2013

²⁰² Human Rights Watch, [Libya: No Impunity for ‘Black Saturday’ Benghazi Deaths](#), 14 June 2013

Rights Watch considers that the incident underscores the need for the government to rein in armed groups.²⁰³

The BBC reported that Libyan army chief of staff Youssef al-Mangoush resigned following the 8 June 2013 clashes.²⁰⁴ It also noted that the Libyan army said it would take control of all bases run by the Libya Shield Brigade in Benghazi.²⁰⁵ Human Rights Watch reported that on 9 June 2013, the GNC issued decree 53/2013, accepting Mangoush's resignation and ordering the government to take all measures necessary – including the use of force – to shut down “unlawful brigades and armed formations” in Libya.²⁰⁶ A senior Ministry official told the Libya Herald on the condition of anonymity that “all the permissions and authorities would be withdrawn. The fighters would have the choice of either joining the security forces or they will be helped to reintegrate into the normal life. There are government departments taking care of that, already”.²⁰⁷ Also see [6.1.2 Integration of militias into the military following Gaddafi's death](#)

On 15 June 2013 Radio Free Europe/Radio Liberty reported that at least six people were killed in Benghazi after clashes broke out between armed protest groups and Libyan special forces.²⁰⁸ On 17 June 2013 the Libya Herald reported that when asked about the involvement of the Islamist Ansar Al-Sharia militias in the recent Benghazi violence, Prime Minister Ali Zeidan said that he had no such evidence.²⁰⁹ On 3 July 2013 at least seven people were wounded in Benghazi when a car bomb exploded at a checkpoint manned by special military forces.²¹⁰

3.4 Tribal Clashes

3.4.1 Fighting in Bani Walid

Human Rights Watch explains that Bani Walid is about 170km southwest of Tripoli, is home to the Warfalla, Libya's largest tribe, and is perceived to be a pro-Gaddafi town.²¹¹ The UN reports that Bani Walid was one of the last cities to fall to rebels in the conflict and that some considered it to be a shelter for regime loyalists and criminal gangs.²¹² Human Rights Watch reports that Bani Walid and Mistrata have a “history of antagonistic relations”.²¹³ It reports that in July 2012 unknown persons from Bani Walid reportedly abducted Omran Shaban, a Misratan who was credited with discovering Gaddafi in a drainpipe in Sirte, along with some other Misratans.²¹⁴ Amnesty International describes Shaban as a member of the Libya Shield 2 forces and the other captives as *Thuwar* members (revolutionaries).²¹⁵ Human Rights Watch further notes that Shaban was reportedly shot and detained in Bani Walid, until his release in September 2012 when he was transported to Paris for medical care, where he later died.²¹⁶ Amnesty International describes that Shaban's death exacerbated long-standing tensions between Bani Walid and Misrata.²¹⁷

²⁰³ Human Rights Watch, [Libya: No Impunity for 'Black Saturday' Benghazi Deaths](#), 14 June 2013

²⁰⁴ BBC, [Libya army chief of staff 'resigns' after deadly clashes](#), 9 June 2013

²⁰⁵ BBC, [Libya army chief of staff 'resigns' after deadly clashes](#), 9 June 2013

²⁰⁶ Human Rights Watch, [Libya: No Impunity for 'Black Saturday' Benghazi Deaths](#), 14 June 2013

²⁰⁷ Libya Herald, [Interior Ministry preparing master plan to dissolve all brigades](#), 18 June 2013

²⁰⁸ Radio Free Europe/Radio Liberty, [Six Killed In Libya Clashes](#), 15 June 2013

²⁰⁹ Libya Herald, [No evidence of Ansar Al-Sharia involvement in Benghazi violence – Zeidan](#), 17 June 2013

²¹⁰ Al Jazeera, [Car blast hits army checkpoint in Benghazi](#), 3 July 2013

²¹¹ Human Rights Watch, [Libya: Residents of Bani Walid at Risk](#), 24 October 2012

²¹² UN News Service, [Libya: UN chief alarmed by fighting in Bani Walid, calls for peaceful resolution to conflict](#), 22 October 2012

²¹³ Human Rights Watch, [Libya: Residents of Bani Walid at Risk](#), 24 October 2012

²¹⁴ Human Rights Watch, [Libya: Residents of Bani Walid at Risk](#), 24 October 2012

²¹⁵ Amnesty International, [Libyan authorities urged to protect Bani Wali residents](#), 12 October 2012

²¹⁶ Human Rights Watch, [Libya: Residents of Bani Walid at Risk](#), 24 October 2012

²¹⁷ Amnesty International, [Libyan authorities urged to protect Bani Wali residents](#), 12 October 2012

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The 2012 U.S. State Department report notes that the deadly violence in Bani Walid was in part motivated by revenge for Shaban's death:

For example, in October autonomous militias and those under the control of the Ministry of Defense enforced a blockade around Bani Walid, a city considered one of the last bastions of pro-Qadhafi sentiments. The blockade was an attempt to pressure the city to turn over the suspected pro-Qadhafi forces that captured, reportedly tortured, and kept in detention for two months until his death Omran Shaaban, the Misratan youth credited with capturing Qadhafi in October 2011.²¹⁸

The International Crisis Group reports that the GNC supported the demands of Misrata militia to "purge" Bani Walid of former regime members by decree 7/2012, which authorized the use of force to capture those allegedly responsible for Omran Shaaban's death and which demanded the release of other prisoners being held in Bani Walid.²¹⁹ It further notes that despite the city being held under siege and the threats of attack, Bani Walid tribal elders refused to hand over their men to what they considered lawless militias and called for a proper investigation.²²⁰ It continues that Misratan authorities refused their proposal to hand over individuals for whom the prosecutor would sign an arrest warrant, so the Libyan Shield Forces (LSF) with some army support, launched a full scale attack in October 2012.²²¹ The UN Secretary-General reported that during the conflict in Bani Walid:

human rights violations and other abuses, including indiscriminate shelling, arbitrary arrests and detentions, looting, burning of homes and the mistreatment of prisoners in custody, were perpetrated. UNSMIL also documented violations by Bani Walid fighters, including the kidnapping and illegal detention of at least 10 men from Misrata, Tajoura, Souqal-Jum'a and Zleiten. Following the end of hostilities, hundreds of detainees from Bani Walid remained, without due process, in detention centres in Tripoli, Misrata, Tarhouna, Gheryan and Al-Zawiyah.²²²

The International Crisis Group reports that over 50 people died and 10,000 were forced to flee their homes in the October 2012 attack.²²³ It further notes that "evidence suggesting that more than twenty people arrested during the attack on Bani Walid died in detention is a worrying indication of the degree of lawlessness that still characterises some government-affiliated armed groups".²²⁴ Also see [6.7 Prison conditions](#).

The UN Secretary-General reported in February 2013 that "despite calls for the establishment of a fact-finding committee to look into allegations of looting, the burning of homes and other human rights violations, no progress has been made on this issue".²²⁵ In June 2013 the Libya Herald reported that "almost two years after it fell to the revolutionaries, Bani Walid, one of the last strongholds of Qaddafi regime and central city of the million-strong Warfalla Tribe remains in a sensitive state".²²⁶ It continues "the resentment in the city continues today, as the people believe there have been systematic efforts to

²¹⁸ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 1a. *Arbitrary or Unlawful Deprivation of Life*

²¹⁹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. *Introduction*, p. 1 (footnote 1)

²²⁰ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. *Introduction*, p. 1 (footnote 1)

²²¹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. *Introduction*, p. 1 (footnote 1)

²²² UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 31

²²³ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. *Introduction*, p. 1

²²⁴ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. *Introduction*, p. 5

²²⁵ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 10

²²⁶ Libya Herald, [Tensions remain in Bani Walid](#), 24 June 2013

humiliate them. True or not, it did not help when the Misratan brigades taking part in the final offensive put up pictures in the main square of Ramdan Swehli (a revolutionary from the city who fought against the Italian colonists) and Omran Shaban".²²⁷

3.4.2 Fighting around Kufra and Sebha

Agence France Presse reports that Kufra is a town of about 40,000 people, located in a triangle where the borders of Egypt, Chad and Sudan meet.²²⁸ The International Crisis Group explains that age-old disputes and contemporary battles for control of smuggling routes have occurred in Kufra, which "has long experienced clashes between the Zway, an Arab tribe, and the Tebu, an indigenous sub-Saharan ethnic group primarily inhabiting southern Libya, Chad and Niger".²²⁹ See [4.5.2.3 Tebu \(Tabu, Toubou, Tubu\)](#) for further information.

The International Crisis Group further reports that following Gaddafi's fall, "Abdul Majid Issa, the Tebu's military leader who had sided with the revolution there, seized control of border smuggling routes from Zway communities. This upset the balance of power between Tebu smugglers and tariff-collecting Zway, who ran safe houses and collected other smuggling 'tolls'".²³⁰ In February 2012, a shooting of a Zway man by a Tebu militia sparked "ferocious, community-wide fighting" which cut off some Tebu areas and deeply polarised Kufra residents.²³¹ Amnesty International reports that according to hospital records, 69 people died in these clashes whilst UN figures put the number at over 100, and 250 were reported injured.²³² Amnesty International also reports that during the February 2012 conflict, both Tabu and Arab armed militia took captives.²³³ Local notables negotiated a ceasefire, supported by the army and a unit of eastern revolutionary fighters but this repeatedly broke down in April and June 2012.²³⁴

The U.S. State Department report notes that in 2012 there were "clashes reflecting a conflict between Tebou and Zway tribes over smuggling rivalries in the southeast of the country. On March 26, Arab government-affiliated militia clashed with Tebou tribal groups in the region near Kufra. According to reports from local contacts and NGOs, the fighting was largely one sided and targeted at Tebou civilian neighborhoods in attempt to push Libyan Tebou out of the country into Chad. On April 21, the conflict had escalated to the point that government forces were sent to Kufra to restore order".²³⁵ Amnesty International notes that according to hospital records, 10 people died and 53 were injured during the second round of violence.²³⁶ The UN Secretary-General reports that further fighting erupted on 9 June 2012 between the Libya Shield and Tabu brigades, amid accusations that the former had compromised its neutrality by aligning itself with the Arab Zwaya tribe, killing 44 people and wounding 150.²³⁷

²²⁷ Libya Herald, [Tensions remain in Bani Walid](#), 24 June 2013

²²⁸ Agence France Presse, [Tribal clashes in Libya's Kufra kill 4: military official](#), 9 January 2013

²²⁹ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, B. *The Tumultuous Borderlands: Zuwara, Kufra and Sebha*, p. 6

²³⁰ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, B. *The Tumultuous Borderlands: Zuwara, Kufra and Sebha*, p. 6

²³¹ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, B. *The Tumultuous Borderlands: Zuwara, Kufra and Sebha*, p. 7

²³² Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, Kufra, p. 48

²³³ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, Kufra, p. 54

²³⁴ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, B. *The Tumultuous Borderlands: Zuwara, Kufra and Sebha*, p. 7

²³⁵ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *National/Racial/Ethnic Minorities*

²³⁶ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, Kufra, p. 49

²³⁷ UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 30 August 2012, paragraph 12

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The International Crisis Group further reports that in Sebha, the main administrative capital of the south western area of Fezzan, a communal conflict between Arab and Tebu ethnic groups was set off in March 2012 when members of the Awlad Busayf, an ethnic Arab community, accused a young Tebu of stealing a car.²³⁸ The local military council run by another ethnically Arab group, the Awlad Suleyma, intervened in the dispute exacerbating the situation and a planned reconciliation turned into a firefight.²³⁹ Five days of fighting with Sebha residents from various Arab communities indiscriminately shelling Tebu shantytowns led to 147 deaths and 500 wounded.²⁴⁰ The International Crisis Group further reports that “as in Kufra, old resentments over smuggling routes, coupled with traditional anti-Tebu discrimination, fed the conflict and complicated the task of peace negotiators”.²⁴¹ It further explains with regards to ceasefires in Kufra and Sebha that:

Agreements reached by local notables lacked teeth because the absence of centralised authority and a credible judiciary made them virtually unenforceable; it was exceedingly difficult to litigate interlocking land, property, citizenship and transitional justice issues without an effective and credible government. Furthermore, given the fragmented security arena and the concomitant deep political tensions among revolutionaries, state security forces as well as local military councils, the army and other groups sent to impose security and administer ceasefires were driven to build alliances with, or sometimes simply recruit, local armed groups. This critically undermined their neutrality, as well as Libyans’ faith in the new order.²⁴²

The Jamestown Foundation notes in January 2013 that “clashes between the Black African Tubu and the Arab Zawiya tribe continue in the southeastern Kufra Oasis, where inter-tribal fighting earlier this month developed into firefights between the Tubu and members of the Libyan Desert Shield, a pro-government militia that was flown into Kufra last year to bring the region under control. Desert Shield has failed to win the trust of the Tubu, who accuse the militia’s northern Arabs of siding with the Zawiya”.²⁴³ Agence France Presse reported that four Toubou tribesmen were killed in the January 2013 clashes in Kufra.²⁴⁴

The International Crisis Group reports that “the Tebu, who witnessed the killing of twelve community members in early 2013 and blame government security forces for not arresting suspects from the Zway tribe, threaten to end a precarious ceasefire in the southern desert town of Kufra”.²⁴⁵ On 27 May 2013 there were demonstrations in Sebha following the disappearance of a major Tebu leader who vanished, feared kidnapped, in Tripoli.²⁴⁶ The Libya Herald reports that in June 2013, Prime Minister Ali Zeidan flew to Kufra to address security issues in the region.²⁴⁷ The visit coincided with five people being killed in heavy fighting between Tebus and members of Al-Shourafa tribe in Zawila, south of Sebha, and followed four recent successful jailbreaks from Sebha prison, the most recent at the end of April, when 170 inmates were

²³⁸ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September 2012, B. *The Tumultuous Borderlands: Zuwara, Kufra and Sebha*, p. 7

²³⁹ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September 2012, B. *The Tumultuous Borderlands: Zuwara, Kufra and Sebha*, p. 7

²⁴⁰ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September 2012, B. *The Tumultuous Borderlands: Zuwara, Kufra and Sebha*, p. 7

²⁴¹ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September 2012, B. *The Tumultuous Borderlands: Zuwara, Kufra and Sebha*, p. 7

²⁴² International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September 2012, B. *The Tumultuous Borderlands: Zuwara, Kufra and Sebha*, p. 7

²⁴³ Jamestown Foundation, [Tribes and Terrorists: The Emerging Security Threat from Libya’s Lawless South](#), 25 January 2013

²⁴⁴ Agence France Presse, [Tribal clashes in Libya’s Kufra kill 4: military official](#), 9 January 2013

²⁴⁵ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, I. *Introduction*, p. 7

²⁴⁶ Libya Herald, [Tebus protest after military leader vanishes](#), 27 May 2013

²⁴⁷ Libya Herald, [Zeidan promises investment in Kufra in bid to improve security in South](#), 3 June 2013

reported to have escaped.²⁴⁸ The same June 2013 article reports that low level clashes and occasional killings between Tebus and Kufra's majority Arab Zway tribe have continued to destabilize the town.²⁴⁹

3.4.3 Fighting in Nafusa Mountains

IRIN reports that in March 2013 heavily armed fighters from the Qantrar and Meshashya communities in the Nafusa Mountains clashed, forcing 1,500 families to flee their homes.²⁵⁰ Reportedly the fight lasted five days and killed nine people.²⁵¹ The ICRC reported that it was delivering food, medicines and other essential aid to more than 3,000 people who fled their homes to seek refuge in nearby towns.²⁵² IRIN further notes that the town centre has become a front for the ethnic conflict, and before the March 2013 attacks, the town was already split with the Qantrar living in the south and west, and Meshashya families living in the neighbourhoods to the east and north.²⁵³ The source goes on to explain that there is historical tension between the two communities as according to Qandtrar leaders, their presence in the mountains long pre-dates the Meshashya who they accuse of illegally occupying their land, whilst Meshashya claim that the Qantrar community wrongly accuses them of being Gaddafi supporters, and consider that the Qantrar have taken their land unfairly.²⁵⁴ Following the violence, the National Reconciliation Committee set up an arbitration committee to help solve housing, land and property disputes, which are understood to be the underlying causes of the ethnic tension.²⁵⁵

For information on the June 2012 fighting in the area of Zintan, Mizdah, Shegaya, see [4.5.2.5 Mashashiya \(Mashasha, Meshashya, Masheshiya\)](#).

3.5 Arms proliferation during and after uprising

The Small Arms Survey explains that at the beginning of the war, almost all weapons acquired by the opposition were captured in conflicts with Qaddafi police or military forces.²⁵⁶ Shipments began to arrive in April 2011, but significant quantities of small arms and light weapons only arrived after the siege of Misrata.²⁵⁷ Human Rights Watch reports that following NATO's Operation Unified Protector which created an arms embargo, a no-fly zone over Libya, and military action to protect civilians from an attack or the threat of an attack, France, Qatar, the United Arab Emirates, and possibly other governments provided weapons and training to opposition forces.²⁵⁸

²⁴⁸ Libya Herald, [Zeidan promises investment in Kufra in bid to improve security in South](#), 3 June 2013

²⁴⁹ Libya Herald, [Zeidan promises investment in Kufra in bid to improve security in South](#), 3 June 2013

²⁵⁰ Integrated Regional Information Networks (IRIN), [Thousands of Libyan families displaced in the Nafusa Mountains](#), 2 April 2013

²⁵¹ Integrated Regional Information Networks (IRIN), [Thousands of Libyan families displaced in the Nafusa Mountains](#), 2 April 2013

²⁵² International Committee of the Red Cross (ICRC), [Libya: Thousands need help following tribal clashes in Nafusa mountains](#), 7 March 2013

²⁵³ Integrated Regional Information Networks (IRIN), [Thousands of Libyan families displaced in the Nafusa Mountains](#), 2 April 2013

²⁵⁴ Integrated Regional Information Networks (IRIN), [Thousands of Libyan families displaced in the Nafusa Mountains](#), 2 April 2013

²⁵⁵ Integrated Regional Information Networks (IRIN), [Thousands of Libyan families displaced in the Nafusa Mountains](#), 2 April 2013

²⁵⁶ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 43

²⁵⁷ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 43

²⁵⁸ Human Rights Watch, [Death of a Dictator: Bloody Vengeance in Sirte](#), 17 October 2012, *I. Background*, p. 16

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The Small Arms Survey reports that in addition to the weapons used in the fighting, heads of households purchased weapons to protect their family compounds.²⁵⁹ The Institute for War and Peace Reporting noted in December 2011 that people who joined the uprising and had purchased their own arms were unwilling to give them up, reporting that of the population of 6.4 million, around 125,000 were armed.²⁶⁰ The Small Arms Survey goes on to report that according to Brigade commanders, after June 2011, when revolutionary forces took control of army stockpiles in Zlitan and then Tripoli, the number of small arms became very difficult to determine.²⁶¹ By the end of the war, all brigades, irrespective of size, operated light and heavy machine guns affixed to pick-up trucks.²⁶² Furthermore, since the end of the conflict, heavily armed vehicles have been banned in cities and are kept in storage and although not officially demobilized, they would require significant maintenance to be employed again.²⁶³ Conventional weapons were only obtained from captured Gaddafi equipment.²⁶⁴ The October 2012 Small Arms Survey report continues to note that revolutionary brigades possess the vast majority, 92 to 97 per cent, of the stockpiles, leaving only a fraction under the control of unregulated groups.²⁶⁵ It further reports that in January 2012 the imams forbade the sale of small arms, which forced the trade underground.²⁶⁶ It also notes that a fraction of brigades require the central storage of small arms, but the majority delegate this responsibility to individual members.²⁶⁷

In March 2012 the UN Secretary-General reported that “the full magnitude of the arms problem remains unknown because access to stockpiles controlled by “brigades” remains a challenge; no reliable records exist of pre-conflict weapons stocks; and details of weapons destroyed, transferred or used during the conflict are not available”.²⁶⁸ The Congressional Research Service reports in October 2012 with regards to weapons proliferation that:

Libya’s borders and hundreds of suspected weapons sites remained loosely secured, although limited efforts to secure them have begun, with the support of the United Nations Support Mission in Libya (UNSMIL), the United States, and other governments. The proliferation of small arms, man-portable air defense missile systems (MANPADS), and some heavy weaponry among Libyans and beyond Libya’s borders has led some counterterrorism and arms trafficking experts, as well as officials in neighboring countries, to express concern about the conflict’s longer-term implications for security in Libya and the region.²⁶⁹

An April 2013 International Crisis Group report describes that there remains a “widespread availability of weapons” in Libya explaining that “militias that had taken up arms against the former regime and then held on to them to fill the security vacuum after it collapsed accumulated weapons and consolidated control over entire neighbourhoods and areas”.²⁷⁰ The February 2013 UN Secretary-General report considers that:

Unsecured ammunition, explosive remnants of war and stockpiled weapons, including small arms, light and chemical weapons and materiel, continue to pose a serious risk to the Libyan people and to regional security. Libya has submitted a detailed plan for the destruction of the remaining chemical weapons stock with a new

²⁵⁹ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 44

²⁶⁰ Institute for War and Peace Reporting, [Libya's Alarming Arms Proliferation](#), 21 December 2011

²⁶¹ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 46

²⁶² Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 47

²⁶³ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 48

²⁶⁴ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 48

²⁶⁵ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 49

²⁶⁶ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 50

²⁶⁷ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation*, p. 54

²⁶⁸ UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 1 March 2012, paragraph 36

²⁶⁹ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Assessment*

²⁷⁰ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, *III, Justice after Qaddafi*, p. 21 and 22

planned completion date of December 2016. Destruction operations are planned to resume in March 2013.²⁷¹

It further notes that efforts by the U.S.-led MANPADS Task Force are complicated by the fact that NATO airstrikes targeted weapon stores and that militias are reluctant to disarm.²⁷² The Small Arms Survey reports that brigade commanders identified that the two most urgent challenges to the control of weapons are inadequate storage facilities and the need to strengthen existing controls.²⁷³

²⁷¹ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 47

²⁷² Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Weapons Proliferation and Related Concerns* p.20

²⁷³ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Weapons proliferation* p.54

4. Human Rights Issues

4.1 Drafting of new Libyan Constitution

In August 2011 the NTC issued an interim constitutional declaration.²⁷⁴ The Congressional Research Service describes in October 2012 that the transition had so far followed steps laid out in this document, but that the constitution had been amended to incorporate political developments.²⁷⁵ It further notes that in March 2012 the TNC amended the interim constitution to state that the GNC would select a body from outside its membership to draft a constitution made up of 60 members, 20 from each of Libya's three historic regions of Tripolitania, Fezzan, and Cyrenaica.²⁷⁶

Human Rights Watch similarly explains in January 2013 that "the GNC is mandated to form a government, prepare a new electoral law and hold new elections. It was originally tasked to form a body to draft a constitution, but the NTC revoked that power just prior to elections in an attempt to defuse tension between eastern and western Libya. The mechanism for drafting a constitution is currently under review".²⁷⁷

The February 2013 report from the UN Secretary-General notes that GNC deliberations over the constitution-drafting process formally began on 4 November 2012, focusing on whether members of the constitution-drafting body were to be appointed by the GNC or elected in a national vote.²⁷⁸ As the GNC was not able to reach a consensus on this issue, on 26 December 2012 the GNC established a public outreach committee mandated to undertake a national consultative process and on 6 February 2013, the GNC passed a decision which set out that a constitution-drafting body would be elected, and that the public outreach committee be dissolved.²⁷⁹ Once the body has been formed, it will draft the constitution.²⁸⁰ As the Congressional Research Service explains, if voters approve the constitution in a referendum, then new elections are to be held by mid-2013.²⁸¹ The Libya Herald reported that as of early July 2013, "members of congress have only managed to agree on a 15-member committee which will draw up the law for the election of a 60-member commission which will actually draft the new constitution. The 15-member commission, which was appointed on 15 April had 45 days in which to produce the draft law. Nothing has yet emerged".²⁸²

The UN Secretary-General report goes on to note that the debate over the composition of the constitution-drafting body, which is to consist of an equal number of representatives from each of Libya's three regions, has been particularly heated in the east, with demands growing for its election.²⁸³ It further explains that this issue has predominantly been voiced by those calling for a federal system, and those advocating for the principles of local government or decentralization to be enshrined in the constitution.²⁸⁴ The Congressional

²⁷⁴ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September 2011

²⁷⁵ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Constitutional Assembly and Federalism Debate*, p. 18

²⁷⁶ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Constitutional Assembly and Federalism Debate*, p. 18

²⁷⁷ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Political Transition*

²⁷⁸ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 19

²⁷⁹ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 19

²⁸⁰ UN News Service, [Libya: UN welcomes decision on formation of constitution-drafting body](#), 6 February 2013

²⁸¹ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Background*, p. 16

²⁸² Libya Herald, [The two biggest parties to boycott GNC except for work on constitution](#), 5 July 2013

²⁸³ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 20

²⁸⁴ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 20

Research Service similarly reports that “some in eastern Libya fear that a consolidation of power at the national level will continue a pattern that they claim marginalized the east and neglected its development. As such, procedures for selecting a new constitutional drafting body have been amended twice, each time in an effort to respond to calls from activists in eastern Libya concerned that the constitution would be drafted on the basis of proportional differences in population rather than equal regional representation”.²⁸⁵ In June 2013 Ahmed Zubair al-Senussi, leader of the Cyrenaica Council, declared the province a self-governing region, which Reuters reports is evidence of growing pressure for a planned new constitution to adopt a federal structure.²⁸⁶ Also see [1.3.2 Gaddafi policy toward the East](#) and [6.2.1 Use of Libyan Penal Code versus Islamic legal principles](#).

4.1.1 Human rights protections in the Constitution

Part One of the 2011 Interim Constitution provides for the equality of Libyan nationals:

Article (6) Libyans are brothers and their official relationship shall be based on law rather than tribal, proud or personal loyalty. Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities, and be subject to the same public duties and obligations, without discrimination due to religion, belief, race, language, wealth, kinship or political opinions or social status. The State shall guarantee for woman all opportunities which shall allow her to participate entirely and actively in political, economic and social spheres [sic].²⁸⁷

Part Two of the 2011 Interim Constitution sets out Rights and Public Freedoms, and provides with respect to human rights:

Article (7) Human rights and his basic freedoms shall be respected. The state shall endeavor to join the international and region declarations and charters which protect such rights and freedoms.²⁸⁸

Amongst other issues, the Interim Constitution also provides for freedom of religion (Article 1); equal opportunities (Article 8); innocence until proven guilty (Article 11); the right to private life (Article 12); freedom of opinion, press, assembly and movement (Article 13); freedom to form political parties (Article 14); right to property (Article 15); and right to a fair trial (Articles 30-32).²⁸⁹

4.2 Freedom of Political Expression, Association, and Assembly

4.2.1 Domestic Legal Framework

With regards to freedom of political expression, association, and assembly, the 2011 draft Constitution provides:

Article (13) Freedom of opinion for individuals and groups, freedom of scientific research, freedom of communication, liberty of the press, printing, publication and mass media, freedom of movement, freedom of assembly, freedom of demonstration and freedom of peaceful strike shall be guaranteed by the State.

Article (14) The State shall guarantee the freedom of forming political parties, societies and other civil societies, and a law shall be promulgated to regulate the same. The establishment of clandestine or armed

²⁸⁵ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Constitutional Assembly and Federalism Debate*, p.18

²⁸⁶ Reuters, [Regional group declares self-government for east Libya](#), 2 June 2013

²⁸⁷ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September 2011, Article 6

²⁸⁸ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September 2011, Article 7

²⁸⁹ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September

societies, or societies in violation of public system or of public morals and others which may be detriment [sic] to the State or the unity of the State shall be prohibited.²⁹⁰

4.2.1.1 Law No. 65: citizens' right to peaceful protest

The 2012 U.S. State Department report notes that “on November 6, the GNC passed Law 65, which mandates that protesters must inform the government of any planned protests at least 48 hours in advance and that the government could notify the organizers of a ban on the protest up to 12 hours before it is to take place. However, as of year's end the government had not implemented the law and struggled to manage protests in which protesters were at times armed”.²⁹¹ The Cairo Institute for Human Rights Studies considers that several provisions of Law 65 fail to uphold international human rights standards:

The law imposes undue restrictions, such as requiring government approval before demonstrations are held without providing a clear and fair procedure for obtaining such approval. Most notably, Article 10 of the law provides criminal sanctions for demonstrations which fail to meet all stipulations of the law. Maintaining such sanctions will deter citizens from exercising their basic right to freedom of assembly. Legislation should always be guided by the recognition that the right to assembly is one of the most fundamental civil and political rights and that promoting and protecting this right is a primary responsibility of the government.²⁹²

4.2.1.2 Political Isolation Draft Law

Human Rights Watch explains that what is being termed the ‘political isolation draft law’ was prepared in order to exclude Gaddafi-era officials from holding public office.²⁹³ Amnesty International notes in March 2013 that:

In its current form, the Political Isolation Law bars 36 categories of individuals who were directly responsible for the “corruption of political, economic, social and administrative life” in Libya during al-Gaddafi’s rule from holding positions of responsibility within public institutions for a period of ten years.

Provisions range from excluding members of the Revolutionary Command Council, to individuals who accumulated wealth at the expense of the Libyan people, or those that were engaged in scientific, scholarly, religious, cultural or social activity or production aiming at glorifying al-Gaddafi and his government.²⁹⁴

Tarek Mitri, the UN Secretary-General's Special Representative and head of UNSMIL reported in March 2013 that “in its current form, the draft law contains an extensive list of criteria, many of them based on affiliation, and would apply to a wide range of public office holders at national and local levels, including elected officials and the judiciary. The draft law is also silent on how it is to be implemented”.²⁹⁵ The February 2013 report of the UN Secretary-General noted that with respect to the draft law that “deep divisions have emerged among members of the General National Congress and political forces, particularly with respect to the potential scope and application of such a law. There are fears that insistence on such a law could be motivated by a desire to alter the political balance of power that has emerged since the

²⁹⁰ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September 2011, Article 13

²⁹¹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 2b Freedom of Assembly

²⁹² Cairo Institute for Human Rights Studies, [Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human rights situation in Libya](#), 19 February 2013

²⁹³ Human Rights Watch, [Libya: Ensure Political Isolation Law' Respects Rights](#), 22 January 2013

²⁹⁴ Amnesty International, [Libya: Media attacked as tensions rise over Political Isolation Law](#), 8 March 2013

²⁹⁵ UN News Service, [Recent developments highlight challenges facing Libya's transition, says UN envoy](#), 14 March 2013

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national elections held in July”.²⁹⁶ Lawyers for Justice in Libya “highlights that national reconciliation cannot be achieved if laws are wielded as tools of revenge against former regime officials and political adversaries. The law should not be used as a way of punishing or disenfranchising perceived loyalists. Doing so would be in clear violation of basic human rights”.²⁹⁷

Amnesty International has expressed concern over “the vague wording, extremely broad criteria for exclusion, and the lack of a review procedure make it impossible for those subjected to vetting to appeal the decision”.²⁹⁸ Human Rights Watch similarly reported that the draft law should “exclude only those who held carefully defined senior positions, or who are alleged to have committed specific acts”.²⁹⁹ It considers that “any new law should define explicitly which positions under Gaddafi and which past acts warrant exclusion from public office, and for how long [...] vague terminology, if used, will open the door to using the law for partisan political purposes”.³⁰⁰ Furthermore it notes that, “It is also critically important for the new law to provide for a fair and transparent process. [...] Anyone accused of past human rights abuses or misconduct should be able to see the evidence against them and have a fair opportunity to refute the charges”.³⁰¹ Human Rights Watch notes that if the draft law fails to meet these standards, then it would violate article 6 of the Interim Constitution.³⁰² See [4.1.1 Human rights protections in the Constitution](#).

Human Rights Watch further notes that the Integrity and Patriotism Commission, formed in April 2012, which is tasked with vetting all senior government and security officials, members of congress, and the heads of trade unions, universities and other public institutions will be renamed the High Committee to Implement the Criteria for Occupying Public Positions but will have the same membership.³⁰³ The Libya Herald explains that “any member of the government, any Congress member, any Libyan who has a top position in state organisations or applies for a job in the state sector has to contend with the Commission. If it decides that someone was a supporter of the Qaddafi regime or worked closely with it, he is automatically banned from his or her jobs. The only way to contest the ban is to appeal through the courts”.³⁰⁴ It further notes that during the Libya elections, the Commission was given 5,000 documents to check candidates’ backgrounds in 10 days, resulting in documents about Congress members only being given to the Commission after the election.³⁰⁵ Following investigations, it banned 15 of them (7.5 percent of Congress).³⁰⁶ Human Right Watch describes that “although the draft law ensures the right to appeal a decision by the commission, the law lacks guarantees for people subject to exclusion of minimum due process rights such as the right to be heard during the hearing and the right to legal counsel”.³⁰⁷ The same source, reporting in early May 2013 notes that a recent amendment to the provisional constitution would prohibit judicial review of the law”.³⁰⁸

²⁹⁶ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 6

²⁹⁷ Libya Lawyers for Human Rights, [LFJL: Proposed Political Isolation Law Must not Violate Human Rights](#), 25 January 2013

²⁹⁸ Amnesty International, [Libya: Media attacked as tensions rise over Political Isolation Law](#), 8 March 2013

²⁹⁹ Human Rights Watch, [Libya: Ensure Political Isolation Law' Respects Rights](#), 22 January 2013

³⁰⁰ Human Rights Watch, [Libya: Ensure Political Isolation Law' Respects Rights](#), 22 January 2013

³⁰¹ Human Rights Watch, [Libya: Ensure Political Isolation Law' Respects Rights](#), 22 January 2013

³⁰² Human Rights Watch, [Libya: Ensure Political Isolation Law' Respects Rights](#), 22 January 2013

³⁰³ Human Rights Watch, [Libya: Ensure Political Isolation Law' Respects Rights](#), 22 January 2013 and

Human Rights Watch, [Libya: Reject 'Political Isolation Law'](#), 4 May 2013

³⁰⁴ Libya Herald, [Inside the Commission for Integrity and Patriotism](#), 11 April 2013

³⁰⁵ Libya Herald, [Inside the Commission for Integrity and Patriotism](#), 11 April 2013

³⁰⁶ Libya Herald, [Inside the Commission for Integrity and Patriotism](#), 11 April 2013

³⁰⁷ Human Rights Watch, [Libya: Reject 'Political Isolation Law'](#), 4 May 2013

³⁰⁸ Human Rights Watch, [Libya: Reject 'Political Isolation Law'](#), 4 May 2013

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The UN News Service reported in March 2013 that “a political crisis arose” over the controversial political isolation law.³⁰⁹ It notes that a special session of the GNC to discuss the draft ended in “disarray” after protestors threatened to use force unless the GNC voted to adopt the law, which was then followed by the attempted assassination of the head of the Congress, as well as other attacks and acts of violence.³¹⁰ Amnesty International reports on the same incident and notes that two days later on 7 March 2013, unidentified men abducted four employees of the private news channel Al-Assema TV, reportedly in retaliation for the channel broadcasting a discussion on the political isolation law.³¹¹

On 5 May 2013, the GNC voted overwhelmingly in favour of the political isolation law with 164 voting in favour, 4 against and 19 not attending the vote.³¹² The Libya Herald has provided a full text of the law.³¹³ It came into force on 5 June 2013.³¹⁴

Foreign Policy reports that the law targets all officials who ever worked with Qaddafi, from day one of his coup on September 1, 1969, to October 23, 2011, when liberation from his regime was declared in Benghazi and that it applies regardless of the types of jobs held by the individuals in question or whether they opposed Qaddafi before or during the revolution.³¹⁵ An opinion piece by the Carnegie Endowment for International Peace (also published by CNN) describes the “sweeping nature of the law” which bars not only those who held a senior position in the Gadhafi regime from holding office again for a decade, but also intellectuals, academics, civil servants, security and army officials and leading media personnel and even exiles and defectors in opposition during Gadhafi’s reign who held senior positions in the distant past.³¹⁶

Foreign Policy explains that the law prevents many leading politicians from seeking office for the next 10 years, including Mohamed Magariaf (the current president of the GNC), Mahmoud Jibril (a former Prime Minister), Mustafa Abdul Jalil (Chairman of the National Transitional Council), and other leading figures who were part of the February 17th revolutionary movement that began the civil war.³¹⁷ Furthermore it notes that the GNC mechanism to replace the newly isolated elected members is to instate the runner up candidate if the ousted member ran as an independent, or if they ran for a particular party, instate the next candidate on the party list.³¹⁸ The Libya Herald reports that according to former Prime Minister Mahmoud Jibril, half a million Libyans will be excluded from state jobs and public life as a result of the law.³¹⁹ The Jamestown Foundation considers that “the beneficiaries of the political isolation law are not only the major militias who besieged key ministries and threatened to storm the GNC unless the law was passed, but also their allies in the Muslim Brotherhood and smaller Islamist parties. They will control an unassailable, overwhelming majority of seats in the GNC. Most international press coverage missed the connections between Islamist politicians and the Islamist-tinged militias behind the standoff, even though at times it was an obvious show”.³²⁰

³⁰⁹ UN News Service, [Recent developments highlight challenges facing Libya's transition, says UN envoy](#), 14 March 2013

³¹⁰ UN News Service, [Recent developments highlight challenges facing Libya's transition, says UN envoy](#), 14 March 2013

³¹¹ Amnesty International, [Libya: Media attacked as tensions rise over Political Isolation Law](#), 8 March 2013

³¹² Foreign Policy, [Isolation Law harms Libya's democratic transition](#), 8 May 2013

³¹³ Libya Herald, [Political Isolation Law: the full text](#), 14 May 2013

³¹⁴ Lawyers for Justice in Libya, [Political Isolation Law which violates human rights must be applied with restraint](#), 6 June 2013

³¹⁵ Foreign Policy, [Isolation Law harms Libya's democratic transition](#), 8 May 2013

³¹⁶ Carnegie Endowment for International Peace, [Why Libya's 'Isolation Law' Threatens Progress](#), 21 May 2013

³¹⁷ Foreign Policy, [Isolation Law harms Libya's democratic transition](#), 8 May 2013

³¹⁸ Foreign Policy, [Isolation Law harms Libya's democratic transition](#), 8 May 2013

³¹⁸ Foreign Policy, [Isolation Law harms Libya's democratic transition](#), 8 May 2013

³¹⁹ Libya Herald, [New law will exclude half a million Libyans: Mahmoud Jibril](#), 7 May 2013

³²⁰ Jamestown Foundation, [Hot Issue: Libyan Militias Shape Country's Future](#), 24 May 2013

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On 28 May 2013 Mohamed al-Megaryef, president of the GNC resigned his post in order to comply with the new law.³²¹ Megaryef was Libya's ambassador to India in the 1980s under Gaddafi before he defected to become a leader of the exiled opposition for three decades.³²² Al Jazeera reports that “critics and diplomats fear the so-called “political isolation” law could strip government of experienced leaders, further complicating the transition to an orderly democracy”.³²³ In June 2013 Lawyers for Justice in Libya called for restraint in applying the law, arguing that “the exclusion of anyone from holding political or public office must be done on the basis of criminal acts proven in a court of law and not on the basis that such a person was merely associated with the previous regime”.³²⁴

Foreign Policy describes that as the law was being passed, “the capital of Tripoli was effectively being taken over by armed supporters of the law. Militias besieged numerous government ministry buildings for more than a week, and several ministries continue to be blockaded even after the passing of the law. Many lawmakers are demanding Prime Minister Ali Zeidan's resignation”.³²⁵ Human Rights Watch similarly notes that “on April 28, members of armed militias laid siege to the Foreign Affairs Ministry in Tripoli, and two days later the Justice Ministry, to demand the removal of officials who previously held office under Muammar Gaddafi before he was ousted in 2011. Ministries of Interior, Finance, and Electricity were also blockaded by armed militias that week”.³²⁶ A Libya Herald article cited Tawfik Ebreek, National Forces Alliance Congress member for Tobruk, as stating that there were “at least three different groups of militias involved in the siege of the Foreign and Justice Ministries with different aims and interests. The first group included former rebels who fought against Qaddafi and who simply aimed to purge Qaddafi loyalists from government. The second group, he said, are promoting personal interests after having failed to get posts in the new government. The third, he believed, had a strong political agenda and wanted topple prime minister Ali Zeidan”.³²⁷

Also see [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#).

4.2.2 Treatment of political opponents, protestors

Political opponents

Freedom House explains that “the 2011 uprising created more space for free political association and participation in Libya. Under the regime of Mu‘ammar al-Qadhafi, political parties were illegal, and all political activity was strictly monitored. While only a few parties initially organized after al-Qadhafi’s fall, the 2012 elections prompted a proliferation of over 100 parties that spanned the political spectrum, from socialists to Islamists”.³²⁸ Also see [2.2 July 2012 Election and General National Congress](#).

The U.S. State Department explains that on 4 April 2012, the NTC created the ‘Authority for Integrity and Enforcing Patriotic Standards’ (Integrity Commission) which is “responsible for vetting legislative candidates and senior personnel in government and important nongovernmental institutions (universities, public companies, unions, and other organizations) to ensure that they were not managers or senior officials of the former regime and do not have any criminal background. The commission rejected four nominated

³²¹ Al Jazeera, [Libya assembly head quits after ex-regime ban](#), 28 May 2013

³²² Al Jazeera, [Libya assembly head quits after ex-regime ban](#), 28 May 2013

³²³ Al Jazeera, [Libya assembly head quits after ex-regime ban](#), 28 May 2013

³²⁴ Lawyers for Justice in Libya, [Political Isolation Law which violates human rights must be applied with restraint](#), 6 June 2013

³²⁵ Foreign Policy, [Isolation Law harms Libya's democratic transition](#), 8 May 2013

³²⁶ Human Rights Watch, [Libya: Reject ‘Political Isolation Law’](#), 4 May 2013

³²⁷ Libya Herald, [Militiamen still besieging the ministries](#), 9 May 2013

³²⁸ Freedom House, [Freedom in the World 2013 – Libya](#), January 2013

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ministers reportedly due to ties to the Qadhafi regime”.³²⁹ The UN Secretary-General notes that the Commission “initially excluded four ministerial nominees from Prime Minister Zeidan’s cabinet, including his choice of Minister of Interior. Although the courts later overturned the Commission’s decision with respect to the four ministerial nominees, there remains suspicion in some quarters that the vetting process is politicized”.³³⁰ For further information on lustration policies, see [4.2.1.2 Political Isolation Draft Law](#).

The UN Secretary-General reports that “on 14 June, 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. 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”.³³¹ For information on the arrest, detention and torture of pro-Gaddafi supporters, see [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#).

The UN Secretary-General notes with regards to the July 2012 elections that “after no history of political party culture in the past four decades, a proliferation of political entities emerged in the run-up to the elections. Those entities faced challenges throughout the electoral process in registering, building coalitions, recruiting party candidates (especially women), defining political platforms and obtaining some degree of name recognition”.³³² Reporting on violence during the July 2012 elections, the U.S. State Department notes that “one candidate was killed in the south before the campaign period, and there were a few deaths on election day or immediately prior”.³³³

In June 2013 Amnesty International urged the Libyan authorities to drop charges against Libyan National Party policy manager Ali Tekbali and Fathi Sager, the party’s secretary general who published a cartoon on women’s rights deemed to be offensive to Islam.³³⁴ It explains that the men face numerous charges under articles of the Penal Code which were used to repress political opposition and freedom of expression during the al-Gaddafi era, two of which incur the death penalty.³³⁵

Protestors

For treatment of demonstrators by Gaddafi’s forces during the uprising, see [3.1 Gaddafi’s security forces during and after the 2011 uprising](#).

The 2012 U.S. State Department report notes that “while the interim and democratically elected governments respected freedom of assembly, autonomous militias sometimes clashed violently with pro-Qadhafi protesters”.³³⁶ It further notes that Law 65 had not been implemented by the end of 2012 and the government struggled to manage protests.³³⁷ See [4.2.1.1 Law No. 65: citizens’ right to peaceful protest](#). The 2012 UK Foreign and Commonwealth Office report notes that “the new government, by law, allows people to gather and demonstrate against them. There have been numerous demonstrations outside, and inside,

³²⁹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 3 Elections and Political Participation

³³⁰ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 5

³³¹ UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 30 August 2012, paragraph 35

³³² UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 30 August 2012, paragraph 7

³³³ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 3 Elections and Political Participation

³³⁴ Amnesty International, [Libya must drop charges against politicians over women’s rights cartoon](#), 14 June 2013

³³⁵ Amnesty International, [Libya must drop charges against politicians over women’s rights cartoon](#), 14 June 2013

³³⁶ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 2b Freedom of Assembly

³³⁷ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 2b Freedom of Assembly

the GNC Hall. Demonstrations have also occurred in cities and towns across Libya".³³⁸ Freedom House similarly notes in its 2013 Freedom in the World report that "freedom of assembly has increased dramatically since 2011. Although the ongoing presence of militia groups and the proliferation of firearms in the country deter peaceful assemblies and the public expression of dissenting views in certain areas, demonstrations by various groups were common during 2012 in the context of the GNC elections and the constitutional drafting process".³³⁹ Limited information on the treatment of demonstrators under the current government was found amongst the sources consulted.

In March 2013 the UN "expressed concern about the escalation of protesters' attempts to coerce the General National Congress to act on matters on its agenda" after protesters in favour of the Political Isolation Law refused to let the GNC leave the national assembly, and reports of protesters shooting at the speaker of the parliament, Mohammed Magarief.³⁴⁰ The BBC, reporting in January 2013, also notes that MPs have been assaulted on several occasions in recent months after protesters stormed sessions of the assembly.³⁴¹ Human Rights Watch reported that in October 2012 in Tripoli, "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. Some of the demonstrators were allegedly arrested, but Human Rights Watch has been unable to confirm this claim".³⁴² The Libya Herald reported that guards used automatic weapons including anti-aircraft guns and Kalashnikovs to break up the Bani Walid demonstration, which it noted that "the first time security forces have deployed such measures outside the Congress to disperse a protest".³⁴³ Two people claimed to be injured by the security officials and journalists covering the event also complained of harassment.³⁴⁴ Othman Benassi, a former NTC member now working with the National Congress, was reported as stating that "the problem is we don't have the proper equipment to deal with demonstrations such as this [...] We need water cannons, but we only have machine guns which are not appropriate for this kind of event".³⁴⁵

Following the death of U.S. ambassador Chris Stevens, (see [3.2 Attack on US Consulate, Benghazi](#)), an estimated 30,000 people attended an anti-militia 'Save Benghazi' rally.³⁴⁶ Demonstrators then stormed headquarters of militias, sparking clashes which killed 11 people.³⁴⁷ The Cairo Institute for Human Rights Studies reports that on 26 August 2012, during a peaceful protest against the demolition of al-Sha'ab Mosque in central Tripoli which contains Sufi Muslim graves, protesters were prevented from protesting by armed men, intimidated, and threatened with death.³⁴⁸ Also see [4.4.3 Attacks against places of worship, predominantly Sufi shrines](#). In May 2013 the Libya Herald reported that "Benghazi's Public registrar, Yousef Abdurrahim Qarqum, has apologised to women who he said had been abused and ill-treated by staff when they demonstrated outside the registry demanding to be given their national ID number".³⁴⁹ On 5 July 2013 one man was injured after Tripoli militiamen fired heavy weapons into the air to disperse angry local residents, demanding their unit quit the area.³⁵⁰ Also see [3.3 Violence in Benghazi in May and June 2013](#).

³³⁸ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013, Freedom of expression and assembly

³³⁹ Freedom House, [Freedom in the World 2013 - Libya](#), January 2013

³⁴⁰ UN News Service, [UN urges Libyans to support democratic transition in peaceful manner](#), 6 March 2013

³⁴¹ BBC, [Libya's liberal NFA group boycotts national assembly](#), 7 January 2013

³⁴² Human Rights Watch, [Libya: Residents of Bani Walid at Risk](#), 24 October 2012

³⁴³ Libya Herald, [Machineguns used to break up Bani Walid demonstration as 500 storm Congress](#), 21 October 2012

³⁴⁴ Libya Herald, [Machineguns used to break up Bani Walid demonstration as 500 storm Congress](#), 21 October 2012

³⁴⁵ Libya Herald, [Machineguns used to break up Bani Walid demonstration as 500 storm Congress](#), 21 October 2012

³⁴⁶ Agence France Presse, [Libya militia crackdown spreads to Tripoli](#), 23 September 2012

³⁴⁷ Agence France Presse, [Libya militia crackdown spreads to Tripoli](#), 23 September 2012

³⁴⁸ Cairo Institute for Human Rights Studies, [Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human rights situation in Libya](#), 19 February 2013

³⁴⁹ Libya Herald, [Benghazi registrar apologises to women protestors](#), 7 May 2013

³⁵⁰ Libya Herald, [Injury as Abu Selim SSC fire over heads of angry crowd](#), 5 July 2013

The U.S. State Department further notes that during 2012 “under the interim governments, there were numerous reports of strikes by professional groups, such as teachers and lawyers, who used strikes as a method to protest political policies and actions. There was no government action to prevent or hinder these strikes”.³⁵¹

4.3 Freedom of expression (media)

4.3.1 Domestic Legal Framework

In its Freedom on the Net report covering the period of January 2011 - May 2012, Freedom House explains that during the Gaddafi era:

Several laws provided for freedom of speech, but these protections were typically offset by vague language restricting the same freedoms. For example, the 1969 Libyan Constitutional declaration and the 1988 Green Charter for Human Rights both guarantee freedom of speech and opinion but also note that these must be “within the limits of public interest and the principles of the Revolution.” A new press law was discussed in 2007, but never realized. A Telecommunications Law was discussed in 2010 but not officially put into effect and its draft is no longer available online.³⁵²

Freedom House further reports that several laws under Gaddafi imposed harsh punishments for those who published content deemed offensive or threatening to Islam, national security, territorial integrity, or the reputation of Gaddafi:

The penal code called for imprisonment or the death penalty for anyone convicted of disseminating information critical of the state or the “Leader of the Revolution.” The 1972 Publications Act imposed fines and up to two years in prison for a variety of violations, including libel, slander, and “doubting the aims of the revolution”. 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.³⁵³

It further notes that as of May 2012, these laws remained on the books.³⁵⁴ However, the 2011 Interim Constitution provides:

Article (13) Freedom of opinion for individuals and groups, freedom of scientific research, freedom of communication, liberty of the press, printing, publication and mass media, freedom of movement, freedom of assembly, freedom of demonstration and freedom of peaceful strike shall be guaranteed by the State.³⁵⁵

Freedom House considers with regards to the Interim Constitution that “while these provisions are a positive start, they do not fully reflect international standards for freedom of expression. The charter does not explicitly abolish censorship or include the right to seek, receive, and impart information and ideas. It does not cover all types of expression and methods of communication, nor does it grant the rights in question to every person”.³⁵⁶

³⁵¹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 7 a. *Freedom of Association and the Right to Collective Bargaining*

³⁵² Freedom House, [Freedom on the Net 2012 - Libya](#), 25 September 2012

³⁵³ Freedom House, [Freedom on the Net 2012 - Libya](#), 25 September 2012

³⁵⁴ Freedom House, [Freedom on the Net 2012 - Libya](#), 25 September 2012

³⁵⁵ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September 2011, Article 13

³⁵⁶ Freedom House, [Freedom of the Press](#), 1 May 2013

4.3.2 Independence of print media, radio, television, and Internet

The Committee to Protect Journalists reports that “since the 2011 uprising, dozens of media outlets have sprung to life, including independent newspapers, television channels, and radio stations”.³⁵⁷ According to the German NGO Media in Cooperation and Transition, of these, 43% were print outlets, 12% television and 14% radio.³⁵⁸ Freedom House notes that many of the television and radio outlets are controlled by private owners.³⁵⁹ According to the Carnegie Endowment for International Peace, “private national media outlets are usually categorized as one of three types according to popular perceptions: liberal media outlets that mainly support former transitional council leader Mahmoud Jibril, media that support the Muslim Brotherhood, and media funded directly by Qatar. The main media actors, however, reject this categorization and usually present themselves as independent. They claim to be funded only by Libyan business and advertising revenues”.³⁶⁰

According to Freedom House, following the fall of the Gaddafi regime, “citizen journalism has been on the rise, and more than 100 new print outlets have been established, representing a wide range of viewpoints”.³⁶¹ Freedom House reports in May 2013 that many of the publications founded in 2011 closed, mostly because wartime activists have returned to their normal lives or their enterprises lacked equipment, funding, and experience in the media industry.³⁶² According to the Institute for War and Peace Reporting, “since most of the media are located along the more heavily-populated Mediterranean coast, that is where the coverage is. Significant developments in the southern interior are ignored or reported inaccurately”.³⁶³

The 2012 U.S. State Department report notes that “while the Constitutional Declaration under the interim governments provides for freedom of opinion, expression, and the press, in practice freedom of speech and press—although greatly expanded since the Qadhafi era—were limited with the TNC criminalizing some political speech. Although the number of media outlets grew exponentially in the country throughout the year, levels of professionalism varied widely, and news reporting was often driven by rumor or hearsay”.³⁶⁴ However it goes on to explain that Law 37 which criminalized a variety of types of political speech, including speech that “glorifies the tyrant [Muammar Qadhafi]”, “did damage [to] the February 17 revolution”, or “insulted Libya’s institutions” was deemed unconstitutional by the Supreme Court in June 2012.³⁶⁵

The U.S. State Department also reports that during 2012, “journalists continued to struggle with self-censorship due to the residual media culture from the Qadhafi era and threats from militias and extremist groups”.³⁶⁶ Freedom House similarly reports that “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”.³⁶⁷ The Carnegie Endowment for International Peace reports that “the growing authority of militias with extremist Islamic agendas is gradually imposing a strict social code in which the media exercise self-censorship”.³⁶⁸

³⁵⁷ Committee to Protect Journalists, [Attacks on the Press in 2012 - Libya](#), 14 February 2013

³⁵⁸ Committee to Protect Journalists, [Attacks on the Press in 2012 - Libya](#), 14 February 2013

³⁵⁹ Freedom House, [Freedom of the Press 2012 - Libya](#), 5 September 2012

³⁶⁰ Carnegie Endowment for International Peace, [Transitional Libyan Media: Free at Last?](#), 14 May 2013

³⁶¹ Freedom House, [Freedom in the World 2013 - Libya](#), 1 February 2013

³⁶² Freedom House, [Freedom of the Press](#), 1 May 2013

³⁶³ Institute for War and Peace Reporting, [Libyan News Agency to Cover Vast Southern Region](#), 20 May 2013

³⁶⁴ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 2a. *Freedom of Speech and Press*

³⁶⁵ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 2a. *Freedom of Speech and Press*

³⁶⁶ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 2a. *Freedom of Speech and Press*

³⁶⁷ Freedom House, [Freedom on the Net 2012 - Libya](#), 25 September 2012

³⁶⁸ Carnegie Endowment for International Peace, [Transitional Libyan Media: Free at Last?](#), 14 May 2013

The UK Foreign and Commonwealth Office reports that the GNC has created a Ministry of Information, although its mandate is unclear.³⁶⁹ Freedom House notes that “there are few mechanisms in place to hold the interim government to account should they abuse their power”.³⁷⁰ According to the Carnegie Endowment for International Peace, “regulation seems to be the weakest link in the process of reorganizing the media sector. Extensive media legislation is still lacking, though existing libel and defamation laws allow people the right to take up civil claims. And there is still no agreement over exactly what kind of organization should oversee the media sector”.³⁷¹

With regards to internet freedom the U.S. State Department reports that “a single government-owned service provider offered Internet access. There were no government restrictions on access to the Internet, but there were some credible reports that the government monitored e-mail or Internet communication”.³⁷² In its Freedom on the Net report covering the period of January 2011 - May 2012, Freedom House notes that 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” and 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”.³⁷³ Freedom House reported that “periodic electricity outages, residual self-censorship, and weak legal protections pose ongoing challenges to internet freedom”.³⁷⁴ The same source notes with further regard to barriers to internet freedom that:

Under the interim government, there have been no reports of website blocking or pressure to delete content. However, many Qadhafi-era government webpages 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 left unpaid, but others were likely deliberately taken down when the revolutionaries came to power.³⁷⁵

4.3.3 Treatment of journalists and other media workers

The Committee to Protect Journalists notes in its 2012 report that “the press began to blossom amid the political transition that followed the 2011 uprising that ended Muammar Qaddafi's repressive rule. A burgeoning private media sector emerged with the launch of dozens of independent newspapers and other news outlets. Despite these notable improvements, journalists continued to face attacks, mostly from local militias and other armed groups that often detained people at whim”.³⁷⁶ The UK Foreign and Commonwealth Office similarly reports that during 2012 “there have been some reports that media outlets are linked to particular political parties and produce biased reports. In addition, there has been an increase in the number of reports of some media outlets and journalists being threatened for criticising militia groups or government activity”.³⁷⁷ The Committee to Protect Journalists reports that there were no deaths of media workers in 2012, in comparison to 2011 when it considered that Libya was one of the most

³⁶⁹ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013, Freedom of expression and assembly

³⁷⁰ Freedom House, [Freedom on the Net 2012 - Libya](#), 25 September 2012

³⁷¹ Carnegie Endowment for International Peace, [Transitional Libyan Media: Free at Last?](#), 14 May 2013

³⁷² U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 2a. Internet Freedom

³⁷³ Freedom House, [Freedom on the Net 2012 - Libya](#), 25 September 2012

³⁷⁴ Freedom House, [Freedom on the Net 2012 - Libya](#), 25 September 2012

³⁷⁵ Freedom House, [Freedom on the Net 2012 - Libya](#), 25 September 2012

³⁷⁶ Committee to Protect Journalists, [Attacks on the Press in 2012 - Libya](#), 14 February 2013

³⁷⁷ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013, Freedom of expression and assembly

dangerous places in the world with five journalists and one media worker killed during the uprising.³⁷⁸ Freedom House reports that in 2012 there were restrictions on reporting of particular events and in sensitive locations, and that many local journalists claimed that militias physically stopped them from filming or accessing certain areas, often without an official explanation.³⁷⁹ There were also several reported incidents of threats, intimidation, and extrajudicial detentions of reporters, both local and international.³⁸⁰ The Carnegie Endowment for International Peace reports that “the widespread insecurity in post-Qaddafi Libya and the growing power of armed groups and militias are hindering the development of a professional and free national media industry and making field reporting and investigative journalism major challenges for local media professionals”.³⁸¹

Freedom House also explains that “Journalists face uncertainty regarding defamation charges, as there is no new legal framework for libel or slander”.³⁸² The first high-profile defamation case involving a journalist since the fall of the Qadhafi regime was that of Amara Abdallah al-Khitabi, editor of the newspaper Al-Umma.³⁸³ Amnesty International reports that Libyan newspaper editor Amara Abdalla al-Khatabi was detained incommunicado on 19 December 2012, after his newspaper published a list of judges it claimed were involved in corruption.³⁸⁴ It further reports that as of 12 April 2013, Amara Abdalla al-Khatabi had been on hunger strike since 28 February 2013 in protest against his arrest and when he appeared in court on 11 March 2013, his health was reportedly so poor that he had to be supported in court and lost consciousness during the hearing.³⁸⁵ His lawyer was also banned from representing him.³⁸⁶ Amnesty International further explains that:

Amara Abdalla al-Khattabi is being charged under Article 195 of the Code of Criminal Procedure relating to “the insulting of constitutional or popular authorities”, an al-Gaddafi era law which criminalizes activities that amount to the exercise of freedom of expression. Amnesty International is gravely concerned that the Libyan authorities are resorting to using the same provisions which led to the arrest of thousands of political detainees during the al-Gaddafi era, and the stifling of any opposition.³⁸⁷

Reporting on the same case, Reporters Without Borders notes that Amara Hassan Al-Khitabi’s was released on bail on 21 April 2013 after four months in detention, but is “disturbed that he is still charged with defaming and insulting the judicial system and has been banned from leaving Libya before the end of his trial”.³⁸⁸

Illustrative of recent incidents involving journalists, in June 2013 Reporters Without Borders notes that it “is extremely concerned about the deteriorating security situation in Libya and the behaviour of certain militias towards media personnel. Journalists have repeatedly been attacked, threatened or kidnapped by militias in recent months”.³⁸⁹ It describes that an international news agency photographer and local journalist Mohamed Abu Janah were arbitrarily detained for several hours on 28 May 2013 at the Benghazi

³⁷⁸ Committee to Protect Journalists, [Attacks on the Press in 2012 - Libya](#), 14 February 2013

³⁷⁹ Freedom House, [Freedom of the Press](#), 1 May 2013

³⁸⁰ Freedom House, [Freedom of the Press](#), 1 May 2013

³⁸¹ Carnegie Endowment for International Peace, [Transitional Libyan Media: Free at Last?](#), 14 May 2013

³⁸² Freedom House, [Freedom of the Press](#), 1 May 2013

³⁸³ Freedom House, [Freedom of the Press](#), 1 May 2013

³⁸⁴ Amnesty International, [Urgent Action: Detained Journalist’s Health at Risk](#), 11 March 2013

³⁸⁵ Amnesty International, [Urgent Action: Detained Journalist’s Health at Risk](#), 11 March 2013; Amnesty International, [Further Information: Detained Libya Journalist Denied Fair Trial: Amara Abdalla Al-Khat](#), 12 April 2013

³⁸⁶ Amnesty International, [Further Information: Detained Libya Journalist Denied Fair Trial: Amara Abdalla Al-Khat](#), 12 April 2013

³⁸⁷ Amnesty International, [Further Information: Detained Libya Journalist Denied Fair Trial: Amara Abdalla Al-Khat](#), 12 April 2013

³⁸⁸ Reporters Without Borders, [Journalist Freed on Bail But Still Faces Criminal Defamation Trial](#), 22 April 2013

³⁸⁹ Reporters Without Borders, [Journalists attacked, threatened and abducted by militias](#), 11 June 2013

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headquarters of “Libya Shield No. 7,” an armed unit formed by revolutionary militiamen.³⁹⁰ On 29 May 2013 a gunman in civilian dress arrested an American journalist and his Libyan fixer, Mohamed Essul, outside the interior ministry in Tripoli while they were trying to cover a protest by militiamen demanding higher wages and criticizing Mohamed Sheikh’s appointment as interior minister.³⁹¹ On 20 May 2013, a correspondent from the French news agency, Agence France Presse was kidnapped by armed men in Benghazi.³⁹² On 3 May 2013 a female photojournalist was attacked in Benghazi by a group of men, some of whom were armed, during a peaceful protest against the pro-Political Isolation Law blockades at government ministries in Tripoli.³⁹³ Reporters Without Borders reports that journalists were attacked by parliamentary security personnel on 20 April 2013 while covering a conference on “Reconciliation in Southern Libya”.³⁹⁴ The same source also describes the kidnapping of three journalists in April 2013, including an incident on 28 April 2013 in which armed militiamen kidnapped Mahmoud Al-Farjani, correspondent for Al-Arabiya, as he was covering a militia demonstration in favour of highly controversial Political Isolation Law.³⁹⁵ See [4.2.1.2 Political Isolation Draft Law](#) for further information.

Amnesty International describes that on 7 March 2013 unidentified men stormed the headquarters of the private news channel Al-Assema TV, abducting four of its employees, reportedly in retaliation for the channel broadcasting a discussion on the political isolation law.³⁹⁶ Two journalists were later released, but at the time of writing of the 8 March 2013 article, the owner of the station Jumaa Al-Usta and the former Executive Director Nabil Al-Shibani were still unaccounted for.³⁹⁷ In February 2013 Reporters Without Borders described that security guards attacked a TV crew for filming outside the National Congress.³⁹⁸

The U.S. State Department provides the following examples of harassment, abduction, and detention of journalists for investigating reports of militia activities in 2012:

For example, in February SSC militias in Misrata detained two British journalists reporting on revenge attacks on dark-skinned Libyans who were accused of supporting Qadhafi forces during the war. They were released on March 18. On October 21, armed members of the Warfalla tribe, angry at that station’s coverage of hostilities in Bani Walid, attacked and destroyed Libya Al-Hurra’s broadcasting headquarters in Benghazi. In another example, in March unidentified individuals abducted and beat Sharifa Alfisa, an outspoken female independent journalist writing for a number of online Libyan news sites, under mysterious circumstances in Benghazi. She was released several days later.³⁹⁹

The Cairo Institute for Human Rights Studies reports that in August 2012 a journalist was detained when attempting to report on the destruction of the al-Sha’ab mosque in Tripoli by armed militias.⁴⁰⁰ The Committee to Protect Journalists also notes that in July 2012, two Libyan television journalists were kidnapped after covering the elections and were held for 9 days.⁴⁰¹ Freedom House notes that “media freedom advocacy groups reported an uptick in visa restrictions, filming bans, arbitrary detentions, and deportations of journalists in the months after the election of the GNC in July 2012, especially in the name

³⁹⁰ Reporters Without Borders, [Journalists attacked, threatened and abducted by militias](#), 11 June 2013

³⁹¹ Reporters Without Borders, [Journalists attacked, threatened and abducted by militias](#), 11 June 2013

³⁹² ANSA Med, [Libya: AFP correspondent kidnapped in Benghazi](#), 21 May 2013

³⁹³ Libya Herald, [Journalist attacked in Benghazi](#), 4 May 2013

³⁹⁴ Reporters Without Borders, [Growing threats to safety of Libya’s journalists](#), 26 April 2013

³⁹⁵ Reporters Without Borders, [Multiple kidnappings of media workers](#), 29 April 2013

³⁹⁶ Amnesty International, [Libya: Media attacked as tensions rise over Political Isolation Law](#), 8 March 2013

³⁹⁷ Amnesty International, [Libya: Media attacked as tensions rise over Political Isolation Law](#), 8 March 2013

³⁹⁸ Reporters Without Borders, [Threats and violence against journalists reach alarming level](#), 6 February 2013

³⁹⁹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013 2a. *Freedom of Speech and Press*

⁴⁰⁰ Cairo Institute for Human Rights Studies, [Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human rights situation in Libya](#), 19 February 2013

⁴⁰¹ Committee to Protect Journalists, [Attacks on the Press in 2012 - Libya](#), 14 February 2013

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of security after the September attack on the U.S. consulate in Benghazi".⁴⁰² Reporters Without Borders reports a similar situation and further notes that "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".⁴⁰³ The same source reports that in July a British filmmaker and Libyan interpreter were detained for 8 hours whilst filming at an IDP camp in Janzour, near Tripoli, and then the film maker was detained for 3 days before being deported.⁴⁰⁴

With regards to the treatment of bloggers, the U.S. State Department report notes that on 4 December 2012 "the SSC arrested a blogger, Hamid Ahmed Tolbah, allegedly without cause according to the NGO Arab Network for Human Rights. He was released the following day, following pressure from at least one high-ranking government official".⁴⁰⁵

4.4 Freedom of Religion

The 2012 U.S. State Department's International Religious Freedom report noted that 97 percent of Libyans are Sunni Muslim, 3 percent of the population includes Christians, Hindus, Bahais, Ahmadi Muslims, Buddhists, and Jews, and "nearly all other non-Sunni Muslims are foreign residents".⁴⁰⁶ For example, "small Christian communities consist almost exclusively of sub-Saharan African and Egyptian migrants and a small number of U.S. and European workers".⁴⁰⁷ The International Crisis Group noted in a recently published report in April 2013 with regards to religious minorities that:

Due to shortcomings in the state's prosecutorial capacity and legal impunity enjoyed by armed groups, individuals and brigades who emerged victorious after the 2011 war too often consider themselves above the law. As noted, this has translated into kidnappings, revenge killings and attacks against religious minorities, foreign representatives, activists and lawmakers; moreover, several small skirmishes have opposed rival armed groups. For their part, security forces have proved unable, at times even unwilling, to curb these incidents, generating a widespread perception among ordinary citizens of creeping lawlessness.⁴⁰⁸

The annual Freedom in the World report on Libya published by Freedom House in February 2013 also highlighted that despite Muslims in 2012 having been "much freer to organize and debate their points of view", this has "led to verbal and armed clashes. Some Salafi Muslim groups, whose extremely conservative beliefs preclude the veneration of saints, have persistently destroyed or vandalized Sufi Muslim shrines, and the government has lacked the will and capacity to halt such abuses".⁴⁰⁹ Similarly, Human Rights Watch reported in its annual report covering 2012 that:

Attacks against religious minorities started in October 2011, and intensified in 2012. Armed groups motivated by their religious views attacked Sufi religious sites across the country, destroying several mosques and tombs of Sufi religious leaders. Armed groups attacked churches in at least two incidents in Tripoli in May and

⁴⁰² Freedom House, [Freedom in the World 2013 - Libya](#), 1 February 2013

⁴⁰³ Reporters Without Borders, [Freedom of information threatened by visa refusals, filming bans and arbitrary arrest](#), 1 October 2012

⁴⁰⁴ Reporters Without Borders, [Freedom of information threatened by visa refusals, filming bans and arbitrary arrest](#), 1 October 2012

⁴⁰⁵ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013 2a. Internet Freedom

⁴⁰⁶ U.S. Department of State, [2012 International Religious Freedom Report - Libya](#), 20 May 2013, Section I. Religious Demography

⁴⁰⁷ U.S. Department of State, [2012 International Religious Freedom Report - Libya](#), 20 May 2013, Section I. Religious Demography

⁴⁰⁸ International Crisis Group (ICG), [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, V. Creeping Lawlessness, page 37

⁴⁰⁹ Freedom House, [Freedom in the World 2013 - Libya](#), 1 February 2013, Political Rights and Civil Liberties

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September. The government's security forces have failed to stop the attacks and have made no significant arrests.⁴¹⁰

The UK Foreign and Commonwealth Office annual human rights report covering 2012 noted that despite the Libyan government's commitment to ensure that the new constitution includes the rights of all minorities, including religious groups, "there have been a number of reports of Libyans receiving threats or being unlawfully detained or behaviour considered to be at odds with Islamic tradition".⁴¹¹ In its latest update to its 2012 annual report, the UK Foreign and Commonwealth Office noted on 31st March 2013 that "freedom of religion remains a concern" in Libya.⁴¹²

4.4.1 Domestic Legal Framework

The Libyan Draft Constitutional Charter for the Transitional Stage states in Article 1 that "Islam is the Religion of the State and the principal source of legislation is Islamic Jurisprudence (Shari'a)".⁴¹³ The Charter further provides that "the State shall guarantee for non Moslems the freedom of practicing religious rituals [Article 1]" and in Article 6 that Libyans shall not be discriminated against due to their religion:

Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities, and be subject to the same public duties and obligations, without discrimination due to religion, doctrine, language, wealth, race, kinship, political opinions, and social status, tribal or eminent or familial loyalty.⁴¹⁴

According to The Guardian newspaper, Libya "retains a law from the Muammar Gaddafi era that makes proselytizing a criminal offence potentially punishable by death".⁴¹⁵

4.4.2 Treatment of Christians

According to the Integrated Regional Information Networks (IRIN), "various Christian communities in Libya, as well as some Muslim groups, have been feeling increasingly under pressure from hardline Islamist groups since the overthrow of Muammar Gaddafi in October 2011".⁴¹⁶ The Roman Catholic archbishop of Tripoli told IRIN that "the level of security remains precarious for all foreigners, especially for Christians, because of the presence of some fundamentalist Islamic groups".⁴¹⁷ According to the U.S. State Department, in September 2012 a private Internet television station aired a sermon from a mosque in Benghazi that called on Allah to "destroy the rancorous Christians and the corrupt Jews".⁴¹⁸ On 7th March 2013 the UN Support Mission in Libya (UNSMIL) issued a statement stating that it was "deeply concerned

⁴¹⁰ Human Rights Watch, [World Report 2013 - Libya](#), 31 January 2013, *Freedom of Religion*

⁴¹¹ United Kingdom: Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013, *Freedom of religion or belief*, p. 197

⁴¹² United Kingdom: Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Country updates: Libya](#), Latest Update: 31 March 2013

⁴¹³ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September 2011, Article 1

⁴¹⁴ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September 2011, Article (6)

⁴¹⁵ The Guardian, [Libya arrests foreign 'missionaries'](#), 17 February 2013

⁴¹⁶ Integrated Regional Information Networks (IRIN), [Security of Christian communities "precarious" in Libya - archbishop](#), 15 March 2013

⁴¹⁷ Integrated Regional Information Networks (IRIN), [Security of Christian communities "precarious" in Libya - archbishop](#), 15 March 2013

⁴¹⁸ U.S Department of State, [2012 International Religious Freedom Report - Libya](#), 20 May 2013, Section III. Status of Societal Respect for Religious Freedom

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by several recent incidents, including [...] violence against a Coptic church and other houses of worship”.⁴¹⁹ Father Dominique Rezeau was quoted as saying that “Libya had as many as 100,000 Christians before the 2011 revolution [...] now only a few thousand remain”.⁴²⁰

Four foreign nationals, a South African, an Egyptian, an American/Swedish, and a South Korean Christian, who were arrested in February 2013 in Benghazi on suspicion of proselytizing and who “potentially faced the death penalty on the charges, will be freed and deported as gesture of good will” Libyan officials have stated.⁴²¹ According to the newspaper ‘Libyan Herald’, the South Korean Christian was released in mid-April.⁴²² Fox News reported that the imminent “release of the four isn’t easing fears about the prospects for Christians in Libya, which is experiencing a rapid rise in Islamist sentiment. Three communities of Roman Catholic nuns left Libya in recent weeks amid concerns for their security because of threats from radical Islamists”.⁴²³ Father Dominique, who works at Tripoli’s St. Francis Cathedral “insisted the situation in the capital was easier and less threatening than Benghazi and that clergy and lay Roman Catholic staff in the capital didn’t feel under threat” though he acknowledged that “the cathedral’s staff kept a low profile and avoided wearing any clerical clothing when leaving the compound”.⁴²⁴ A few days after this statement was made, a Tripoli-based Catholic priest was shot to which the Vatican said that it “highlighted the danger for Christians in the country” and further noted that “the situation is not good for Christians both in Tripoli and Benghazi”.⁴²⁵ IRIN news stated that “Eastern parts of the country appear to be the worst affected by threats against, and attacks on, Christians”.⁴²⁶ Agence France-Presse reported that the main Catholic Church’s clergyman in Libya told the Vatican missionary news agency Fides that “Christians are being driven out of eastern Libya by Muslim fundamentalists” whilst the Apostolic Vicar of Tripoli said that “the situation in that region was “critical” and the “atmosphere very tense”, with two religious communities having been forced to leave “after being pressured by fundamentalists”.⁴²⁷

4.4.2.1 Arrests of foreign missionaries in Benghazi

Following the arrest of four foreign Christian nationals, a South African, an Egyptian, an American/Swedish, and a South Korean, in February 2013 in Benghazi on suspicion of proselytising, the newspaper Libya Herald reported on 12th April 2013 that the South Korean Christian had been released.⁴²⁸ In March 2013, four Egyptian Christians arrested in Benghazi and facing charges of spreading the Christian faith, were also freed a month later.⁴²⁹ A further 50 Egyptian Copts were arrested in Benghazi by an armed local group accusing them of proselytizing.⁴³⁰ One has so far died in custody, though it is disputed whether from natural causes

⁴¹⁹ UN Support Mission in Libya, [United Nations Urges Respect for Freedom of Faith and Expression](#), 7 March 2013

⁴²⁰ Agence France-Presse, [Libya Christians fear rise of Islamic extremism](#), 11 February 2013

⁴²¹ Fox News, [Libya pledges to free American Christian imprisoned for faith](#), 27 March 2013

⁴²² Libya Herald, [Another Christian released](#), 12 April 2013

⁴²³ Fox News, [Libya pledges to free American Christian imprisoned for faith](#), 27 March 2013

⁴²⁴ Fox News, [Libya pledges to free American Christian imprisoned for faith](#), 27 March 2013

⁴²⁵ Fox News, [Libya pledges to free American Christian imprisoned for faith](#), 27 March 2013

⁴²⁶ Integrated Regional Information Networks (IRIN), [Security of Christian communities “precarious” in Libya - archbishop](#), 15 March 2013

⁴²⁷ Agence France-Presse, [Libya Christians fear rise of Islamic extremism](#), 11 February 2013

⁴²⁸ Libya Herald, [Another Christian released](#), 12 April 2013

⁴²⁹ Libya Herald, [Another Christian released](#), 12 April 2013

⁴³⁰ International Crisis Group (ICG), [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III. Justice after Qadhafi, B. Collapse of the State Security Apparatus, Footnote 94, p. 23. See also Agence France-Presse, [Libya arrests 48 Egyptian Copts suspected of trying to convert Muslims](#), 5 March 2013

or torture⁴³¹, whilst the others were “released and expelled, but several claimed they had been tortured”⁴³². USA Today also reported that two of those released told the Associated Press that “dozens” were tortured inside a detention center – “flogged, forced to take off their clothes in cold weather and stand at 3 a.m. outdoors on floor covered with stones”.⁴³³ Others reported being beaten and their heads being shaved.⁴³⁴ The online edition of the Egyptian daily ‘Al Ahram’ reported that a Coptic church source in Egypt had stated that “the detained Copts had been tortured by their captors, who had also shaved their heads and used acid to burn off the crosses tattooed on their wrists”.⁴³⁵

The International Crisis Group reports that in July 2012 “seven Iranian aid workers with an official invitation from the Libyan Red Crescent were abducted in Benghazi” by members of a local Islamist brigade who held the group for two months to determine whether “they were there to proselytise”.⁴³⁶

4.4.2.2 Proselytizing as a criminal offense

According to The Guardian newspaper, Libya “retains a law from the Muammar Gaddafi era that makes proselytizing a criminal offence potentially punishable by death”.⁴³⁷

In March 2013 the European Union Delegation in Tripoli issued a statement expressing its “deep concerns about the continued detention and the treatment of persons held on alleged charges of proselytism in Libya”.⁴³⁸ According to the newspaper ‘Libya Herald’, the call follows the “arrest and continued detention of a number of Christians in Benghazi, mainly Egyptians, accused of proselytizing”.⁴³⁹ In December 2012, five Pakistani members of the Ahmadiyya movement were arrested in Tripoli on charges of proselytizing.⁴⁴⁰ According to reporting by the Germany Federal Office for Migration and Asylum “another Libyan citizen is wanted by the police in connection with these arrests” whilst “a converted Libyan citizen is said to have been arrested as well”.⁴⁴¹

⁴³¹ International Crisis Group (ICG), [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III. *Justice after Qadhafi, B. Collapse of the State Security Apparatus*, Footnote 94, p. 23. See also USA Today, [Coptic Christians say they were tortured in Libya](#), 15 March 2013

⁴³² Fox News, [Libya pledges to free American Christian imprisoned for faith](#), 27 March 2013

⁴³³ USA Today, [Coptic Christians say they were tortured in Libya](#), 15 March 2013

⁴³⁴ USA Today, [Coptic Christians say they were tortured in Libya](#), 15 March 2013

⁴³⁵ Libya Herald, [Government condemns attack on Benghazi church](#), 3 March 2013

⁴³⁶ International Crisis Group (ICG), [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III. *Justice after Qadhafi, B. Collapse of the State Security Apparatus*, Footnote 94, p. 23

⁴³⁷ The Guardian, [Libya arrests foreign 'missionaries'](#), 17 February 2013

⁴³⁸ European Union Delegation to Libya, [Local EU Statement on Religious Freedom and Fundamental Rights](#), 13 March 2013

⁴³⁹ Libya Herald, [EU “concerned” about religious freedom and rights in Libya](#), 13 March 2013

⁴⁴⁰ Germany: Federal Office for Migration and Asylum, [Information Centre Asylum and Migration: Briefing Notes \(21 January 2013\)](#), 21 January 2013, *Libya, Pakistani Ahmadi arrested on grounds of proselytising*

⁴⁴¹ Germany: Federal Office for Migration and Asylum, [Information Centre Asylum and Migration: Briefing Notes \(21 January 2013\)](#), 21 January 2013, *Libya, Pakistani Ahmadi arrested on grounds of proselytising*

4.4.3 Attacks against places of worship, predominantly Sufi shrines

An International Crisis Group report published in April 2013 reported that “a series of attacks against Sufi mosques and shrines in Misrata, Zliten, Tripoli, Derna and on the outskirts of Benghazi occurred in mid-2012 and have continued sporadically ever since”.⁴⁴² According to IRIN:

Since the end of the fighting, some Salafists, who favour a literalist interpretation of Islam, have carried out hundreds of attacks on the mosques, tombs and shrines of other sects of Islam, particularly Sufis.⁴⁴³

IRIN reports that “most Libyan experts and media blame the coordinated destructions of mosques and shrines on the Libyan Salafi network Ansar al-Sharia” who believe that “the destructions are necessary in order “to avoid idolatry”, prevent “religious corruption” and prohibit the spread of other religious deviations such as “black magic””.⁴⁴⁴ Also see section [1.4.1 Salafism Movement](#).

The International Crisis Group report noted further that the government’s “impotence” to intervene “extends to the protection of sites belonging to the country’s cultural and historical heritage but that some hard-line religious groups consider idolatrous”.⁴⁴⁵ The 2012 U.S. State Department report also noted that the government’s response to “a series of attacks on Sufi sites across the country was uneven [...] at times the security response was robust [...] at other times the security response was wholly inadequate” and further states that “there have been no known arrests or prosecutions in connection with attacks on Sufi sites”.⁴⁴⁶ Similarly, the UK Foreign and Commonwealth annual human rights report covering 2012 noted that “the destruction of a number of ancient Sufi shrines on the grounds that they were ‘un-Islamic’ and the attack against the Egyptian Coptic Orthodox Church in Misrata, resulting in two deaths, highlight the need for the government to honour its commitment to protect the rights of all of its citizens”.⁴⁴⁷ However, the Interior Minister Fawzi Abdel A’al was quoted as saying at the end of August 2012 in light of another attack on a mosque in Tripoli 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”.⁴⁴⁸ He added “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”.⁴⁴⁹

The Cairo Institute for Human Rights Studies highlighted that during the 25th August 2012 bulldozing and demolishing of the al-Sha’ab Mosque in Tripoli by armed militias “Supreme Security Council (SSC) vehicles surrounded the site and cordoned off the streets surrounding the mosque, preventing people from approaching it or intervening to stop the destruction. A journalist from the Libyan television station Alassema, Nabil Shebani, was detained by the SSC, whilst attempting to report on the destruction of the al-Sha’ab mosque”.⁴⁵⁰ Three UN independent experts also “strongly condemned the destruction of Sufi

⁴⁴² International Crisis Group (ICG), [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, V. *Creeping Lawlessness*, Footnote 161, p. 37

⁴⁴³ Integrated Regional Information Networks (IRIN), [Security of Christian communities "precarious" in Libya - archbishop](#), 15 March 2013

⁴⁴⁴ Integrated Regional Information Networks (IRIN), [Security of Christian communities "precarious" in Libya - archbishop](#), 15 March 2013

⁴⁴⁵ International Crisis Group (ICG), [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, V. *Creeping Lawlessness*, p. 37

⁴⁴⁶ U.S. Department of State, [2012 International Religious Freedom Report - Libya](#), 20 May 2013, Section II. *Status of Government Respect for Religious Freedom, Government Practices*

⁴⁴⁷ United Kingdom: Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013, *Freedom of religion or belief*, p. 197

⁴⁴⁸ Human Rights Watch, [Libya: Stop Attacks on Sufi Sites](#), 31 August 2012

⁴⁴⁹ Human Rights Watch, [Libya: Stop Attacks on Sufi Sites](#), 31 August 2012

⁴⁵⁰ Cairo Institute for Human Rights Studies, [Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human](#)

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religious and historic sites in various parts of Libya, as well as the intimidation and excessive use of force against unarmed protesters opposing the destruction".⁴⁵¹ A joint statement from the UN Special Rapporteur on freedom of religion or belief, the UN Special Rapporteur in the field of cultural rights, and the UN Independent Expert on minority issues, Rita Izsák urged the Libyan authorities "to take all necessary measures to protect places of cultural and religious significance that may also be threatened, and expressed concern at reports that the Libyans authorities did not seek to stop the destruction".⁴⁵² The statement further noted that "the destruction of Libyan Sufi sites started in October 2011 in the capital, Tripoli, and continued in other parts of Libya this year [2012]".⁴⁵³

Below is a non-exhaustive list of reported attacks against places of worship between July 2012 and 22 April 2013, predominantly against Sufi shrines but also Christian churches:

- In July 2012, "a bomb exploded at the Sahaba Mosque in Derna and the shrine of Zuhayr Ibn Qais Al-Balawi, companion of Prophet Muhammad and Muslim military leader, was demolished. In the same month in El-Tag near Kufra, Salafi activists removed the body of Sidi Muhammad Al-Mahdi Es-Senussi, a supreme sheikh of the Senussi Sufi order, from his mausoleum";⁴⁵⁴
- In August 2012, "the Sha'ab ad-Dahman mosque [in Tripoli] was demolished in August along with around 50 Sufi graves, including the tombs of Libyan Muslim scholar Abdullah al-Sha'ab";⁴⁵⁵
- In August 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";⁴⁵⁶
- In August 2012, "extremists removed the body of famous Muslim scholar Ahmad Zarruq and destroyed the Mosque [in Misrata] with bulldozers";⁴⁵⁷
- In August 2012 "ultra-conservative Islamists damaged major Sufi shrines and libraries in the north-western town of Zliten, the city of Misrata, and the capital, Tripoli [...] reportedly with the acquiescence of members of the security forces. The affected sites are the Islamic Centre of Sheikh Abdussalam Al-Asmar in Zliten, the Shrine of Sidi Ahmed Zaroug in Misrata, and the Mosque of Sidi Sha'ab in Tripoli";⁴⁵⁸
- In September 2012, "four people were killed [...] in an exchange of fire between Salafists and local residents who had organized themselves to protect a Sufi shrine in the town of Rajma, east of Benghazi";⁴⁵⁹
- In September 2012, "in the western province of Misrata [...] four men broke into the Greek Orthodox Church of St. Giorgio Dafniya, burning three icons and Greek and Cypriot flags";⁴⁶⁰
- In October 2012, "during the attack on Bani Walid, unidentified assailants demolished a section of the town's main Sufi shrine and the adjoining school in its entirety";⁴⁶¹
- In autumn 2012, "the Italian cemetery in downtown Tripoli began to see regular vandalism of tombs";⁴⁶²

[rights situation in Libya](#), 19 February 2013, *Violations of freedom of religion, expression, and assembly, Attacks on holy sites of religious minorities*

⁴⁵¹ UN News Service, [UN independent experts condemn destruction of Sufi religious sites in Libya](#), 10 September 2012

⁴⁵² UN News Service, [UN independent experts condemn destruction of Sufi religious sites in Libya](#), 10 September 2012

⁴⁵³ UN News Service, [UN independent experts condemn destruction of Sufi religious sites in Libya](#), 10 September 2012

⁴⁵⁴ Integrated Regional Information Networks (IRIN), [Security of Christian communities "precarious" in Libya - archbishop](#), 15 March 2013

⁴⁵⁵ Integrated Regional Information Networks (IRIN), [Security of Christian communities "precarious" in Libya - archbishop](#), 15 March 2013

⁴⁵⁶ Human Rights Watch, [Libya: Stop Attacks on Sufi Sites](#), 31 August 2012

⁴⁵⁷ Integrated Regional Information Networks (IRIN), [Security of Christian communities "precarious" in Libya - archbishop](#), 15 March 2013

⁴⁵⁸ UN News Service, [UNESCO calls for immediate stop to destruction of Sufi religious sites in Libya](#), 28 August 2012

⁴⁵⁹ UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya \[S/2013/104\]](#), 21 February 2013, D. Security incidents, para. 13

⁴⁶⁰ Integrated Regional Information Networks (IRIN), [Security of Christian communities "precarious" in Libya - archbishop](#), 15 March 2013

⁴⁶¹ International Crisis Group (ICG), [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, V. Creeping Lawlessness, Footnote 161, p. 37

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- In December 2012, “two Egyptian Copts were killed in a bomb blast at a Coptic church in in the Mediterranean town of Dafniya [and] St. George’s Greek Orthodox Church in Tripoli’s Old City has been targeted and icons burnt”;⁴⁶³
- In December 2012, “a bomb exploded outside the Egyptian Coptic Orthodox Church in Misrata and killed two people”;⁴⁶⁴
- In February 2013, “a gunman attacked a Coptic Orthodox church in Benghazi, assaulting two priests, though they were not injured”;⁴⁶⁵
- In February/March 2013, “a number of attacks on Christian communities including an incident in Tripoli when an armed man entered San Francesco Catholic Church in Dahara and opened fire on the priest”;⁴⁶⁶
- In March 2013, “unknown assailants used grenade launchers to demolish the 500-year-old Sidi Mohamed al-Andalusi shrine in Tajura, on the outskirts of Tripoli”;⁴⁶⁷
- In March 2013, “hardline Islamists [...] firebombed the Egyptian Coptic church in Benghazi”;⁴⁶⁸
- In May 2013, it was reported that the “Hamid Hudairi Sufi shrine in Sebha has been extensively damaged as a result of a rocket”.⁴⁶⁹ According to a local Sebha resident, it is the second time the shrine has been hit with the first attack happening in February 2013.⁴⁷⁰

The Libya Herald newspaper reported also that “death threats have been made to the head of a Sufi centre in Tripoli’s Old City” including attempts to kill his sons.⁴⁷¹ Abdullah Banun, a lawyer and head of the Zawia Kabira centre says that “he has been targeted for some time for speaking out against extremists who attacked and destroyed a number of Sufi shrines across the country earlier this year [2012]” and that he has alerted the Libyan authorities of the threats: “I’ve contacted everyone” he said, noting the limited resources the police have. “I’ve been in touch with the new prime minister, the new justice minister, the head of Tripoli local council and the head of police, but no concrete solutions appear”.⁴⁷² In September 2012, as part of a joint statement from three UN independent experts on the destruction of Sufi sites in Libya, the UN Independent Expert on minority issues raised concern over the “security of minority Sufis in Libya”, noting that the destruction of their shrines “should be an early warning resulting in immediate protection measures for Sufis, and their places of worship, who are evidently at risk of attack”.⁴⁷³

4.5 Ethnicity

4.5.1 Domestic Legal Framework

The August 2011 Draft Constitutional Charter for the Transition Stage sets out in Article (6) that:

⁴⁶² Fox News, [Libya pledges to free American Christian imprisoned for faith](#), 27 March 2013

⁴⁶³ Fox News, [Libya pledges to free American Christian imprisoned for faith](#), 27 March 2013

⁴⁶⁴ United Kingdom: Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report – Country updates: Libya](#), Latest Update: 31 March 2013

⁴⁶⁵ Integrated Regional Information Networks (IRIN), [Security of Christian communities “precarious” in Libya - archbishop](#), 15 March 2013

⁴⁶⁶ Integrated Regional Information Networks (IRIN), [Security of Christian communities “precarious” in Libya - archbishop](#), 15 March 2013

⁴⁶⁷ International Crisis Group (ICG), [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, V. Creeping Lawlessness, Footnote 165, page 37. See also Libya Herald, [Salafists destroy major Sufi shrine](#), 28 March 2013

⁴⁶⁸ Fox News, [Libya pledges to free American Christian imprisoned for faith](#), 27 March 2013

⁴⁶⁹ Libya Herald, [Sebha Sufi shrine attacked](#), 10 May 2013

⁴⁷⁰ Libya Herald, [Sebha Sufi shrine attacked](#), 10 May 2013

⁴⁷¹ Libya Herald, [Extremists threaten head of Sufi zawia in Tripoli](#), 15 November 2012

⁴⁷² Libya Herald, [Extremists threaten head of Sufi zawia in Tripoli](#), 15 November 2012

⁴⁷³ UN News Service, [UN independent experts condemn destruction of Sufi religious sites in Libya](#), 10 September 2012

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Libyans are brothers and their official relationship shall be based on law rather than tribal, proud, or personally loyalty. Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities, and be subject to the same public duties and obligations, without discrimination due to religion, belief, race, language, wealth, kinship or political opinions or social status. The State shall guarantee for women all opportunities which shall allow her to participate entirely and actively in political, economic and social spheres.⁴⁷⁴

The 1991 'Endorsement of Freedom' Law also provided for equality in Gaddafi's Libya, although the law did not specifically include race or ethnicity:

Article 1

Citizens in Great Jamahiriya, male and female, are free and equal in rights. These rights are not to be violated.⁴⁷⁵

The preamble of the 1998 Great Green Charter of Human Rights of the Jamahiriyan Era states "The Libyan Arab People [...] Led by the Green Book, Humanity's guide towards total deliverance from power, be it held by individuals, classes, clans, tribes or parties, and the path towards the founding of a society for all Men, where all human beings will be free and equal in the exercise of power and in the possession of wealth and arms".⁴⁷⁶ Article 17 further provides for:

The members of Jamahiriyan society affirm the right of everyone to share in the benefits, advantages, values and principles which are the fruit of harmony, cohesion, unity, affinity and affection among the family, the tribe, the nation and mankind. To this end, the members of Jamahiriyan society are working to establish the natural national entity of their nation and support all those who are fighting to achieve this same goal. They reject any and all segregation between men, whether based on color, race, creed or culture.⁴⁷⁷

4.5.2 Treatment of minority groups

4.5.2.1 Amazigh (pl. Imazighen, Berber)

The Minority Rights Group reports that "Libyan Amazigh, also known as Berbers, are the country's largest indigenous minority and faced discrimination and harassment under Gaddafi's rule. The Amazigh language, Tamazight, was outlawed, and Gaddafi passed laws which banned the use of non-Arab Amazigh names on official documentation. Amazigh New Year celebrations were considered un-Arab by Gaddafi, and Amazighs who expressed their culture and heritage were often persecuted by the state".⁴⁷⁸ The International Crisis Group reports that "Arabisation of the Berbers advanced more rapidly and completely in Libya than in any other Maghreb country".⁴⁷⁹ It further notes that the regime suppressed any sign of Berber activism and attempted to ensure that Berbers marry only non-Berbers in order to erode their sense of identity.⁴⁸⁰ It also reported that the regime adopted a slightly more ambivalent attitude towards the end of its rule, although in December 2010, Mazigh and Madghis Bouzakhar, two brothers, were arrested and allegedly tortured for promoting Amazigh culture.⁴⁸¹

⁴⁷⁴ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#), September 2011, Article (6)

⁴⁷⁵ [Law No. 20, Endorsement of Freedom \[Libya\]](#), 9 November 1991, Article 1

⁴⁷⁶ [Great Green Charter of Human Rights of the Jamahiriyan Era \[Libya\]](#), 12 June 1988

⁴⁷⁷ [Great Green Charter of Human Rights of the Jamahiriyan Era \[Libya\]](#), 12 June 1988

⁴⁷⁸ Minority Rights Group, [State of the World's Minorities and Indigenous Peoples 2012](#), 28 June 2012, *Libya*, p.205

⁴⁷⁹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *B, Minorities: Berbers, Tebu and Tuareg*, p. 22

⁴⁸⁰ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *B, Minorities: Berbers, Tebu and Tuareg*, p. 22

⁴⁸¹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *B, Minorities: Berbers, Tebu and Tuareg*, p. 22

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Minority Rights Group reports that Amazigh living in the Nafusa Mountains in north-west Libya were among the first to protest against Gaddafi on 18 February 2011, and fighting between rebel forces and Gaddafi in the region forced nearly 55,000 people into neighbouring Tunisia.⁴⁸² Amnesty International describes in May 2011 that since the siege began, “scores of people, mostly young men, have “disappeared” in the Nafusa Mountain area at the hands of forces loyal to Colonel al-Gaddafi and have not been seen from or heard of again – they are victims of enforced disappearance. They are believed to have been transferred to detention facilities in and around Tripoli, and there are serious concerns about their safety and wellbeing”.⁴⁸³ The U.S. State Department also notes that during 2012 “there was also societal discrimination and violence originating in attitudes toward the previous regime. For example, fighting began April 1, reportedly involving heavy weapons, between the largely Amazigh and anti-Qadhafi western town of Zuwara, on one side, and the mostly Arab and pro-Qadhafi towns of Al-Jimail and Regdalin on the other”.⁴⁸⁴ See also [3.3.3 Fighting in Nafusa Mountains](#) and [4.5.2.5 Mashashiya \(Mashasha, Meshashya, Masheshiya\)](#).

Following the conflict, Minority Rights Group reports that:

Schools have begun to teach Tamazight, and a weekly Tamazight newspaper was launched. But the draft constitution outlined by the NTC only vaguely alluded to Amazigh culture and rights – Tamazight was not recognized as an official language for example – and the cabinet of Prime Minister Abdurrahim al Keib appointed in November 2011 did not include Amazigh ministers. This angered Amazigh who fought against Gaddafi forces.⁴⁸⁵

The U.S. State Department reports by the end of 2012, “the Amazigh used their language publicly, publishing journals written in Tamazight and using their language on public signs and on the radio. They encouraged the new government to make Tamazight one of the official languages”.⁴⁸⁶ The Libya Herald reports that in June 2013, a group of Amazigh people protested in front of the GNC Congress, demanding that Congress activate Amazigh rights in Libya and demarcate Tamazight language in the Libyan Constitution.⁴⁸⁷ They also demanded that the government complete the registration procedures of Amazigh to enable them to receive the national number to be able to vote like other Libyan nationals.⁴⁸⁸

4.5.2.2 Tuareg (Twareg, Touareg)

IRIN reports that the Tuareg, an Imazighen non-Arab minority (see above), a nomadic pastoralist group, are also found in Algeria, Mali, Niger and Burkina Faso.⁴⁸⁹ It further notes that 90 per cent of Libyans live along the Mediterranean coast and many see non-Arab southerners as belonging more to ‘Africa’ than Libya.⁴⁹⁰ According to a June 2011 International Crisis Group report, approximately 10,000 Tuareg were believed to live in Libya, mostly in the desert oases of Ghat, Ghadames and Murzuq in the south west.⁴⁹¹ The

⁴⁸² Minority Rights Group, [State of the World's Minorities and Indigenous Peoples 2012](#), 28 June 2012 *Libya*, p. 205

⁴⁸³ Amnesty International, [Disappearances in the besieged Nafusa Mountain as thousands seek safety in Tunisia](#), 27 May 2011, *Introduction*, p. 6

⁴⁸⁴ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *National/Racial/Ethnic Minorities*

⁴⁸⁵ Minority Rights Group, [State of the World's Minorities and Indigenous Peoples 2012](#), 28 June 2012, *Libya*, p. 205

⁴⁸⁶ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *National/Racial/Ethnic Minorities*

⁴⁸⁷ Libya Herald, [Amazighs demand language, cultural and voting rights](#), 26 June 2013

⁴⁸⁸ Libya Herald, [Amazighs demand language, cultural and voting rights](#), 26 June 2013

⁴⁸⁹ Integrated Regional Information Networks, [Libyan minority rights at a crossroads](#), 24 May 2012

⁴⁹⁰ Integrated Regional Information Networks, [Libyan minority rights at a crossroads](#), 24 May 2012

⁴⁹¹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, *B. Minorities: Berbers, Tebu and Tuareg*, p. 23

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Jamestown Foundation notes that “besides the West African Tuareg who rallied to Qaddafi, Libya is home to a Tuareg community of roughly 100,000 people, though the regime has never recognized them as such, claiming they are only an isolated branch of the Arab race”.⁴⁹²

Amnesty International reports that “members of the Tabu [see below] 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”.⁴⁹³

The International Crisis Group also reports that as part of his Africa policy, Qaddafi sought to develop good relations with Tuareg communities in neighbouring countries, particularly rebel groups and hosted Tuareg from Mali and Niger and absorbed large numbers of Tuareg into his armed forces.⁴⁹⁴ It further notes that during the conflict there were claims that Qaddafi used non-Libyan Tuareg as mercenaries against rebel forces.⁴⁹⁵ The Jamestown Foundation reports that “at least 1,500 Tuareg fighters joined Muammar Qaddafi's loyalist forces (though some sources cite much larger figures) in the failed defense of his Libyan regime. Many were ex-rebels residing in Libya, while others were recruited from across the Sahel with promises of large bonuses and even Libyan citizenship”.⁴⁹⁶ It further explains that “though some Libyan Tuareg have opposed Qaddafi, many others have found employment in the Libyan regular army, together with volunteers from Mali and Niger. As a result, many Libyans tend to identify all Tuareg as regime supporters”.⁴⁹⁷

The International Crisis Group reports on post-uprising conflict in Ghadames, adjacent to where the borders of Libya, Algeria and Tunisia converge in Libya's far west:

Local Tuaregs, who had benefited from Qadhafi's regime with grants of citizenship and property, opposed the councils that had been organised by pro-revolution Ghadames residents, who also had formed their own armed group in the western mountains. Claiming that the latter had destroyed property and made arbitrary arrests when they seized the town after Qadhafi's troops fled, Tuaregs attacked Ghadames townsmen on 25 September 2011. In the subsequent fighting seven or eight people were killed, with each side accusing the other of abuses. Subsequent reconciliation negotiations failed to resolve the status of either the councils or the “wanted individuals”, and clashes continued through the first half of 2012.⁴⁹⁸

In February 2012 the Society for Threatened Peoples submitted to the Human Rights Council that “hundreds of African migrant workers in Libya and indigenous Tuareg people have been imprisoned and tortured by fighters allied to the new National Transitional Council , accused of being mercenaries for

⁴⁹² Jamestown Foundation, [What the Tuareg Do After the Fall of Qaddafi Will Determine the Security Future of the Sahel](#), 16 September 2011, Terrorism Monitor Volume: 9 Issue: 35

⁴⁹³ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, 4. *Continuing and Costly Clashes*, p. 47

⁴⁹⁴ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, B, *Minorities: Berbers, Tebu and Tuareg*, p. 23

⁴⁹⁵ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, B, *Minorities: Berbers, Tebu and Tuareg*, p. 23

⁴⁹⁶ Jamestown Foundation, [What the Tuareg Do After the Fall of Qaddafi Will Determine the Security Future of the Sahel](#), 16 September 2011, Terrorism Monitor Volume: 9 Issue: 35

⁴⁹⁷ Jamestown Foundation, [What the Tuareg Do After the Fall of Qaddafi Will Determine the Security Future of the Sahel](#), 16 September 2011, Terrorism Monitor Volume: 9 Issue: 35

⁴⁹⁸ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, A. *Legacies of Qadhafi and the 17 February Revolution*, p. 4

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Colonel Muammar Gaddafi. Some of their homes have been looted, and women and girls beaten and raped”.⁴⁹⁹ Also see [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#).

An August 2012 UN Secretary-General report noted that “following an armed clash on 14 May [2012] between Arabs and Tuaregs in Ghadamis, resulting in 10 deaths, an estimated 1,600 Tuareg residents of the city were displaced to nearby Dirj. The Tuareg member of the National Transitional Council from Ghadamis resigned in protest at the perceived Government inaction to halt the fighting and to address the grievances of the displaced Tuaregs”.⁵⁰⁰ In January 2013 the Jamestown Foundation reported that “there are continuing tensions in the region around Ghadames near Libya's border with Tunisia and Algeria, where Arab-Berber tribes have sought revenge on the local Tuareg community, parts of which provided security support to the Qaddafi regime during the battle for Libya”.⁵⁰¹

IRIN further reports that “some Tuaregs are optimistic about the future, but despite the renewed sense of freedom, those living in Tayuri say the conditions in which they live are “unacceptable”.⁵⁰² By comparison with other neighbourhoods in Sebha, homes in Tayuri are arranged haphazardly; the communities here say they receive little assistance from the state; and there is no proper sewage or refuse disposal system”.⁵⁰³

IRIN explains that the main proof of citizenship in Libya is the family booklet which is presented when applying for jobs, university studies, or when taking a loan from the bank but Tuaregs who settled in the country less 40 or 50 years ago were denied the family booklet and lack citizenship, rendering them essentially stateless.⁵⁰⁴ The report continues “without access to the same services and opportunities as other Libyans, the future for many Tuareg youth is difficult. Those that manage to continue studying to university level are often later denied access to good jobs”.⁵⁰⁵ The NTC allowed those lacking a family booklet to register to vote in the election so long as they had an alternative family document as well as a driver's license or national ID card.⁵⁰⁶

4.5.2.3 Tebu (Tabu, Toubou, Tubu)

The Jamestown Foundation reports that the Tubu are an “indigenous Black African tribe following a semi-nomadic lifestyle in what is now southern Libya, northern Chad and northeastern Niger”.⁵⁰⁷ A June 2011 International Crisis Group report notes that the Tebu are found primarily in the Tibesti Mountain Range that runs along the border of southern Libya and northern Chad, but there are no reliable estimates of their numbers.⁵⁰⁸ It further notes that conflict has erupted periodically between the Tebu and Arab tribes in the south, as increasing numbers of Tebu have settled in the town of Al-Kufra, or smaller centres such as Tagru and Umm al-Aranib, where they have set up home in illegal makeshift camps and shantytowns and sought

⁴⁹⁹ UN Human Rights Council, [Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status](#), 28 February 2012

⁵⁰⁰ UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 30 August 2012, paragraph 14

⁵⁰¹ Jamestown Foundation, [Tribes and Terrorists: The Emerging Security Threat from Libya's Lawless South](#), 25 January 2013

⁵⁰² Integrated Regional Information Networks, [Libyan minority rights at a crossroads](#), 24 May 2012

⁵⁰³ Integrated Regional Information Networks, [Libyan minority rights at a crossroads](#), 24 May 2012

⁵⁰⁴ Integrated Regional Information Networks, [Libyan minority rights at a crossroads](#), 24 May 2012

⁵⁰⁵ Integrated Regional Information Networks, [Libyan minority rights at a crossroads](#), 24 May 2012

⁵⁰⁶ Integrated Regional Information Networks, [Libyan minority rights at a crossroads](#), 24 May 2012

⁵⁰⁷ Jamestown Foundation, [Arab-Tubu Clashes in Southern Libya's Sabha Oasis](#), 6 April 2012, Terrorism Monitor

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⁵⁰⁸ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, B, Minorities: Berbers, Tebu and Tuareg, p. 23

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work.⁵⁰⁹ The same source reports that violent clashes erupted in the town of Al-Kufra in November 2008 between the Tebu and the Zwiya, the area's largest and most powerful tribe.⁵¹⁰ It also reports that the authorities instructed the people's councils in Al-Kufra in 2007 to withdraw family ration books, identity cards, passports and papers from the Tebu and to "treat them as foreigners".⁵¹¹ Al Jazeera notes that lack of identification has denied the Tebu access to higher education, skilled jobs, housing and health care.⁵¹² In 2009 Tebu homes were bulldozed and several dozens of Tebu were beaten and arrested when they protested against the forced evictions.⁵¹³

Al Jazeera further reports that during the uprising, the Tebu provided crucial southern support to the coastal rebels and the 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.⁵¹⁴ After Gaddafi fell, Issa Abdel Majid Mansour seized control of border smuggling routes from Zway communities, which ignited "ferocious, community-wide fighting" according to the International Crisis Group.⁵¹⁵ Amnesty International summarises that:

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. The clashes are frequently accompanied by arbitrary detention and torture by both sides. Such confrontations are facilitated by the absence of long-term solutions addressing the root causes of the tensions and impunity for violations.⁵¹⁶

See [3.3.2 Fighting around Kufra and Sebha](#) for further information.

IRIN, reporting on political representation in May 2012 notes that "in Murzuq, an area said to be currently controlled by the minority Tubu community, a large percentage of the population do not have documents."⁵¹⁷ "Elections here are based on tribal affiliations. In some countries minorities have some kind of representation, but we are afraid that we will have no parliamentary representation at all," said Yusuf Soghi, the outreach coordinator for the local council in Murzuq".⁵¹⁸

4.5.2.4 Tawergha

IRIN reports that the dark-skinned Tawergha are a minority descended from former slaves brought to Libya in the 18th and 19th centuries, who resided in a coastal town of the same name 250km east of Tripoli.⁵¹⁹ The International Crisis Group reports that in August 2011, Misratan armed groups forced approximately 40,000 Tawergha out of Tawergha, 32km south of Misrata, accusing them of having helped Qadhafi forces

⁵⁰⁹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, B, Minorities: Berbers, Tebu and Tuareg, p. 23

⁵¹⁰ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, B, Minorities: Berbers, Tebu and Tuareg, p. 23

⁵¹¹ International Crisis Group, [Popular Protests in North Africa and the Middle East \(V\): Making Sense of Libya](#), 6 June 2011, B, Minorities: Berbers, Tebu and Tuareg, p. 23

⁵¹² Al Jazeera, [Libya's Tebu tribe hopes for lasting peace](#), 3 December 2012

⁵¹³ UN Human Rights Council, [Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human rights Council resolution 5/1; Libyan Arab Jamahiriya](#), 15 July 2010, paragraph 33

⁵¹⁴ Al Jazeera, [Libya's Tebu tribe hopes for lasting peace](#), 3 December 2012

⁵¹⁵ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, B. The Tumultuous Borderlands: Zuwara, Kufra and Sebha, p. 7

⁵¹⁶ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, 1. Introduction, p. 7

⁵¹⁷ Integrated Regional Information Networks (IRIN), [Libyan minority rights at a crossroads](#), 24 May 2012

⁵¹⁸ Integrated Regional Information Networks (IRIN), [Libyan minority rights at a crossroads](#), 24 May 2012

⁵¹⁹ Integrated Regional Information Networks (IRIN), [Libya: Rocky road ahead for Libya's Tawergha minority](#), 13 December 2011

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shell their town and having raped their women during the 2011 war, charges Tawergha notables deny.⁵²⁰ The Cairo Institute for Human Rights Studies reports that “the forced displacement was followed by arbitrary arrests of Tawerghans, the looting and destruction of Tawerghan homes, torture, and extrajudicial killings”.⁵²¹

In March 2012 the report of the International Commission of Inquiry on Libya concluded with respect to the Tawergha that:

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 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. [...]

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.⁵²²

Amnesty International reports that armed militias have targeted whole communities accused of having supported Gaddafi and of committing crimes during the conflict, with Tawargha at the hands of Misratah militias particularly vulnerable to arrest.⁵²³ It also notes that militias take suspects captive from their homes, the street or at checkpoints and that easily identifiable targets such as black Tawarghas or Sub-Saharan Africans are particularly vulnerable.⁵²⁴ Amnesty International also reports that “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”.⁵²⁵ See [6.7 Prison conditions](#) for further information.

The International Crisis Group further reports that some Tawergha who were not residing in the town during the 2011 war have been abducted:

In one such case, in mid-November 2012, armed men in military outfits stormed the house of a Tawerghan who had been residing with his family in the capital since the 1960s and forcibly removed him in the middle of the night. Almost four months later his family discovered that he had been kept in a makeshift prison in a

⁵²⁰ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, I. Introduction, p. 7 (footnote 20)

⁵²¹ Cairo Institute for Human Rights Studies, [Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human rights situation in Libya](#), 19 February 2013

⁵²² UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraphs 63 and 59

⁵²³ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, *Arbitrary arrests*, p. 15

⁵²⁴ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, *Arbitrary arrests*, p. 16

⁵²⁵ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, *Introduction*, p. 6

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Tripoli villa for three months, then transferred to Misrata. Similar incidents reportedly occur regularly in the capital.⁵²⁶

Amnesty International reports that in May 2012, four men from Tawargha were arrested at Tripoli airport when they arrived on a flight from Benghazi. A relative accompanying them was told that they would be quickly released but they were still detained without trial at Misratah at the end of 2012.⁵²⁷

In March 2013 Human Rights Watch reports that 1,300 Tawargha are detained, missing or dead.⁵²⁸ It further argues that the Libyan government should take urgent steps to stop serious and ongoing human rights violations against inhabitants of the town of Tawargha, noting that “the forced displacement of roughly 40,000 people, arbitrary detentions, torture, and killings are widespread, systematic, and sufficiently organized to be crimes against humanity and should be condemned by the United Nations Security Council”.⁵²⁹ It also stated that the Libyan authorities should also investigate individual Tawarghans accused of committing serious crimes during the conflict, and if there is evidence of a crime, prosecute them to the full extent of the law, as “punishing a community for alleged crimes by community members amounts to collective punishment”.⁵³⁰ Also see [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#).

The Cairo Institute for Human Rights Studies further reports that “due to Law 38, which grants blanket amnesty to any crimes committed in the name of the revolution, no concrete action has been taken by the government to bring these militias to justice or to return the displaced population to Tawargha”.⁵³¹ See [6.2.3 Amnesty Law](#) and [6.3 Impunity for war crimes committed in the course of the armed conflict in 2011](#).

According to April 2013 figures, UNHCR reported that 30,000 Tawargha remained displaced.⁵³² IRIN notes that they are based in around 20 camps, mainly in Tripoli and Benghazi.⁵³³ The Cairo Institute for Human Rights Studies notes that the camps have been targets of attack and that in February 2012 a camp in Janzour near Tripoli was raided by militias, resulting in seven Tawarghan deaths, including three children.⁵³⁴ In February 2013 UNHCR reported that unidentified men entered the Fellah site in Tripoli, attempted to arrest IDPs randomly and opened fire, although no injuries were reported.⁵³⁵ IRIN reports in February 2013 that “as part of a roadmap for a return, Tawargha community leaders issued an official apology to the residents of Misrata and the nation in February 2012 and say they will surrender anyone accused of committing abuses, and help the judicial authorities”.⁵³⁶ IRIN further reported in February 2013 that Tawargha community leaders are not prepared to wait any longer for reconciliation to start and are planning to leave the camps and return to Tawargha in June 2013.⁵³⁷ However, the International Crisis

⁵²⁶ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, I. Introduction, p. 7 (footnote 20)

⁵²⁷ Amnesty International, [Annual Report 2013 The state of the world's human rights: Libya](#), 22 May 2013

⁵²⁸ Human Rights Watch, [Libya: Stop Revenge Crimes Against Displaced Persons](#), 20 March 2013

⁵²⁹ Human Rights Watch, [Libya: Stop Revenge Crimes Against Displaced Persons](#), 20 March 2013

⁵³⁰ Human Rights Watch, [Libya: Stop Revenge Crimes Against Displaced Persons](#), 20 March 2013

⁵³¹ Cairo Institute for Human Rights Studies, [Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human rights situation in Libya](#), 19 February 2013

⁵³² UNHCR, [External Update](#), May 2013

⁵³³ Integrated Regional Information Networks, [Libya's displaced Tawargha threaten unilateral return](#), 19 February 2013

⁵³⁴ Cairo Institute for Human Rights Studies, [Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human rights situation in Libya](#), 19 February 2013

⁵³⁵ UNHCR, [Libya External update](#), February 2013

⁵³⁶ Integrated Regional Information Networks, [Libya's displaced Tawargha threaten unilateral return](#), 19 February 2013

⁵³⁷ Integrated Regional Information Networks, [Libya's displaced Tawargha threaten unilateral return](#), 19 February 2013

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Group reports that “Misratan forces have made clear they will not allow Tawergha to be their neighbours again”.⁵³⁸

On 9th May 2013 Tawerghan community leaders issued a statement asserting their decision to peacefully return home on 25th June 2013, appealing to the government and international organisations for support and protection during this transition.⁵³⁹ The Libya Herald reports that following the announcement, on 19 May 2013 “an estimated 1,000 Misratans protested in front of the city’s House of Martyrs against the plan, their anger exacerbated by the discovery of two mass graves near Tawargha a week after the announcement of the return”.⁵⁴⁰ Mufta Lamlum, a high profile dissident in the days of Qaddafi and a member of the then Unity and Development Party stated “I am absolutely opposed to the return of the Tawarghans because every family has at least one rape victim. So their return would generate a series of personal revenge that no one would be able to control.”⁵⁴¹ At a Tawergha protest in front of the GNC also on 19 May 2013 which demanded the GNC issue a resolution to allow Tawerghas to return home, one person was injured in a drive-by shooting.⁵⁴² Prime Minister Ali Zeidan stated during a 20 June 2013 press conference that “Tawerghans should not return to their hometown at present”.⁵⁴³ He asked Tawerghans to “stay in their place” and leave the matter to the government to find a solution.⁵⁴⁴ In response, the Society for Threatened Peoples stated that “if the people of Tawergha are not able to return now – after 22 months of displacement – the policy of national reconciliation has failed”.⁵⁴⁵ Human Rights Watch reports that following announcements by the government, religious leaders, tribal leaders, and UNMISS cautioning against a unilateral return, the Local Council of Tawergha decided to postpone the move.⁵⁴⁶ However, a small group did attempt to return home, but as reported by Human Rights Watch, “local authorities in Ajdabiya turned back a group of Tawerghans on June 25, 2013. Some had left Benghazi in a convoy of about 40 cars for Tawergha, 750 kilometers west, only to be barred passage in Ajdabiya, 150 kilometers from Benghazi”.⁵⁴⁷ Human Rights Watch commented that “an entire community is being held hostage to crimes allegedly committed by a few” and that “the onus is now on the government to end this collective punishment by ensuring that Tawerghans can exercise their right finally to return to their homes”.⁵⁴⁸

4.5.2.5 Mashashiya (Mashashya, Mashasha, Meshashya, Masheshiya)

The International Crisis Group reports that the “Mashashya originally were nomads. Following disputes with the Magarha tribe, Qadhafi’s government resettled a large section of them to the western mountains, triggering land disputes with neighbouring Yefren and Zintan”.⁵⁴⁹ Amnesty International reports that the members of the Mashashiya tribe have suffered revenge attacks and been driven out of their homes and

⁵³⁸ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, I. Introduction, p. 7 (footnote 20)

⁵³⁹ Lawyers for Justice in Libya, [Lawyers for Justice in Libya welcomes Tawerghan decision to return home](#), 30 May 2013

⁵⁴⁰ Libya Herald, [Angry Misratans threaten to attack Tawarghans if they attempt to return](#), 19 May 2013

⁵⁴¹ Libya Herald, [Angry Misratans threaten to attack Tawarghans if they attempt to return](#), 19 May 2013

⁵⁴² Libya Herald, [Drive-by shooting at peaceful Tawerghan protest](#), 19 May 2013

⁵⁴³ Libya Herald, [“Don’t go back to Tawergha – yet”, Zeidan tells its people](#), 20 June 2013

⁵⁴⁴ Libya Herald, [“Don’t go back to Tawergha – yet”, Zeidan tells its people](#), 20 June 2013

⁵⁴⁵ Society for Threatened Peoples, [The Prime Minister wants to postpone the return of refugees from Tawergha – the policy of national reconciliation is bound to fail](#), 21 June 2013

⁵⁴⁶ Human Rights Watch, [Libya: Displaced People from Tawergha Barred From Return](#), 27 June 2013

⁵⁴⁷ Human Rights Watch, [Libya: Displaced People from Tawergha Barred From Return](#), 27 June 2013

⁵⁴⁸ Human Rights Watch, [Libya: Displaced People from Tawergha Barred From Return](#), 27 June 2013

⁵⁴⁹ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September 2012, II. Background: Libya’s Communal Conflicts, A. Legacies of Qadhafi and the 17 February Revolution, p. 2 (footnote 9)

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villages because of their alleged support for al-Gaddafi forces during the conflict.⁵⁵⁰ It notes that “in June-July 2011, after opposition fighters from nearby areas and notably from Zintan took control of the area, the entire population of the village of ‘Awnya were forced out of their homes by militias from Zintan”.⁵⁵¹ It also reported that members of the Mahashiya tribes have been targeted by militias from Zintan because of their alleged support for al-Gaddafi forces during the conflict.⁵⁵² The Zintan militia are credited with having led the units which captured Tripoli and they also detained Gaddafi’s son Seif al-Islam.⁵⁵³ Also see [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#).

The International Crisis Group reports that “many noted with horror how revolutionary brigades had exacted revenge against largely unarmed Mashashya (near neighbouring Zintan) and Tawergha (near neighbouring Misrata), two communities that had largely backed Qadhafi in the conflict”.⁵⁵⁴ In March 2012 the report of the International Commission of Inquiry on Libya reported that:

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 internally displaced persons (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”.⁵⁵⁵

The BBC reports that week long clashes in June 2012 in the western mountains areas of Zintan, Mizdah and Shegayga (Sgeiga) left 105 people dead and 500 injured, forcing many into displacement.⁵⁵⁶ It further notes that the conflict was triggered by the death of a man from Zintan after he was stopped at a checkpoint, which Zintan militias blamed on the Mashashya tribe.⁵⁵⁷ Amnesty International notes that “armed assaults on Mashashiya areas of Sgeiga and Mazda in June 2012 led to 105 deaths, and further displacement and reports that “not only are such communities barred from going home; they also continue to face arbitrary arrest and other reprisals”.⁵⁵⁸ The BBC reports that the fighting was mainly between fighters from Zintan, backed by the Guntrara tribe from Mizdah, and armed members of the Mashashya tribe based in Shegayga.⁵⁵⁹

The Congressional Research Service reports in October 2012 that some minority groups and tribes associated with the Qadhafi regime, including members of the Mashasha tribe, remain internally displaced and have been targeted by rival groups.⁵⁶⁰ According to January 2013 UNHCR statistics, there were 9,200 IDPs from the Nafusa Mountains.⁵⁶¹ The 2013 Human Rights Watch annual report notes that “armed groups have barred the Mashashiya tribe from returning to their villages in the Nafusa Mountains due to tribal and

⁵⁵⁰ Amnesty International, [Militias threaten hopes for new Libya](#), 16 February 2012, *Introduction*, p. 8 and *Mshashiya People*, p. 34

⁵⁵¹ Amnesty International, [Militias threaten hopes for new Libya](#), 16 February 2012, *Mshashiya People*, p. 34

⁵⁵² Amnesty International, [Militias threaten hopes for new Libya](#), 16 February 2012, *Detainees of Mshashiya Origin*, p. 21

⁵⁵³ Agence France-Presse, [105 killed in week of clashes in west Libya](#), 20 June 2012

⁵⁵⁴ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September 2012, *II. Background: Libya’s Communal Conflicts*, A. *Legacies of Qadhafi and the 17 February Revolution*, p. 2

⁵⁵⁵ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, *paragraph 60*

⁵⁵⁶ BBC, [Libya’s tribal clashes leave 105 dead](#), 20 June 2012

⁵⁵⁷ BBC, [Libya’s tribal clashes leave 105 dead](#), 20 June 2012

⁵⁵⁸ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, *1. Introduction*, p. 8

⁵⁵⁹ BBC, [Libya’s tribal clashes leave 105 dead](#), 20 June 2012

⁵⁶⁰ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Security and Human Rights Challenges*, p. 19

⁵⁶¹ UNHCR, [Libya Fact-sheet](#), January 2013

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political disputes”.⁵⁶² See [3.3.3 Fighting in Nafusa Mountains](#) for information on the March 2013 conflict in the region.

The Libya Herald reports that in June 2013 six people were killed in the town of Mizdah in Jabal Nafusa, south of Tripoli, in renewed clashes between members of the Mashasha and Qintarar tribes.⁵⁶³

4.5.2.6 Sub-Saharan Africans

This section addresses the societal treatment of persons of perceived Sub-Saharan African origin, but not the treatment of asylum seekers, refugees or undocumented migrants from Sub-Saharan Africa in immigration detention.

The 2012 U.S. State Department reports that an estimated 1.5 million to 2 million foreign workers and undocumented migrants were present in Libya before the conflict began, of which almost 1 million were believed to be of Sahelian or sub-Saharan African origin.⁵⁶⁴ The UK Foreign and Commonwealth Office reports that under the Qadhafi regime, migrants from sub-Saharan Africa were encouraged to settle in Libya and were given identity cards allowing them to live and work there legally.⁵⁶⁵ The International Federation for Human Rights reports that during the conflict, migrants were particularly threatened and began a massive exodus, with nearly 800,000 estimated to have fled.⁵⁶⁶ The 2012 Minority Rights Groups reports that during the uprising:

According to rights groups, rebel fighters killed and detained black Libyans and sub-Saharan African migrant workers, claiming they were pro-Gaddafi mercenaries. However, allegations that Gaddafi employed many Africans from neighbouring countries such as Chad, Nigeria and Sudan as mercenaries appeared to be heavily exaggerated. Many Africans worked in civilian jobs. There have been reports of harassment and violence towards sub-Saharan African migrant workers from rebel fighters and civilians alike, and security missions have allegedly turned into persecution of Africans based on their skin colour.⁵⁶⁷

The U.S. State Department notes that during 2012 “there were numerous reports of arbitrary and unlawful killings, particularly of real or suspected Qadhafi supporters. Primary targets included Qadhafi soldiers or supporters, possible sub-Saharan mercenaries, dark-skinned Libyans, former members of the security forces, as well as foreign diplomats”.⁵⁶⁸ It also reported that detention of sub-Saharan African refugees and migrants increased significantly after the fall of Qadhafi, and that militias committed abuses against detainees, particularly alleged Qadhafi loyalists and sub-Saharan Africans aligned with Qadhafi.⁵⁶⁹ Also see [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#).

⁵⁶² Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013

⁵⁶³ Libya Herald, [Clashes in Jebel Nafusa subside](#), 16 June 2013

⁵⁶⁴ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *National/Racial/Ethnic Minorities*

⁵⁶⁵ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013

⁵⁶⁶ International Federation for Human Rights, [Libya: The Hounding of Migrants Must Stop](#), October 2012, *Introduction* p.4

⁵⁶⁷ Minority Rights Group, [State of the World's Minorities and Indigenous Peoples 2012](#), 28 June 2012 *Libya*, p. 205

⁵⁶⁸ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 1 a. *Arbitrary or Unlawful Deprivation of Life*

⁵⁶⁹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment* and 2d. *Refugee Abuse*

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In July 2012 Amnesty International reported that “although they are no longer being arrested on a large scale on suspicion of being ‘foreign mercenaries’ in the pay of Colonel al-Gaddafi, they are still being routinely rounded up from their homes or seized at checkpoints or from streets by armed militias. Their ‘crime’ is to have entered or remained in the country ‘illegally’ They are held indefinitely in detention facilities under the control of armed militias in poor conditions, without any possibility to challenge the legality of their detention. Some have complained of beatings amounting to torture”.⁵⁷⁰ The same source reports that armed militias have targeted whole communities accused of having supported Gaddafi and of committing crimes during the conflict, with Tawargha at the hands of Misratah militias and people from Mashashiya at the hands of Zintan militias particularly vulnerable to arrest.⁵⁷¹ It also notes that militias take suspects captive from the street or at checkpoint and that easily identifiable targets such as black Tawarghas or Sub-Saharan Africans are particularly vulnerable.⁵⁷² In June 2013 Amnesty International continued to report that in addition to the Department of Combating Irregular Migration arresting ‘irregular migrants’, “militias and in some cases ordinary citizens motivated by xenophobia and misguided fears about diseases, detain foreign nationals on an almost daily basis – driven by what they believe is their “national duty”. Arrests can take place anywhere at any time, although foreign nationals are most often picked up from their homes, at checkpoints and on the street. After a relatively short period, foreign nationals are handed over to larger “holding centres” for the purpose of their deportation. In some cases, they are subjected to torture and other ill-treatment, as well as exploitation at all stages of this process, by both state and non-state actors”.⁵⁷³

IRIN reports that following the revolution, the authorities have detained and subsequently deported hundreds of Sub-Saharan Africans in harsh conditions, according to former Chadian migrant workers.⁵⁷⁴ In a November 2012 report Amnesty International summarised the situation for foreign migrants in Libya:

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. [...]

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.⁵⁷⁵

Amnesty International reported that in June 2013, its research suggests that, at present, abuses against foreign nationals appear to be mainly motivated by misguided fears of diseases and xenophobia, no longer because of their association as pro-Gaddafi mercenaries.⁵⁷⁶

⁵⁷⁰ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, 1. Introduction, p. 8

⁵⁷¹ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, Arbitrary arrests, p. 15

⁵⁷² Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, Arbitrary arrests, p. 16

⁵⁷³ Amnesty International, [Libya: Scapegoats of fear: Rights of refugees, asylum-seekers and migrants abused in Libya](#), 20 June 2013, 1. Introduction p.6

⁵⁷⁴ Integrated Regional Information Networks, [Chadian migrants rue Libyan detention, ill-treatment, deportation](#), 8 March 2013

⁵⁷⁵ Amnesty International, [“We are foreigners, we have no rights”: The plight of refugees, asylum-seekers and migrants in Libya](#), 13 November 2012

⁵⁷⁶ Amnesty International, [Libya: Scapegoats of fear: Rights of refugees, asylum-seekers and migrants abused in Libya](#), 20 June 2013, 1. Introduction p.6

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4.6 Treatment of Women (Post-Libyan Revolution)

4.6.1 Legal, Political, Social and Economic Rights

Regarding women's participation in the Libyan political sphere, the USSD reports that "significant social and cultural barriers largely excluded women from political leadership, and there were only two women among the ministers".⁵⁷⁷ However, in a total of 200 total representatives, 33 women were elected to the GNC during the general election in July 2012 although "campaign posters featuring women candidates were frequently defaced".⁵⁷⁸ Human Rights Watch reported in May 2013 that it had documented "more than a dozen instances of vandalism against the election posters of female candidates [...] Some female candidates also complained of pushback from family and friends on the appropriateness of Libyan women in politics".⁵⁷⁹

Freedom House in its 2013 'Freedom in the World' report notes that the General National Congress (GNC) has so far only made "limited effort" to address certain laws and social norms perpetuating discrimination and that "formal legal changes have yet to be made".⁵⁸⁰ Similarly, the Cairo Institute for Human Rights, in collaboration with Nazra for Feminist Studies, the New Woman Foundation and the Tunisian Association of Democratic Women, presented an oral intervention to the UN Human Rights Council on the state of women's human rights defenders and pointed out that "Libyan women continue their struggle to ensure their representation in the upcoming Constituent Assembly as well as the inclusion of provisions supporting and protecting equality between men and women and outlawing discrimination based on sex in the new Libyan constitution".⁵⁸¹ In a May 2013 report on women's rights in Libya, Human Rights Watch highlights that "the gains made to date [post-revolution] remain fragile and need to be rapidly bolstered by clear constitutional and legislative guarantees".⁵⁸² The report further notes that women in Libya face a range of obstacles to their full participation in the country's transitional processes since:

They generally have inferior access to information, they experience higher rates of illiteracy than men, they face discrimination in both accessing employment and at the workplace, they have restricted mobility, and they are liable to sexual harassment and assault. Furthermore they live in a society where men's control over women's decision-making is entrenched and which prioritizes women's role as that of mothers and wives.⁵⁸³

Fox News reports that "since Gadhafi's fall more than 18 months ago, women have been rewarded by seeing their rights hemmed in and restricted. Women fear worse may yet to come. The country is soon to begin work drafting a new constitution, which activists fear will enshrine the relegation of women to second-class status, given the influence of hard-line Islamists".⁵⁸⁴ Moreover, the article notes that "more generally, the deeply conservative nature of much of Libyan society is being expressed more freely, often impinging on women. Powerful clerics speak out against the mixing of the sexes and Libya's political leaders

⁵⁷⁷ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government, Elections and Political Participation, Participation of Women and Minorities

⁵⁷⁸ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government, Elections and Political Participation, Participation of Women and Minorities

⁵⁷⁹ Human Rights Watch, [A Revolution for All: Women's Rights in the New Libya](#), 27 May 2013, II. Women's Political Participation, Election Campaigning and Awareness

⁵⁸⁰ Freedom House, [Freedom in the World 2013 - Libya](#), 1 February 2013, Political Rights and Civil Liberties

⁵⁸¹ The Cairo Institute for Human Rights Studies, [In an Oral Intervention to the UN Human Rights Council: Despite their role in the Arab Uprisings, women face marginalization from political sphere](#), 5 March 2013

⁵⁸² Human Rights Watch, [A Revolution for All: Women's Rights in the New Libya](#), 27 May 2013, Summary

⁵⁸³ Human Rights Watch, [A Revolution for All: Women's Rights in the New Libya](#), 27 May 2013, I. Background

⁵⁸⁴ Fox News, [After Gadhafi, Libyan women now press back against rising Islamists](#), 7 March 2013

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themselves have set the tone for a more conservative stance on women”.⁵⁸⁵ Elham Saudi, director of Lawyers for Justice in Libya highlighted at an event organized in conjunction with the Cairo Institute for Human Rights Studies as part of the activities of the UN Human Rights Council session, that the challenges faced by women in Libya “stem from cultural rather than legal problems”.⁵⁸⁶ She referred to the “removal of a woman who was giving a speech before the General National Congress for not wearing a headscarf as a clear example of the cultural discrimination faced by women in the country”.⁵⁸⁷ Amnesty International reported that in February 2012, small protests in Tripoli and Benghazi calling for equality and condemning sexual harassment and violence against women “were publicly criticized by powerful militia leaders and others. Several of the organizers received threats and discontinued their public activism”.⁵⁸⁸ In March 2013 Libya’s Fatwa Authority “strongly condemned a UN document on women’s rights” saying that the principles in the UN document were “destructive and unjust, and the least dangers it can cause are to ruin and disintegrate families and call for moral decay. In addition, it is against religion and the established foundations of Islamic Sharia”.⁵⁸⁹ The Fatwa Authority further explained that:

it objected to the document because of text on equal shares in inheritance, the replacement of men’s leadership with partnership, and full sharing of roles in a family between man and woman in terms of expenditures, childcare, house affairs, etc. It also noted the withdrawal of power of divorce from husbands and giving it to a court, the division of all properties after divorce, and giving the wife the right to file complaints against the husband for rape or harassment.⁵⁹⁰

At the end of April 2013, Libya’s top religious authority, the grand mufti, called for strict gender segregation in all workplaces, classrooms and government offices.⁵⁹¹ According to Voice of America, Libya’s human rights groups “are warning the mufti’s call, if heeded, will likely encourage Islamic vigilantes who have been pressing for gender segregation and who patrol the streets looking for women they say are immodestly clothed or unaccompanied by a male relative”.⁵⁹²

On 16th June 2013 two politicians, who published a cartoon on women’s rights calling for gender equality that was circulated on an electoral campaign poster last June, were in court facing criminal charges.⁵⁹³ According to Amnesty International, the two men - Libyan National Party policy manager Ali Tekbali and Fathi Sager, the party’s secretary general – face a “string of charges under articles of the Penal Code”, two of which incur the death penalty.⁵⁹⁴

4.6.1.1 Right to Livelihood

The latest United States State Department’s (USSD) annual human rights report covering the year 2012 states that “in rural areas societal discrimination restricted women’s movements, even to local

⁵⁸⁵ Fox News, [After Gadhafi, Libyan women now press back against rising Islamists](#), 7 March 2013

⁵⁸⁶ The Cairo Institute for Human Rights Studies, [The Cairo Institute and Lawyers for Justice in Libya discuss the challenges facing human rights in Libya](#), 11 March 2013

⁵⁸⁷ The Cairo Institute for Human Rights Studies, [The Cairo Institute and Lawyers for Justice in Libya discuss the challenges facing human rights in Libya](#), 11 March 2013

⁵⁸⁸ Amnesty International, [Amnesty International Report 2013 - The State of the World’s Human Rights - Libya](#), 23 May 2013, *Women’s rights*

⁵⁸⁹ Magharebia, [Libyan women rally against violence](#), 20 March 2013

⁵⁹⁰ Magharebia, [Libyan women rally against violence](#), 20 March 2013

⁵⁹¹ Voice of America, [Libyan Religious Leader Calls For Gender Segregation](#), 29 April 2013

⁵⁹² Voice of America, [Libyan Religious Leader Calls For Gender Segregation](#), 29 April 2013

⁵⁹³ Amnesty International, [Libya must drop charges against politicians over women’s rights cartoon](#), 14 June 2013

⁵⁹⁴ Amnesty International, [Libya must drop charges against politicians over women’s rights cartoon](#), 14 June 2013

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destinations, and impaired their ability to play an active role in the workplace”.⁵⁹⁵ The report further notes that “the private sector did not formally discriminate between men and women for access to employment or credit, although women generally earned less than men for similar work and participated in the labor force at much lower rates”.⁵⁹⁶

4.6.2 Sexual and gender based violence against women

This section should be read in conjunction with the sub-sections [4.6.5 Domestic Violence](#), [4.6.6 Honour Killings](#), and [4.6.7 Shelters and assistance for women](#).

The 2012 USSD annual human rights report notes that women not only “faced discrimination” but “militias and extremists used violence and intimidation against women they considered in violation of religious law and cultural norms”.⁵⁹⁷ According to “civil society organization, there was widespread harassment and intimidation of women”.⁵⁹⁸ The Libya Herald newspaper states that the “growing intimidation, harassment and general apathy towards incidents that target women” were current issues facing Libyan women.⁵⁹⁹ A human rights activist, Niz Ben-Essa, and Founder of the Free Generation Movement wrote an article published in the Libya Herald newspaper stating that the “abduction of women in Libya, a seemingly increased rate of harassment in Tripoli and the removal of the unveiled presenter at the NTC-GNC authority handover ceremony” were examples of the kind of “harassment of women, whether sexual, or verbal, or otherwise” face on an “almost daily basis”.⁶⁰⁰ In March 2013, several Libyan organisations fighting for women’s rights held a demonstration in front of the headquarters of the Council of Ministers denouncing the “high rate of persecution, violence, harassment, kidnapping and rape of women” and demanding the creation of a “competent authority to deal with cases of domestic and social violence”.⁶⁰¹

A May 2013 report by Human Rights Watch on women’s rights in Libya notes that “inadequate laws and services leave female victims of violence without an effective remedy and deter them from reporting rape and domestic violence. This is compounded by Libya’s conservative society, which deters sexual abuse victims from speaking out because of stigma and the dangers that survivors may face when reporting crimes”.⁶⁰² In its 2012 annual report, the same source reports that Libya’s penal code “considers sexual violence to be a crime against a woman's "honor" rather than against the individual”.⁶⁰³ Human Rights Watch’s report on the rights of women in Libya also highlights another problematic area codified in the penal code and in Law No. 70 of 1973: Zina Laws.⁶⁰⁴ It notes:

Zina laws criminalize extramarital sexual relations including adultery and fornication, often blurring the distinction between forced and consensual sex. Because victims of sexual assault can be prosecuted under these laws, they are discouraged from seeking justice.[67] Women and girls who attempt to press charges for

⁵⁹⁵ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women

⁵⁹⁶ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women

⁵⁹⁷ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women

⁵⁹⁸ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women

⁵⁹⁹ Libya Herald, [Libya to receive UN Women grant for the first time](#), 12 November 2012

⁶⁰⁰ Libya Herald, [A Crippling Silence](#), 22 August 2012

⁶⁰¹ The Libya Initiative, [Libya urged to adopt UN report on violence against women](#), March 2013

⁶⁰² Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, I. Background

⁶⁰³ Human Rights Watch, [World Report 2013 - Libya](#), 31 January 2013, Women’s Rights

⁶⁰⁴ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

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rape risk ending up in prison themselves because a court may view such a charge as an admission on their part of engaging in unlawful sex, unless they can prove (by strict evidentiary standards) that the intercourse was non-consensual and not, therefore, either fornication or adultery. Exacerbating the suffering of victims, such cases are sometimes resolved through family arrangements such as coerced marriage of the rape victim to her rapist in order to avoid public scandal. In cases where the rapist and the victim consent to marry, the judge issues a suspended sentence.⁶⁰⁵

With regards to zina laws and in the absence of laws denouncing gender-based violence, Human Rights Watch highlights that there are “Libya’s so-called social rehabilitation facilities, where some victims of gender-based violence and domestic violence are detained”.⁶⁰⁶ In 2005 Human Rights Watch visited such facilities and interviewed women and girls who described a situation of detention rather than voluntary shelter, where many women and girls had committed no crime, or had already served a sentence: “Some were there for no other reason than that they had been raped, and were then ostracized for “staining their family’s honor””.⁶⁰⁷ During its visits to Libya in 2012, Human Rights Watch was “unable to obtain specific information about the number of women and girls still at these facilities. The Ministry of Social Affairs confirmed that the centers were still in operation and said their occupants were young women and girls with family problems, divorcees, minors who had committed crimes and who had been diverted from prison, pregnant women out of wedlock, and others”.⁶⁰⁸

The Libya Initiative reported in January 2013 that:

In a society steeped in male chauvinism, rape victims perceive themselves and are perceived partly responsible for the crime. Most women do not report the violence in fear of being stigmatized, to protect their families from shame. Some of those who have given away the children born from violence today suffer from their non-maternity. Most suffer from severe depression and live on the margins of society.⁶⁰⁹

Magharebia reports that in March 2013 Libyan women staged a protest demanding the end of violence against women.⁶¹⁰ They also demanded that the authorities conduct an investigation into the case of girl who arrived clinically dead at the Tripoli Medical Centre in February 2013, who was allegedly raped there.⁶¹¹

Fox News reported also in March 2013 on a university lecturer who was stopped near Tripoli by a group of “bearded militiamen [who] kicked her car, beat up her driver and threatened to do the same to her [for] being alone in a car with men without a male relative as a guardian”.⁶¹² In a further incident

militiamen stormed a conference on women's rights and the constitution, held by Magdalene Ubaida and other women rights activists in Benghazi. The gunmen detained Ubaida and two of her colleagues. When they were released and heading to the airport to return to Tripoli, they were seized by more militiamen and beaten. The incident came after one of the top security officials in Benghazi, Wanis el-Sharif, accused Ubaida

⁶⁰⁵ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶⁰⁶ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶⁰⁷ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶⁰⁸ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶⁰⁹ The Libya Initiative, [Libyan women: “We will not lower our guard against violence”](#), 29 January 2013

⁶¹⁰ Magharebia, [Libyan women rally against violence](#), 20 March 2013

⁶¹¹ Magharebia, [Libyan women rally against violence](#), 20 March 2013

⁶¹² Fox News, [After Gadhafi, Libyan women now press back against rising Islamists](#), 7 March 2013

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of "spolping women" and criticizing Libya's top Muslim official, the grand mufti. The 25-year-old Ubaida, a co-founder of a rights organization called My Right, has since fled to Britain, saying she fears for her life.⁶¹³

Human Rights Watch noted that Libya's penal code's provisions "permits a reduction in sentence for a man who kills a wife, mother, daughter, or sister whom he suspects is engaged in extramarital sexual relations".⁶¹⁴

4.6.3 Sexual violence against women during the armed conflict

The International Commission of Inquiry on Libya, which was established in February 2011 to investigate alleged violations of international human rights law in Libya found that:

The prevailing culture of silence, the lack of reliable statistics, the evident use of torture to extract confessions, and the political sensitivity of the issue combine to make this issue the most difficult one for the Commission to investigate. The Commission found that sexual violence occurred in Libya and played a significant role in provoking fear in various communities. The Commission established that sexual torture was used as a means to extract information from and to humiliate detainees. The Commission did not find evidence to substantiate claims of a widespread or a systematic attack, or any overall policy of sexual violence against a civilian population. The information received is, however, sufficient to justify further investigation to ascertain the extent of sexual violence.⁶¹⁵

In addition to sexual violence being committed against detainees, the Commission further found that another pattern of sexual violence committed by Gaddafi forces was "that of women who were beaten and raped by armed men in their homes, or abducted and beaten and raped elsewhere, sometimes for days. Some victims were targeted because of their allegiance to the *Thuwar* and others were assaulted for no known reason. Of those targeted, rape appeared to be used as a means to punish, terrorize, and send a message to those who supported the revolution".⁶¹⁶ Also see [3.1 Gaddafi's security forces during and after the 2011 uprising](#).

As mentioned below, there appears to be a "near-total absence of services", including investigations for survivors of conflict-related sexual violence as criticized by the UN Secretary-General in his report of March 2013.⁶¹⁷

4.6.4 Marriage

In February 2013, the Constitutional Chamber of the Libyan Supreme Court abolished the Marriage Act, Law 10, from the Gaddafi era "because it ran counter to Sharia law. Under the new law, a husband no longer needs his wife's consent if he wants to marry a second wife".⁶¹⁸ In the May 2013 report on women's

⁶¹³ Fox News, [After Gadhafi, Libyan women now press back against rising Islamists](#), 7 March 2013

⁶¹⁴ Human Rights Watch, [World Report 2013 - Libya](#), 31 January 2013, *Women's Rights*

⁶¹⁵ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph 125, F. Sexual Violence, 4. Conclusions, para. 70

⁶¹⁶ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph 125, F. Sexual Violence, 4. Conclusions, para. 66

⁶¹⁷ UN General Assembly, [Sexual violence in conflict: Report of the Secretary-General](#), 14 March 2013, B. Sexual violence in post-conflict situation, II. Current and emerging concerns regarding sexual violence as it relates to international peace and security, Libya, para. 97

⁶¹⁸ Germany: Federal Office for Migration and Asylum, [Information Centre Asylum and Migration: Briefing Notes \(11 February 2013\)](#), 11 February 2013, *Libya, Supreme Court: Polygamy legal even without consent of the first wife*

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rights in Libya Human Rights Watch reports that Libya's existing personal status laws discriminate against women, particularly with respect to marriage, divorce, and inheritance.⁶¹⁹ The report goes on to state:

Law No. 10 of 1984 describes different rights in marriage, based on gender.[80] Article 17 of that law provides that a woman has the right to expect her husband to do the following:

To provide maintenance and associated expenses within the limits of the husband's means in accordance with the provisions of that law;

To permit her to dispose freely of her own wealth as she sees fit;

To refrain from causing her physical or psychological harm.

Article 18 of the law provides that a man has the right to expect his wife to do the following: To provide maintenance and associated expenses if the wife has means and the husband does not, in accordance with the provisions of that law;

To attend to his comfort and physical and psychological well-being;

To supervise, organize and maintain the marital home;

To nurse, raise and protect their children, unless medically unfit to do so;

To refrain from causing him physical or psychological harm.

While the difference in responsibilities may seem benign, there is no justification for distinguishing marital responsibilities on the basis of gender.⁶²⁰

With regards to divorce, Libya's personal status laws have a "relatively wide range of grounds for divorce for both men and women, and several provisions that apply only to women seeking divorce".⁶²¹ However, the personal status laws do not provide women with any rights to the marital home or other property; instead women are expected to return to live with their families.⁶²² In addition, the report notes that the law requires men to pay maintenance to their wives for a period determined by the judge, which is however "often not enforced and, according to Freedom house, divorced women face acute financial difficulties after divorce if they have no family to rely on".⁶²³

Human Rights Watch further reports with regards to inheritance that Libya's laws are based on Islamic principles, which "have been interpreted to mean that a woman inherits only half of what her male counterpart receives".⁶²⁴

4.6.5 Domestic Violence

This section should be read in conjunction with the sub-section [4.6.7 Shelters and assistance for women](#).

No reliable statistics on the extent of domestic violence are available, but "NGOs reported that it was widespread" according to reporting by the USSD.⁶²⁵ The UK Foreign and Commonwealth Office, in its March

⁶¹⁹ Human Rights Watch, [A Revolution for All: Women's Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Equality with Respect to Personal Status Laws

⁶²⁰ Human Rights Watch, [A Revolution for All: Women's Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Equality with Respect to Personal Status Laws

⁶²¹ Human Rights Watch, [A Revolution for All: Women's Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Equality with Respect to Personal Status Laws

⁶²² Human Rights Watch, [A Revolution for All: Women's Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Equality with Respect to Personal Status Laws

⁶²³ Human Rights Watch, [A Revolution for All: Women's Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Equality with Respect to Personal Status Laws

⁶²⁴ Human Rights Watch, [A Revolution for All: Women's Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Equality with Respect to Personal Status Laws

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2013 update on its 2012 human rights report, notes that “there are still concerns about the number of women who are victims of sexual and domestic violence”.⁶²⁶ In the May 2013 report on women’s rights in Libya, Human Rights Watch was told by women’s rights advocates that “violence against women and girls, particularly domestic violence, remains a significant problem”.⁶²⁷

As to the availability of any legal provisions protecting women against domestic violence, the USSD report states that “the law criminalizes rape but does not address spousal rape”.⁶²⁸ It further noted that the Constitutional Declaration “prohibits domestic violence, but there was scant information on the penalties for violence against women”.⁶²⁹ According to the same report “social and cultural barriers contributed to lack of effective government enforcement”.⁶³⁰ Similarly, Human Rights Watch notes that “Libya’s only current law relating to domestic violence is Law No. 10 of 1984, which states that a woman “has the right to expect her husband to ... refrain from causing her physical or psychological harm.”[58] The law provides no enforcement mechanisms, however, and therefore is not effective in combating the problem”.⁶³¹

4.6.6 Honour Killings

This section should be read in conjunction with the sub-section [4.6.7 Shelters and assistance for women.](#)

No recent information was found on the prevalence of ‘honour killings’ in Libya, but a June 2011 article by the BBC highlighted that Libyan women and girls who became pregnant through rape during the uprising “risk being murdered by their families in so-called ‘honour killings’, according to Libyan aid workers”.⁶³² The International Commission of Inquiry on Libya found that “the entire honour of the family is tarnished if a girl or unmarried woman loses her virginity outside of marriage. Some female victims of rape have been ostracized, divorced, disowned, forced to flee the country, have committed suicide, and some have allegedly been killed by their relatives because of the shame and dishonour that rape brings to the family and even the tribe”.⁶³³ In the May 2013 report on women’s rights in Libya Human Rights Watch notes that the penal code has “less severe criminal sentencing provisions for perpetrators of so-called honor crimes than perpetrators of the same crimes where honor cannot be cited as a basis for mitigation”.⁶³⁴ According to the same report, Article 375 of the penal code also “effectively authorizes, even invites, violence against women by declaring explicitly that a man who “merely” beats his wife, daughter, sister, or mother caught in the act of unlawful intercourse shall not be punished”.⁶³⁵

⁶²⁵ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women

⁶²⁶ United Kingdom: Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report – Country updates: Libya](#), Latest Update: 31 March 2013

⁶²⁷ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶²⁸ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women

⁶²⁹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women

⁶³⁰ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women

⁶³¹ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶³² BBC News, [Libya rape victims ‘face honour killings’](#), 14 June 2011

⁶³³ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 2 March 2012, Annexes, Full Report of the International Commission of Inquiry on Libya, Sexual Violence, 1. Introduction, para. 497

⁶³⁴ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶³⁵ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

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4.6.7 Shelters and assistance for women

In his February 2013 report on the UN Support Mission in Libya (UNSMIL), the UN Secretary-General states that the “near-total absence of services for survivors of sexual violence presents a significant challenge”.⁶³⁶ Human Rights Watch similarly reported that there were no “voluntary shelters for victims of violence”.⁶³⁷ As mentioned above in section [4.6.2 Sexual and gender based violence against women](#), in the May 2013 report on women’s rights in Libya, Human Rights Watch highlights that there are “Libya’s so-called social rehabilitation facilities, where some victims of gender-based violence and domestic violence are detained”.⁶³⁸ In 2005 Human Rights Watch visited such facilities and interviewed women and girls who described a situation of detention rather than voluntary shelter, where many women and girls had committed no crime, or had already served a sentence: “Some were there for no other reason than that they had been raped, and were then ostracized for “staining their family’s honor””.⁶³⁹ During its visits to Libya in 2012, Human Rights Watch was “unable to obtain specific information about the number of women and girls still at these facilities. The Ministry of Social Affairs confirmed that the centers were still in operation and said their occupants were young women and girls with family problems, divorcees, minors who had committed crimes and who had been diverted from prison, pregnant women out of wedlock, and others”.⁶⁴⁰

In a report published in March 2013, the UN Secretary-General laments the fact that the Libyan government had not “initiated investigations or new legislation, policies, programmes or services for survivors [of conflict-related sexual violence]. There is a near-total absence of services, which remains a key factor in survivors to coming forward”.⁶⁴¹ In November 2012 Libya received a grant from the UN Trust Fund to End Violence Against Women to “end violence against women in a post-conflict and transitional setting, specifically a programme by International Medical Corps to “reduce stigma against survivors of gender-based violence” has been chosen to receive funds”.⁶⁴²

4.7 Children

Very limited information was found on the current situation and treatment of children in Libya. It should be noted, however, that the Libyan government is currently preparing a 3rd and 4th periodic State report on the situation of children, which will be submitted to the UN Child Rights Committee later in 2013 whilst alternative reports prepared by civil society organisations focusing on various thematic issues, including access to education, health services, as well as protection concerns, will need to be submitted by July 2013.⁶⁴³

⁶³⁶ UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya \[S/2013/104\]](#), 21 February 2013, III. Activities of the United Nations Support Mission in Libya, B. Human rights, transitional justice and the rule of law, para. 37

⁶³⁷ Human Rights Watch, [World Report 2013 - Libya](#), 31 January 2013, Women’s Rights

⁶³⁸ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶³⁹ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶⁴⁰ Human Rights Watch, [A Revolution for All: Women’s Rights in the New Libya](#), 27 May 2013, IV. Amending Gaddafi-era Legislation, Violence against Women

⁶⁴¹ UN General Assembly, [Sexual violence in conflict: Report of the Secretary-General](#), 14 March 2013, B. Sexual violence in post-conflict situation, II. Current and emerging concerns regarding sexual violence as it relates to international peace and security, Libya, para. 97

⁶⁴² Libya Herald, [Libya to receive UN Women grant for the first time](#), 12 November 2012

⁶⁴³ UNICEF, [UNICEF supporting the preparation of State & Alternative Reports to Child Rights Committee in Geneva](#), 24 April 2013

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In a press release presenting its capacity building programme for judges, prosecutors, and others involved in the judicial system in Libya, UNICEF stated that “much work still needs to be done before the Libyan legal system is in line with international standards and provides adequate protection for children and adolescents; particularly a shift towards a rights-based approach would be favorable”.⁶⁴⁴

4.7.1 Harmful traditional practices

The USSD report notes that “there were reports by international organizations that some nomadic groups practiced female genital mutilation/cutting (FGM/C). There were no public campaigns against FGM/C”⁶⁴⁵, but no further information was found on this subject amongst the sources consulted.

4.7.2 Violence against children

According to the USSD report there “was no information available on penalties for the commercial sexual exploitation of children, the minimum age of consensual sex, or on any laws prohibiting child pornography” during 2012.⁶⁴⁶

Violence against children during the internal armed conflict

In March 2013, the UN Security Council extended the mandate of UNSMIL for 12 months.⁶⁴⁷ The Resolution expressed “deep concern about reports of sexual violence during the conflict in Libya against women, men and children including in prison facilities and detention centres, and the recruitment and use of children in situations of armed conflict in violation of applicable international law.”⁶⁴⁸ Also see [4.7.4 Forced Recruitment](#).

The 2012 UN Secretary-General annual report on children and armed conflict stated that “children in Libya remained affected by tensions that escalated into armed confrontations, mainly in Bani Walid, Kufra, Sirte, Zliten and Sabha, in some instances involving the use of heavy weapons” and further noted that “increased control by the Government notwithstanding, many armed brigades continued to display a lack of discipline and command structure, which led in some instances to grave violations against children”.⁶⁴⁹ The same report further highlighted that “Child casualties were reported as a result of armed confrontations among brigades, and between brigades and the Libyan army or the Libya Shield brigade (an auxiliary unit of the Libyan army)”.⁶⁵⁰

A psychological assessment by Mercy Corps, an international development organisation, of thousands of Libyan children who had endured months of violence in Misrata, the “epicentre of the conflict”, found that

⁶⁴⁴ UNICEF, [Judicial System holds important Role in upholding Children’s Rights and ensuring their Best Interest](#), 21 April 2013

⁶⁴⁵ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Children

⁶⁴⁶ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Children

⁶⁴⁷ UN Security Council, [Security Council Extends Mandate of United Nations Support Mission in Libya for Twelve Months, Unanimously Adopting Resolution 2095 \(2013\)](#), 14 March 2013

⁶⁴⁸ UN Security Council, [Security Council Extends Mandate of United Nations Support Mission in Libya for Twelve Months, Unanimously Adopting Resolution 2095 \(2013\)](#), 14 March 2013

⁶⁴⁹ UN Secretary-General, [Children and armed conflict: Report of the Secretary-General](#), 15 May 2013, paragraph 80

⁶⁵⁰ UN Secretary-General, [Children and armed conflict: Report of the Secretary-General](#), 15 May 2013, paragraph 82

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“children are suffering from significant emotional and mental stress”.⁶⁵¹ The psycho-social advisor of the report Dr Omar Reda stated that “Children who’ve lived through Libya’s violent conflict are in desperate need of emotional help. Many children have lost family members and friends, and been exposed to bombings, shootings, and the deprivations of war. Unlike adults, children do not have the experience or judgment to process that kind of trauma by themselves”.⁶⁵² According to Dr. Reda, traumatized children who are left untreated can develop serious, sometimes life-long problems: regressive or anti-social behavior, depression, aggression, and difficulties in school.⁶⁵³ Dr. Reda noted that many children in Misrata have already begun to display some of these symptoms and explained it is critical to provide assistance before they escalate.⁶⁵⁴

The International Organization for Migration (IOM) reported in May 2013 that the armed conflict in Libya affected in particular children who were either forced to take part in the acts of violence or were deliberately targeted.⁶⁵⁵ Parents interviewed for an IOM/Tripoli University project which was designed to “increase knowledge and awareness of psychosocial approaches in addressing psychological and social impacts of collective violence”, stated that “children lived in fear of random violence. Psychological tension often manifested itself in physical symptoms such as bed wetting, withdrawal and cruelty to animals.”⁶⁵⁶

4.7.3 Education

UNICEF together with the Libyan Ministry of Education conducted an assessment of all Libyan school looking at the status of the education sector in Libya following the uprising. The assessment found that:

- Only one public school out of 100 have functional toilets for children with disabilities
- Less than one school out of 20 has provisions for students with special needs
- One out 20 schools provide education at kindergarten level
- 1 out of 4 schools does not provide drinking water
- 1 out of 3 schools does not have a waste collection/ disposal system in place
- 1 out of 3 schools is located close to an highway without a safe crossing point
- 50 % of all schools have requested additional textbooks, visual aids and teaching materials to improve the learning environment
- There are 5 students per teacher in average.⁶⁵⁷

The assessment further found that “some 40 percent of the schools in Libya were damaged in the revolution” and that though the “student teacher ratios remain good at 5 to 1, significant shortages were noted in psychological support and special needs staff, a gap which needs filling in light of the psychological stress many children experienced in the last year”.⁶⁵⁸

⁶⁵¹ Mercy Corps, [Mercy Corps psychiatrist in Libya warns of emotional trauma in children and leads launch of "Comfort for Kids"](#), 12 September 2011

⁶⁵² Mercy Corps, [Mercy Corps psychiatrist in Libya warns of emotional trauma in children and leads launch of "Comfort for Kids"](#), 12 September 2011

⁶⁵³ Mercy Corps, [Mercy Corps psychiatrist in Libya warns of emotional trauma in children and leads launch of "Comfort for Kids"](#), 12 September 2011

⁶⁵⁴ Mercy Corps, [Mercy Corps psychiatrist in Libya warns of emotional trauma in children and leads launch of "Comfort for Kids"](#), 12 September 2011

⁶⁵⁵ International Organization for Migration (IOM), [Psychosocial course aims to heal scars caused by Libyan conflict](#), 17 May 2013

⁶⁵⁶ International Organization for Migration (IOM), [Psychosocial course aims to heal scars caused by Libyan conflict](#), 17 May 2013

⁶⁵⁷ UNICEF and Libyan Ministry of Education, [Nation-Wide school assessment](#), 28 February 2013

⁶⁵⁸ UNICEF, [Nationwide school assessment shows great need for investment in Libyan education sector](#), 28 February 2013

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According to UNICEF, reports indicate that corporal punishment in schools is still being practiced, despite being prohibited by law.⁶⁵⁹ Similarly, The Libya Initiative also noted in an article published in November 2012 that corporal punishment still existed in Libya reporting about the corporal punishment suffered by an American girl of Libyan descent who had moved to Tripoli after the uprising attending a local school.⁶⁶⁰

The 2012 annual human rights report published by the USSD reports that the Libyan Department of Education “undertook efforts to mainstream children with disabilities into the school system”.⁶⁶¹

4.7.4 Forced Recruitment

With regards to the conscription of children during the armed conflict the UN Secretary-General reports that:

The presence of children in armed forces and armed groups was broadly reported in the context of the conflict in Libya, including by the Commission of Inquiry, but the constraints for monitoring and reporting mentioned above prevented the United Nations from verifying all reported incidents. The Commission found strong evidence that, during the fighting, former Government forces recruited and used children. The Commission was also very concerned about the reports of children who had formed part of the opposition forces/brigades associated with the National Transitional Council, also known as the “*thuhar*”, in the Nafusa Mountains. Seventeen cases of recruitment of boys were verified in 2011, which represents only a portion of the actual scope as estimated by witness accounts.[...]

Verified information was also received on the presence of children in opposition forces and brigades associated with the National Transitional Council during the conflict. Children were spotted undertaking military training, carrying weapons, wearing uniforms and performing various tasks in support of combat operations. At the end of 2011, children were seen manning checkpoints and providing security, which remains a concern.⁶⁶²

According to the USSD report covering 2011, “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”.⁶⁶³ The U.S. State Department report on trafficking covering 2012 noted that “there were a few isolated reports of children carrying weapons and manning checkpoints. An international organization reported that boys between the ages of 16 and 18 were observed carrying weapons and manning a Tabu checkpoint, though their affiliation to an armed group or government force was unclear”.⁶⁶⁴ The 2012 UN Secretary-General annual report on children and armed conflict similarly stated that the UN had “received allegations of use of children by armed brigades and observed children carrying weapons on several occasions. During the conflict in Kufra in February 2012, for example, children were seen carrying weapons,

⁶⁵⁹ UNICEF, [Judicial System holds important Role in upholding Children’s Rights and ensuring their Best Interest](#), 21 April 2013

⁶⁶⁰ The Libya Initiative, [Corporal Punishment in Libyan Schools](#), 19 November 2012

⁶⁶¹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Children

⁶⁶² UN Security Council, [Children and armed conflict: Report of the Secretary-General](#), 26 April 2012, paragraphs 55 and 56

⁶⁶³ U.S. State Department, [Trafficking in Persons Report 2012](#), 19 June 2012, Libya

⁶⁶⁴ U.S. State Department, [Trafficking in Persons Report 2013: Libya](#), 19 June 2013

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manning checkpoints and securing buildings with both the Zwaya and Tabu brigades. In June 2012, the United Nations observed boys between 16 and 18 years of age carrying weapons in Kufra”.⁶⁶⁵

4.7.5 Child labour

According to the USSD report Libyan law prohibits children younger than 18 from being employed, except when in a form of apprenticeship, but it also stated that “no information was available on the prevalence of child labor”.⁶⁶⁶

4.8 Human Trafficking

The USSD report covering 2012 notes that “Libya is a destination and transit country for men and women from sub-Saharan Africa and Asia subjected to forced labor and forced prostitution. One of the most vulnerable groups is migrants, who typically seek employment in Libya as laborers and domestic workers or transit Libya en route to Europe”.⁶⁶⁷ It further notes that “while in Libya, many migrant men are forced into manual labor, and there are credible reports of prostitution rings involved in sex trafficking of sub-Saharan women in brothels, particularly in southern Libya”.⁶⁶⁸

The International Organization for Migration states in an article published in April 2013 that “at present Libya has no specific anti-trafficking laws and the country is in the process of reviewing all its laws. But government legal experts suggest that some provisions in the current Libyan penal code could be used as an interim measure until new counter-trafficking laws are introduced”.⁶⁶⁹ The USSD report covering 2012 considered that “the Government of Libya does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so; therefore Libya is placed on Tier 3” noting that the Government “failed to demonstrate significant efforts to investigate and prosecute trafficking offenses or to protect trafficking victims”.⁶⁷⁰

No additional current information was found on the prevalence and prevention of human trafficking nor on the government’s efforts to prosecute and protect victims of human trafficking amongst the sources consulted.

4.9 Sexual Orientation and Gender Identity

4.9.1 Domestic Legal Framework

Pertaining to the criminalization of same-sex relations, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) provides the following two Articles of Libya’s 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.

⁶⁶⁵ UN Secretary-General, [Children and armed conflict: Report of the Secretary-General](#), 15 May 2013, paragraph 81

⁶⁶⁶ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 7. Workers Rights, c. Prohibition of Child Labor and Minimum Age for Employment

⁶⁶⁷ U.S. State Department, [Trafficking in Persons Report 2013: Libya](#), 19 June 2013

⁶⁶⁸ U.S. State Department, [Trafficking in Persons Report 2013: Libya](#), 19 June 2013

⁶⁶⁹ International Organization for Migration, [Libyan judiciary prepares to combat human trafficking](#), 5 April 2013

⁶⁷⁰ U.S. State Department, [Trafficking in Persons Report 2013: Libya](#), 19 June 2013

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(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.”⁶⁷¹

4.9.2 Treatment and attitude by the authorities

The latest United States State Department’s (USSD) annual human rights report covering the year 2012 states that “the governments [sic] deemed lesbian, gay, bisexual, and transgender (LGBT) orientation illegal, and official [...] discrimination against LGBT persons persisted during the year”.⁶⁷² In November 2012, members of the Nawasi Brigade affiliated with the Libyan Ministry of Interior arrested and detained 12 allegedly gay men who were at a private party, releasing them a week later with bruises on their backs and legs and shaved heads.⁶⁷³ According to the USSD report “one of the men reported that this type of treatment was commonplace and claimed that he had been beaten during a separate arrest by the Nawasi Brigade in August”.⁶⁷⁴ Expanding on this incident, the same man, Ahmad, reportedly told Pink News that “one of the men who took him away still harrassed [sic] him”, calling him “every two days asking to have sex with me. At other times, he says he will catch me for a second time, that I am not going to live”.⁶⁷⁵ He also noted that “the situation is worse now than it was under Gaddafi, saying “Back then, the authorities were afraid that if they took us, we would say which officials were gay””.⁶⁷⁶ A friend of Ahmad, Anass, was reported as stating that two weeks earlier than Ahmad he had also been “taken away for two days by the Nawasi brigade” and stated that he was only “released sooner because the brother of a friend he was arrested with was a member of the militia”.⁶⁷⁷

A Libyan LGBT activist interviewed by Gay Star News stated in November 2012 that:

⁶⁷¹ International Lesbian, Gay, Bisexual, Trans and Intersex Association, [State-sponsored Homophobia : A world survey of laws criminalising same-sex sexual acts between consenting adults](#), May 2012, pages 30 and 31

⁶⁷² U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

⁶⁷³ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

⁶⁷⁴ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

⁶⁷⁵ Pink News, [Libya: Gay men speak out about abductions and beatings by Islamic militia](#), 2 December 2012

⁶⁷⁶ Pink News, [Libya: Gay men speak out about abductions and beatings by Islamic militia](#), 2 December 2012

⁶⁷⁷ Pink News, [Libya: Gay men speak out about abductions and beatings by Islamic militia](#), 2 December 2012

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Many of us fear that some of the militias [there are over 250 of them in the country], which are extreme Islamists who are very well armed and financed, will focus on the LGBT community and hunt us down. The police is largely absent or powerless so Libyan civil society has a real problem; the militias often take the law onto their own hands.⁶⁷⁸

In a previous interview with Gay Star News in February 2012 the same Libyan LGBT activist further noted that:

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 [sic]. [...] 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.⁶⁷⁹

In February 2012 a UN delegate from Libya's newly formed government said during a session of the UN Human Rights Council 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".⁶⁸⁰

The USSD report specifically notes that despite there being "no reports of discrimination based on sexual orientation or gender identity in employment, housing, or access to education or health care, persons" who reported such discrimination "could be subject to additional violence or abuse".⁶⁸¹

4.9.3 Treatment and attitude by society

The USSD annual human rights report covering the year 2012 states that "societal discrimination against LGBT persons persisted during the year" and "citizens tended to hold negative views of LGBT persons, and homosexuality was socially stigmatized".⁶⁸² Gay-WorldsNews.com reported in September 2011 that "beyond the criminal laws, cross-dressing and homosexuality are widely seen as immoral activities".⁶⁸³

The USSD report further notes that:

Sexual orientation or gender identity occasionally constituted the basis for societal violence, harassment, blackmail, or other actions, generally at a local level. In previous years there were infrequent reports of societal discrimination, physical violence, or harassment based on sexual orientation or gender identity.⁶⁸⁴

A Libyan LGBT activist interviewed by Gay Star News in November 2012 stated that "the situation for LGBT people after the revolution generally improved, people can meet each other more easily than under the Qaddafi regime, although, of course we still have to be very discreet and careful".⁶⁸⁵ In a previous interview with Gay Star News in February 2012 the same Libyan LGBT activist explained that "after the revolution

⁶⁷⁸ Gay Star News, [Twelve men to be executed by Libyan militia for allegedly being gay](#), 25 November 2012

⁶⁷⁹ Gay Star News, [My life as a gay man in post-Gaddafi Libya](#), 2 March 2012

⁶⁸⁰ Fox News, [New Libyan leadership takes harsh stance at UN against gays](#), 13 February 2012

⁶⁸¹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

⁶⁸² U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

⁶⁸³ Gay-WorldsNews.com, [Libya : What about the LGBT Rights now ?](#), 3 September 2011

⁶⁸⁴ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

⁶⁸⁵ Gay Star News, [Twelve men to be executed by Libyan militia for allegedly being gay](#), 25 November 2012

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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".⁶⁸⁶

As noted above, in November 2012, members of the Nawasi Brigade affiliated with the Libyan Ministry of Interior arrested and detained 12 allegedly gay men who were at a private party, releasing them a week later with bruises on their backs and legs and shaved heads.⁶⁸⁷ According to Gay Star News pictures of the men were posted on Facebook and "received 121 likes, 118 shares, and mainly violent comments such as 'flog them hard!', 'let them see bullets!', 'free Libya! [ie from gays]', 'ride them like camels' and so on".⁶⁸⁸ In December 2010 GayMiddleEast reported that police had arrested two men for "involving in indecent acts" to which "comments to the article were deeply disturbing; some said that the people of Lut are back and have to be stoned; others called upon the authorities to send such perverts to psychiatrists. Other comments went to point out places where gay men meet and encouraged the police to entrap men".⁶⁸⁹

In October 2010 ANSAMed, a media partner of the European Commission reporting on the Mediterranean and Persian Gulf, reported that a Libyan girl had sought asylum in Europe after having been "arrested, raped and returned to her family which tried to force her into marriage after she announced on the internet that she is gay".⁶⁹⁰

With regards to societal violence toward persons with HIV/AIDS according to the USSD report "In previous years there were reports of societal stigmatization of persons with HIV/AIDS, due to an association of the disease with drug use, sex outside marriage, and homosexuality" but noted that during 2012 there was no such reported violence.⁶⁹¹ In a June 2013 published article by IRIN, an HIV specialist who has worked in Libya since 2005, Alessandra Martino, was quoted as saying that "HIV is very closely associated with vices like casual sex, homosexuality and drug taking: things that are unacceptable in mainstream Libyan culture".⁶⁹²

⁶⁸⁶ Gay Star News, [My life as a gay man in post-Gaddafi Libya](#), 2 March 2012

⁶⁸⁸ Gay Star News, [Twelve men to be executed by Libyan militia for allegedly being gay](#), 25 November 2012

⁶⁸⁹ GayMiddleEast.com, [Libya: two men arrested for "indecent acts"](#), 25 December 2010

⁶⁹⁰ ANSA Med, [Libya: Lesbian To Request Asylum In France](#), 25 October 2010

⁶⁹¹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

⁶⁹² Integrated Regional Information Networks (IRIN), [Libya's "growing" drugs/HIV problem](#), 17 June 2013

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5. Other Human Rights Considerations

5.1 Mines and unexploded ordinances

Human Rights Watch reports that during the conflict “Gaddafi’s forces repeatedly launched indiscriminate attacks using mortars, artillery, and Grad rockets into civilian areas, and indiscriminately laid tens of thousands of anti-personnel and anti-vehicle mines”.⁶⁹³ The March 2012 Report of the International Commission of Inquiry on Libya concluded with regards to prohibited weapons that:

The Commission examined the use of weapons prohibited by treaty and customary international law. The Commission is aware that not all weapons discussed here are prohibited for all countries involved. Qadhafi forces employed cluster munitions and anti-personnel and anti-vehicle landmines, including in civilian areas. The Commission found considerable evidence of the use of cluster munitions and mines against civilian areas of Misrata in April 2011. The Commission also found evidence of the use of landmines in the Nafusa Mountains. Minefields were not properly recorded by Qadhafi forces. Many of the mines used contained low metal content, complicating detection and removal, further endangering civilians. There was some limited use of landmines by individual *thumar*.⁶⁹⁴

The U.S. State Department reports that “the revolution caused injuries and disabilities among fighters and civilians, including children maimed by mortar or gunfire or injured due to remaining unexploded ordinances”.⁶⁹⁵ The UN Secretary-General reports that in November and December 2011 alone, five children were killed and 56 injured owing to unexploded ordnance, the majority in and around Sirte.⁶⁹⁶ According to the Congressional Research Service, “most security experts expect that unexploded ordnance, explosive remnants, and looted weaponry will present a domestic and regional challenge for many years”.⁶⁹⁷ The ICRC reported in March 2012 that the conflict left behind huge quantities of unexploded shells, mines and ammunition, and in cities like Sirte unexploded devices all over the city and the surrounding farmland.⁶⁹⁸ The UK Foreign and Commonwealth Office similarly reported in its 2011 annual report that “mines, ammunition, cluster bombs and other unexploded remnants of war continue to be a threat to thousands of Libyans. The UK is supporting the Mines Advisory Group and the UN Mine Action Service to help identify and dispose of unexploded material to prevent a secondary wave of death or injury and to allow ordinary Libyans to return to their homes”.⁶⁹⁹ The ICRC also explains in March 2012 that it was clearing unexploded ordnance in Libya and informing people of the risks via leaflets and radio campaigns.⁷⁰⁰ The 2012 ICRC report notes that “residents in areas heavily contaminated by mines/ERW [explosive remnants of war], such as in and around Jmeil, the Nafusa Mountains, Sirte, Tripoli and Zwara, resumed their activities in a safer environment after the removal of around 11,000 mines/ERW and 13,500 pieces of small arms ammunition by ICRC specialist teams. A casualty data-management system was set up with the ICRC’s help at the Libyan Mine Action Centre to bolster the efforts of all involved to prevent mine/ERW accidents. By year-end, 215 mine/ERW casualties had been recorded”.⁷⁰¹

⁶⁹³ Human Rights Watch, [Death of a Dictator: Bloody Vengeance in Sirte](#), 17 October 2012, *I. Background*, p. 17

⁶⁹⁴ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph 90

⁶⁹⁵ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *Persons with Disabilities*

⁶⁹⁶ UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 1 March 2012, paragraph 40

⁶⁹⁷ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Assessment* p. 2

⁶⁹⁸ International Committee of the Red Cross, [Libya: unexploded munitions scar bodies and minds](#), 26 March 2012

⁶⁹⁹ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2011 Foreign & Commonwealth Office Report - Section IX: Human Rights in Countries of Concern – Libya](#), April 2012

⁷⁰⁰ International Committee of the Red Cross, [Libya: unexploded munitions scar bodies and minds](#), 26 March 2012

⁷⁰¹ International Committee of the Red Cross (ICRC), [ICRC Annual Report 2012 - Libya](#), July 2013

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The February 2013 UN Secretary-General report notes that over 650,000 children have been educated on the risks of mines and unexploded ordnances through a message placed on the back covers of primary school textbooks.⁷⁰²

The report further notes that:

UNSMIL, under the coordination of the Mine Action Service of the Department of Peacekeeping Operations, cleared 204,075 items of explosive remnants of war and unexploded ordnance covering 11,134 m² of agricultural lands and military defence areas. While the results are notable, contamination remains high and clearance assets were reduced because of financial constraints.⁷⁰³

5.2 Humanitarian and economic situation

The Centre for Strategic and International Studies reports in January 2013 that “based on its resource endowments and internal dynamics, Libya could become a prosperous society with a representative and accountable government, or it could become a failed state. Libya’s estimated \$54.9 billion in hydrocarbon receipts for 2012 demonstrate global oil companies’ willingness to operate in Libya despite risk, and they give the Libyan government considerable financial resources to deal with problems as they arise”.⁷⁰⁴ The Congressional Research Service reports that Libya’s economy is “dominated by the oil sector, although in recent years some growth in other sectors had increased along with private domestic and foreign investment. In general, Libya’s per high capita income and significant infrastructure needs are seen to present considerable investment potential if security conditions can be stabilized”.⁷⁰⁵ It also notes that the NTC identified up to \$170 billion in Libya assets that were frozen by other States during the 2011 conflict.⁷⁰⁶ IRIN reports that in February 2013, Libya returned to pre-conflict oil production levels of around 1.5 million barrels a day.⁷⁰⁷ It cites a UNICEF representative as stating that “this toxic combination of very high expectations, loads of money and institutions inexperienced in delivering rapid results is a dangerous combination, and time is not a luxury we should count on”.⁷⁰⁸

The 2013 CIA World Factbook reports that “substantial revenue from the energy sector coupled with a small population give Libya one of the highest per capita GDPs in Africa, but Tripoli largely has not used its significant financial resources to develop national infrastructure or the economy, leaving many citizens poor”.⁷⁰⁹ According to Freedom House, “the average monthly income as of early 2011 was about US\$1,400, reflecting relatively high salaries in oil and gas firms. Those employed in the public sector, who comprise a large contingent of the Libyan workforce, earn an average income of only 250LYD (US\$195)”.⁷¹⁰ The CIA reports that according to 2012 estimates, the labour force was 1.875 million, compared to a 2013

⁷⁰² UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 50

⁷⁰³ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 49

⁷⁰⁴ The Centre for Strategic and International Studies, [The Maghreb in Transition: Seeking Stability in an Era of Uncertainty](#), January 2013, *Libya*

⁷⁰⁵ The Centre for Strategic and International Studies, [The Maghreb in Transition: Seeking Stability in an Era of Uncertainty](#), January 2013, *Libya*

⁷⁰⁶ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Economic Issues* p.22

⁷⁰⁷ Integrated Regional Information Networks (IRIN), [Towards security and good governance in Libya](#), 27 February 2013

⁷⁰⁸ Integrated Regional Information Networks (IRIN), [Towards security and good governance in Libya](#), 27 February 2013

⁷⁰⁹ CIA, [World Factbook: Libya](#), 15 May 2013, *Economy*

⁷¹⁰ Freedom House, [Freedom on the Net 2012 - Libya](#), 25 September 2012

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population estimate of 6.002347 million.⁷¹¹ 2004 estimates put the breakdown of the labour force by occupation at: agriculture: 17%; industry: 23%, services: 59% and a 2004 unemployment rate of 30%.⁷¹²

The UN Secretary-General reports in February 2013 that “the economic structures and policies of the former regime hindered the development of a private sector and increased the dependence of much of Libya’s workforce on an ever-expanding and inefficient public sector. Thus, economic opportunities remain limited, in particular for the absorption of demobilized revolutionaries”.⁷¹³ It further notes that an IMF mission to Libya in December 2012 “highlighted the fact that increased private sector employment needs to be underpinned by efforts to strengthen the educational system and improve skills”.⁷¹⁴ In May 2012 the Institute for War and Peace Reporting noted that critics accused the NTC of “failing to create jobs, kickstart the economy, and get public services like courts and hospitals up and running”.⁷¹⁵ It cited Mohammed el-Kish, a former NTC spokesman who now runs a radio talk show in Benghazi as stating that “while some jobs were advertised in the capital Tripoli, hardly any came up in Benghazi. Aside from small businesses like cafes and clothes shops, the city’s economy was practically dead”, making it hard for him to find work other than his radio show”.⁷¹⁶ The U.S. State Department noted with regards to livelihoods that in 2012 “the government was the largest employer in the economy. Civil service salaries were set according to education and experience, and women and men received the same pay for the same work. The private sector did not formally discriminate between men and women for access to employment or credit, although women generally earned less than men for similar work and participated in the labor force at much lower rates”.⁷¹⁷ In March 2013 the Norwegian Peacebuilding Resource Centre reported that “major issues such as youth unemployment and regional economic disparities have been left mostly unaddressed so far, causing growing impatience with and criticism of the country’s new political leaders”.⁷¹⁸

UNOCHA reports that “at the peak of the crisis, medical facilities lacked staff and ran out of life-saving supplies; water networks broke down, affecting millions of people in Tripoli, Bani Walid and Sirte for prolonged periods”.⁷¹⁹ It goes on to report in its 2012/3 Libya Plan with regards to the current humanitarian situation that:

In some areas where fighting ended in the earlier months of the conflict, including in Tripoli, Misrata and the Nafusa Mountains, the situation stabilized quickly and life returned to relative normality. Shops reopened, banks resumed operations, and primary and middle schools began the new school year. Basic services, such as water and power supplies, were also largely resumed. Fighting continued in other areas, mainly Sirte and Bani Walid, until mid-October, causing extensive destruction to civil infrastructure and devastation to communities. In these localities, the pace of recovery is expected to be slower.⁷²⁰

The UN Secretary-General reports that an estimated 65,000 remained internally displaced in Libya at the end of 2012, primarily from the Mashashiya, Tawergha and Tuareg communities.⁷²¹ The Internal Displacement Monitoring Centre notes in December 2012 that IDPS remain in ‘protracted displacement’

⁷¹¹ CIA, [World Factbook: Libya](#), 15 May 2013, *Economy*

⁷¹² CIA, [World Factbook: Libya](#), 15 May 2013, *Economy*

⁷¹³ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 3

⁷¹⁴ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph

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⁷¹⁵ Institute for War and Peace Reporting, [Libya's Interim Rulers Struggle For Legitimacy](#), 1 May 2012

⁷¹⁶ Institute for War and Peace Reporting, [Libya's Interim Rulers Struggle For Legitimacy](#), 1 May 2012

⁷¹⁷ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 6 Women

⁷¹⁸ Norwegian Peacebuilding Resource Centre, [Libyans' longing for a state](#), 18 March 2013

⁷¹⁹ UNOCHA, [Libya 2012 & 2013 Plan and Budget](#), undated current webpage (accessed 16 May 2013), The Humanitarian Situation

⁷²⁰ UNOCHA, [Libya 2012 & 2013 Plan and Budget](#), undated current webpage (accessed 16 May 2013), The Humanitarian Situation

⁷²¹ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 68

and that whilst some live in rented apartments, the majority live in an estimated 132 displacement camps.⁷²² Amnesty International describes that “tens of thousands of people have been driven out of their homes and continue to be scattered across the country, including in poorly resourced camps for internally displaced people. They are prevented from returning home and rebuilding their lives by militias seeking revenge. Many have lost their properties and livelihoods”.⁷²³ Amnesty International further reports in its 2012 annual report that “the authorities took no real steps to facilitate the safe return to their homes of entire communities forcibly displaced during the 2011 conflict, including residents of Tawargha, Mashashiya, Gawalish and other areas perceived to have supported Mu’ammār al-Gaddafi. Armed militias wrought further destruction in these areas to render them uninhabitable and arbitrarily detained and abused people from these communities, especially Tawarghas”.⁷²⁴ IRIN also notes that as the economy picks up and international companies return, displaced persons find their informal settlements under threat of eviction.⁷²⁵ Also see [4.5.2 Treatment of minority groups](#).

The 2012 U.S. State Department report notes that “the needs of displaced persons were largely met through international humanitarian assistance; as of year’s end there was no effective government program to assist IDPs or facilitate their return”.⁷²⁶ Reporting on the March 2013 outbreak of violence in the Nafusa Mountains, IRIN notes with regards to delivering aid that “although the ICRC, LibAid, Mercy Corps, Libyan Red Crescent and the UN Refugee Agency (UNHCR) have delivered hundreds of food rations, blankets and other items in Mizdah and nearby villages, many of the displaced told IRIN that they had not received any assistance apart from that provided by host communities”.⁷²⁷ For further information see [3.3.3 Fighting in Nafusa Mountains](#).

With regards to humanitarian access, Human Rights Watch notes in its annual report covering 2012 that “the government’s inability to implement a coherent visa-management system has made it difficult for international media and nongovernmental organizations to access the country”.⁷²⁸ It also reports that Benghazi has seen attacks on prominent humanitarian organisations.⁷²⁹ The Jamestown Foundation reported that the ICRC had been attacked with grenades and rockets in Misrata which resulted in it shutting down its operations there and in Tripoli.⁷³⁰ It further reports that on 31 July, seven Iranian aid workers were kidnapped on their way to Benghazi’s Tibesti Hotel and were still being held as of 10 September 2012.⁷³¹

5.3 Access to healthcare (including HIV/AIDS)

According to the WHO 2010-2015 Strategy report, Gaddafi’s regime provided healthcare free to all its citizens, although it was estimated that 20% of all expenditure of health was out-of-pocket expenditure

⁷²² Internal Displacement Monitoring Centre, [Middle East Overview](#), 31 December 2012, Libya

⁷²³ Amnesty International, [Libya: 10 steps for human rights: Amnesty International’s human rights manifesto for Libya](#), 25 September 2012

⁷²⁴ Amnesty International, [Annual Report 2013 The state of the world’s human rights: Libya](#), 22 May 2013

⁷²⁵ Integrated Regional Information Networks, [Libya’s displaced Tawargha threaten unilateral return](#), 19 February 2013

⁷²⁶ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *1d Internally Displaced Persons (IDPs)*

⁷²⁷ Integrated Regional Information Networks (IRIN), [Thousands of Libyan families displaced in the Nafusa Mountains](#), 2 April 2013

⁷²⁸ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Freedom of Speech and Expression*

⁷²⁹ Human Rights Watch, [Libya: Rein in Armed Groups](#), 12 September 2012

⁷³⁰ Jamestown Foundation, [Bombs, Assassinations and Kidnappings become Daily Events as the Battle for Benghazi Continues](#), 10 September 2012

⁷³¹ Jamestown Foundation, [Bombs, Assassinations and Kidnappings become Daily Events as the Battle for Benghazi Continues](#), 10 September 2012

paid for private care either in country or abroad.⁷³² The Inter Press Service reports that “a two-tier health system matured under the Gaddafi regime to accommodate wealthier citizens and businesses has yielded a multitude of private facilities like the Libyan British Medical Centre”.⁷³³

The March 2012 report of the International Commission of Inquiry on Libya found stated that “the Commission received numerous allegations of attacks on hospitals, medical personnel and ambulances, including in Al Zawiyah, Misrata, Tripoli and Yafran. Medical personnel treating *thumar* were subject to killings, arbitrary arrests and detentions accompanied with torture, ill-treatment and harassment; ambulances were reportedly shot at by Qadhafi forces several times during the course of the conflict and were misused to transport armed soldiers. Hospitals were shelled, medical supplies restricted, and wounded demonstrators and *Thumar* reportedly denied medical treatment”.⁷³⁴ The BBC reports that after the fall of Tripoli in August 2011, “the country's hospitals were overstretched, both by the number of casualties and by a shortage of staff caused by the flight of foreign workers”.⁷³⁵ A February 2012 World Health Organisation (WHO) article on Rebuilding the Libyan the Libyan Health System, Post-Revolution explained that:

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.

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.⁷³⁶

In its March 2013 quarterly update, the UK Foreign and Commonwealth report that there are still concerns about women's access to medical services, particularly in rural regions.⁷³⁷

In May 2012 the Institute for War and Peace Reporting noted that critics accused the NTC of failing to get hospitals up and running again, amongst other issues.⁷³⁸ The Institute for War and Peace Reporting also noted that in early 2012 the authorities had to cancel a programme meant to provide free overseas medical care for the revolution's wounded after it too turned out to be “riddled with fraud”.⁷³⁹ The BBC explains that with a lack of central oversight, the scheme was being abused on a massive scale, with persons not wounded in the conflict enjoying all-expenses-paid foreign trips to receive medical treatment.⁷⁴⁰ An April 2012 Inter Press Service article describes a separate scheme through which Libya continues to send patients abroad for treatment due to shortages in medication and qualified staff.⁷⁴¹ It further explains that

⁷³² WHO, [Country Cooperation Strategy for WHO and the Libyan Arab Jamahiriya 2010-2015](#), undated (accessed 15 May 2013), 2.4.1 Health Profile Overview

⁷³³ Inter Press Service, [Libya Faces a Health Check](#), 8 April 2012

⁷³⁴ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012 paragraph 77

⁷³⁵ BBC, [Treatment plan for Libya war victims turns into scandal](#), 7 February 2012

⁷³⁶ World Health Organisation, [Rebuilding the Libyan health system, post-revolution](#), February 2012

⁷³⁷ United Kingdom: Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report – Country updates: Libya](#), Latest Update: 31 March 2013

⁷³⁸ Institute for War and Peace Reporting, [Libya's Interim Rulers Struggle For Legitimacy](#), 1 May 2012

⁷³⁹ Institute for War and Peace Reporting, [Libya's Interim Rulers Struggle For Legitimacy](#), 1 May 2012

⁷⁴⁰ BBC, [Treatment plan for Libya war victims turns into scandal](#), 7 February 2012

⁷⁴¹ Inter Press Service, [Libya Faces a Health Check](#), 8 April 2012

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at a hospital in Tripoli, a committee of 11 decision makers choose candidates for treatment abroad under the auspices of the Ministry of Health.⁷⁴² The committee reviews up to 250 patient files a day, of which an estimated 20 per cent qualify.⁷⁴³

Medical treatment has also been interrupted by outbreaks of inter-communal fighting after the revolution was declared in October 2011. For example, during the March 2013 violence in the Nafusa Mountains between the Qantrar and Meshashya communities, IRIN reports that “the town’s general hospital is located in a Meshashya area, making access difficult for Qantrar people. The building is frequently without water, and many of the doctors have fled”.⁷⁴⁴ Reporting on the situation in Kufra, the Inter Press Service notes that during the February 2012 clashes, a clinic received 200 patients, with unskilled staff and “with electricity cuts there was no water, no refrigeration, and little medication. They operated with flashlights, using dirty well water and direct blood transfusions”.⁷⁴⁵ It further reports that “since the July [2012] ceasefire, the Tabu clinics in Gadarfai and Shura are still overcrowded, and lack equipment and medicine. Two North Korean doctors recently assigned to the facilities by the Ministry of Health speak only their native language”.⁷⁴⁶ The ICRC reported that on 5 August 2012, unknown individuals using heavy weaponry attacked the residence of the ICRC in Libya.⁷⁴⁷ No-one was hurt but the building suffered extensive damage.⁷⁴⁸ The ICRC notes that the attack was the fifth in less than three months in the cities of Misrata and Benghazi.⁷⁴⁹

HIV/AIDS

The IOM reports that according to 2011 figures, the HIV prevalence rate was less than 0.2%.⁷⁵⁰ UNAIDS reports that:

Limited information is available on the HIV situation in Libya. The most recent population prevalence survey, which was carried out in 2005, found a very low prevalence (0.13%) of HIV in the general population. Case reporting, primarily from mandatory screening, has identified 11,910 cases to date, with 2000 - 2500 currently receiving ART. Estimates of the total number of PLHIV are not available”.⁷⁵¹

IRIN reports that “reliable HIV data is hard to come by. According to official figures, around 12,000 people have been recorded as living with HIV, but Laila Aghil, head of Strategic Planning at NAP, says this number is a gross underestimate. ‘Many people who have HIV don’t seek medical treatment and don’t ever come into contact with officials or doctors. This means official figures are just the tip of a very large iceberg’”.⁷⁵² UNAIDS further notes that injecting drug use is the dominant mode of transmission.⁷⁵³ The 2012 U.S. State Department report notes that “there were no reports of societal violence toward persons with HIV/AIDS. In previous years there were reports of societal stigmatization of persons with HIV/AIDS, due to an association of the disease with drug use, sex outside marriage, and homosexuality. No information was available about the effects of the conflict on persons suffering from HIV/AIDS. There were reports that detainees suspected

⁷⁴² Inter Press Service, [Libya Faces a Health Check](#), 8 April 2012

⁷⁴³ Inter Press Service, [Libya Faces a Health Check](#), 8 April 2012

⁷⁴⁴ Integrated Regional Information Networks (IRIN), [Thousands of Libyan families displaced in the Nafusa Mountains](#), 2 April 2013

⁷⁴⁵ Inter Press Service, [Injured Struggle in the Sahara](#), 20 October 2012

⁷⁴⁶ Inter Press Service, [Injured Struggle in the Sahara](#), 20 October 2012

⁷⁴⁷ ICRC, [Libya: violent attacks against staff strongly condemned by ICRC](#), 5 August 2012

⁷⁴⁸ ICRC, [Libya: violent attacks against staff strongly condemned by ICRC](#), 5 August 2012

⁷⁴⁹ ICRC, [Libya: violent attacks against staff strongly condemned by ICRC](#), 5 August 2012

⁷⁵⁰ IOM, [Libya Facts and Figures](#), November 2012

⁷⁵¹ UNAIDS, [Libya Country Progress Report Reporting Period: January 2010-December 2011](#), 31 March 2012 (b) *The Status of the Epidemic*

⁷⁵² IRIN, [Libya’s “growing” drugs/HIV problem](#), 17 June 2013

⁷⁵³ UNAIDS, [Libya Country Progress Report Reporting Period: January 2010-December 2011](#), 31 March 2012 (b) *The Status of the Epidemic*

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of having HIV/AIDS were segregated from the rest of the detainee population, often in overcrowded spaces, and were the last to receive medical treatment”.⁷⁵⁴

UNAIDS reporting in March 2012 notes that in the post-conflict situation in Libya, several factors have emerged with the potential to fuel the epidemic:

A nationwide stock-out of ARV drugs has led to long treatment interruptions among PLHIV [People Living with HIV], which could increase transmission, drug resistance and mortality. Disruption of infection control and blood safety systems could lead to increased risk of nosocomial transmission, and a rise in sexual and gender-based violence could increase sexual transmission and create barriers to access to services.⁷⁵⁵

UNAIDS further notes in the March 2012 report that whilst Antiretroviral therapy is free for all Libyan citizens, shortages have led to prolonged treatment interruptions over the past several months.⁷⁵⁶

IRIN further reports that the Health Ministry is concentrating on crisis fighting and that “the social stigma that surrounds HIV and drug taking is a big part of the problem, according to Alessandra Martino, an HIV specialist who has worked in Libya since 2005. ‘HIV is very closely associated with vices like casual sex, homosexuality and drug taking: things that are unacceptable in mainstream Libyan culture. This means for Libyans HIV and drug abuse are not very fashionable areas to be campaigning about or working in’”.⁷⁵⁷

⁷⁵⁴ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 6 *Other Societal Violence or Discrimination*

⁷⁵⁵ UNAIDS, [Libya Country Progress Report Reporting Period: January 2010-December 2011](#), 31 March 2012 (b) *The Status of the Epidemic*

⁷⁵⁶ UNAIDS, [Libya Country Progress Report Reporting Period: January 2010-December 2011](#), 31 March 2012 *Care, treatment and support*

⁷⁵⁷ IRIN, [Libya's “growing” drugs/HIV problem](#), 17 June 2013

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6. Rule of Law/Administration of Justice

6.1 Security Forces

6.1.1 Role of militias in the uprising

A February 2012 German Institute for International and Security Affairs article describes that the actors of the uprising's first days were "unorganized young men acting spontaneously".⁷⁵⁸ However, as protesters were killed by the security forces, "the more quickly political, military and tribal leaders joined the revolt to protect their families and cities".⁷⁵⁹ It further notes that civilians armed themselves, whilst whole army units defected, resulting in the outbreak of civil war within two weeks of the protests beginning.⁷⁶⁰ In February 2011, an unelected National Transitional Council (NTC) was formed in Benghazi to represent the rebel movement to provide political and military leadership, organise basic services and represent Libyans abroad.⁷⁶¹ See section [2.1. National Transitional Council](#).

The German Institute for International and Security Affairs report continues that in Misrata and the Nafusa mountains, local councils formed early on to organise resistance and supplies and were only loosely in contact with the NTC.⁷⁶² Furthermore, "civilians mobilized along local or tribal lines to form armed revolutionary brigades and protect their towns and communities" also operating largely autonomously from the NTC.⁷⁶³ The International Crisis Group describes that 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".⁷⁶⁴ The same source further describes that:

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.⁷⁶⁵

In December 2011, the International Crisis Group reported that according to an NTC spokesman, around 125,000 to 150,000 mostly young Libyans joined militias and took up arms to liberate their country.⁷⁶⁶ A September 2012 BBC article reported that up to 1,700 different armed groups emerged from the disparate Libyan rebel forces, which fought Gaddafi's regime in 2011.⁷⁶⁷ Summarising the rebel forces, Human Rights Watch noted in October 2012 that:

⁷⁵⁸ German Institute for International and Security Affairs, Protest, [Revolt and Regime Change in the Arab World](#), February 2012, *The Libyan Revolution: Old Elites and New Political Forces*, p. 11

⁷⁵⁹ German Institute for International and Security Affairs, Protest, [Revolt and Regime Change in the Arab World](#), February 2012, *The Libyan Revolution: Old Elites and New Political Forces*, p. 11

⁷⁶⁰ German Institute for International and Security Affairs, Protest, [Revolt and Regime Change in the Arab World](#), February 2012, *The Libyan Revolution: Old Elites and New Political Forces*, p. 11

⁷⁶¹ Freedom House, [Freedom in the World 2013 – Libya](#), January 2013; BBC, [Key figures in Libya's rebel council](#), 25 August 2011

⁷⁶² German Institute for International and Security Affairs, Protest, [Revolt and Regime Change in the Arab World](#), February 2012, *The Libyan Revolution: Old Elites and New Political Forces*, p. 12

⁷⁶³ German Institute for International and Security Affairs, Protest, [Revolt and Regime Change in the Arab World](#), February 2012, *The Libyan Revolution: Old Elites and New Political Forces*, p. 12

⁷⁶⁴ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, *Executive Summary*, i

⁷⁶⁵ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, *Executive Summary*, i

⁷⁶⁶ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, *Conclusion*, p. 30

⁷⁶⁷ BBC, [Disarming Libya's militias](#), 28 September 2012

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The opposition forces fighting against Gaddafi in Libya's 2011 civil war were loosely organized and often did not fall under the centralized control of the NTC, the interim opposition body that was founded on February 27 in Benghazi and that ultimately succeeded the Gaddafi government. Hundreds of individual militias sprung up to fight against Gaddafi, organized around informal networks such as individual towns, companies, schools, former military units (in the case of defectors), or religious institutions to which members of the militia belonged. In almost every city and town across Libya, the primary loyalty of the city or town's militias was to their place of origin: hence, the myriad of militias became mostly identified with their place of origin, and loosely coordinated their activities along those lines.⁷⁶⁸

The U.S. State Department reports that, "civilian authorities had nominal but limited control of the hollowed-out police and security apparatus, and their tasks during and after the conflict generally fell to self-constituted, disparate militias, exercising police power largely without training, supervision, and varying degrees of accountability".⁷⁶⁹ The report provides the following overview of abuses committed by militias in Libya:

With the disappearance of the authoritarian Qadhafi regime, militias that spearheaded his overthrow filled a security vacuum in many parts of the country. During the year militias and their supporters--at times nominally but not fully under the control of the interim and later the elected government's authority--violated human rights and humanitarian norms, committing unlawful killings, physical violence, and other abuses.⁷⁷⁰

The final March 2012 report of the International Commission of Inquiry on Libya concluded that "*Thuwar* have executed and tortured to death perceived Qadhafi loyalists and suspected mercenaries. These were either hors de combat fighters or members of civilian population. During the armed conflict, this amounts to the war crime of murder. Once the conflict ended, it constituted an arbitrary deprivation of life".⁷⁷¹ The Commission also reported that "*Thuwar* have been involved in arbitrary arrest and enforced disappearance of perceived Qadhafi loyalists, security officers and members of the former government" and that the *Thuwar* perpetrated torture and ill- treatment.⁷⁷² It also reported that the Misrata *Thuwar* killed, arbitrarily arrested and tortured Tawerghans across Libya; that Zintan *Thuwar* killed, arbitrarily arrested and tortured members of the Mashashiyan community; that Nalut *Thuwar* committed unlawful killings and torture in Tiji, as well as looting and destroying property; and that Zowara committed unlawful killings and torture, as well as looting and destruction of property in Abu Kammesh.⁷⁷³ also found that the *Thuwar* launched an indiscriminate attack on Sirte.⁷⁷⁴ For information on sexual violence being perpetrated during the conflict by *Thuwar* forces, see section [4.6.3 Sexual Violence during the armed conflict](#).

For further information, see section [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#). Also see [6.3 Impunity for war crimes committed in the course of the armed conflict in 2011](#).

⁷⁶⁸ Human Rights Watch, [Death of a Dictator: Bloody Vengeance in Sirte](#), 17 October 2012, *I. Background*, p. 18

⁷⁶⁹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *1d Role of the Police and Security Apparatus*

⁷⁷⁰ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *Executive Summary*

⁷⁷¹ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, *paragraph 36*

⁷⁷² UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, *paragraphs 43 and 53*

⁷⁷³ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, *paragraphs 63 and 64*

⁷⁷⁴ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, *paragraph 82*

This document is intended to be used as a tool to help to identify relevant COI and the COI referred to in this report can be considered by decision makers in assessing asylum applications and appeals. However, this document should not be submitted in full or in isolation as evidence to refugee decision making authorities. Whilst every attempt has been made to ensure accuracy, the authors accept no responsibility for any errors included in this report.

6.1.2 Integration of militias into the military following Gaddafi's death

On 20 October 2011 Colonel Gaddafi was captured and killed, and three days later, the NTC declared Libya to be officially 'liberated'.⁷⁷⁵ In December 2011 the International Crisis Group reported that "over 125,000 Libyans are said to be armed. The groups do not see themselves as serving a central authority; they have separate procedures to register members and weapons, arrest and detain suspects; they repeatedly have clashed".⁷⁷⁶ The International Crisis Group explains that the collapse of the former regime's army and police left local communities largely responsible for their own defence, security and peacekeeping, with the burden of defence and security falling on the revolutionary brigades.⁷⁷⁷ The Carnegie Endowment for International Peace reports in July 2012 that:

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.⁷⁷⁸

A report by the Small Arms Survey argues that labelling any armed group as a 'militia' obscures the distinctions between them.⁷⁷⁹ It also considers that simplified depictions, together with the persistence of human rights abuses, led many organisations to call for militias to disarm or to join regular forces, which overlooks three key points:

- 1) many of these groups play important roles in providing security for local communities,
- 2) revolutionary forces do not recognize the legitimacy of the National Army or the Ministry of Defence (MoD)—both pre-revolutionary holdovers—and
- 3) no institutional National Army recruitment process existed.⁷⁸⁰

The Small Arms Survey further reports in October 2012 that the evolving security environment continues to be defined by the decentralized nature of the revolution, which can be seen in the development of four distinct types of armed groups that can differ dramatically from city to city:

- revolutionary brigades emerged during the initial months of intense fighting but have since become closely integrated into local authorities and associations;
- unregulated brigades are revolutionary brigades that broke away from the authority of local councils and are operating outside of their control;
- post-revolutionary brigades emerged in cities or neighbourhoods as local protection forces in the security vacuum created by Qaddafi's retreating forces; and
- militias are armed groups that range from criminal networks to violent extremists.⁷⁸¹

The International Crisis Group explains that with expansion of the revolutionary brigades across the country, they required a parallel system to enable their long-term mobilisation, given that integration into the army was not perceived as an option since it remained under-equipped and widely distrusted, and the

⁷⁷⁵ BBC, [Libya profile: A chronology of key events](#), updated April 2013

⁷⁷⁶ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, *Executive Summary*, i

⁷⁷⁷ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September, i. Introduction, p. 1

⁷⁷⁸ The Carnegie Endowment for International Peace, [Libya's Militia Menace](#), 15 July 2012

⁷⁷⁹ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Background*, p. 11

⁷⁸⁰ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Background*, p. 11

⁷⁸¹ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, *Research objectives and findings* p.12

reaction was to establish the Libyan Shield Forces.⁷⁸² The Small Arms Survey notes that the decision of the National Shield to report directly to the head of the National Army “is in keeping with a broader trend of integrating into local authorities, thereby fulfilling quasi-state security functions. In the same vein, former revolutionary brigade members are being recruited into the MoI’s law enforcement force—the Supreme Security Committee”.⁷⁸³ See sections [6.1.3 Libyan Shield Forces](#) and [6.1.5 The Police and Supreme Security Committee](#) for further information on these auxiliary forces.

The International Crisis Group also reports that “it would be wrong to see the parallel military and police forces that emerged as having done so against the central authorities’ wishes”.⁷⁸⁴ Rather, 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”.⁷⁸⁵ The Carnegie Endowment for International Peace notes that “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 central government”.⁷⁸⁶

The International Crisis Group further reported with regards to the integration of the auxiliary forces that:

[...] With profound tensions among the transitional government, old bureaucracy and revolutionary fighters, incorporation into official structures was stymied. Brigades preferred to remain separate, answering only to local commanders. By the elections, domestic leaders lacked a clear vision for how to break the brigades’ autonomy and integrate them into the state.⁷⁸⁷

Sources indicate that following the 11 September 2012 Benghazi attack on the US consul (see [section 3.2 Attack on US Consulate, Benghazi](#)), the Libyan authorities have “moved to assert greater control over militia groups, collect weapons from civilians, and intensify discussion of a comprehensive security sector reform strategy. After large anti-militia demonstrations on September 16, the government ordered armed groups to formally submit to state authority and named military officers to serve as commanders of some prominent militias. Some security officials have been replaced, and turnout reportedly was high at September 30 public weapons collection events in Tripoli and Benghazi”.⁷⁸⁸ On 22 September 2012 it was reported that crowds stormed three militia bases in Benghazi including that of Ansar al-Sharia, whom many blamed to be behind the killing of the US ambassador, killing six militiamen.⁷⁸⁹

Reporting on the progress of disarmament, demobilization and reintegration (DDR), the February 2013 report of the UN Secretary-General notes that despite being accorded a high priority by the government, “actual progress remains slow”.⁷⁹⁰ It explains that uncertainty remains regarding many programmes devised by the Warriors’ Affairs Commission for Rehabilitation and Development (see [section 6.1.4 The Warriors’ Commission](#)). The same source further reports on DDR progress:

⁷⁸² International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, C. *Revolutionary Coalitions and the Libyan Shield*, p. 17

⁷⁸³ Small Arms Survey, [After the Fall: Libya’s Evolving Armed Groups](#), October 2012, *Conclusion*, p. 56

⁷⁸⁴ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, *Executive Summary*, i

⁷⁸⁵ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, *Executive Summary*, i

⁷⁸⁶ The Carnegie Endowment for International Peace, [Libya’s Militia Menace](#), 15 July 2012

⁷⁸⁷ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, I. *Introduction*, p. 1

⁷⁸⁸ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Militia Integration and Security Sector Reform*, p. 8

⁷⁸⁹ Guardian, [Bodies of six militiamen found in Benghazi after attacks on bases](#), 22 September 2012

⁷⁹⁰ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 42

Because of the lack of operational capability in the defence and police forces, revolutionary brigades have continued to play a key role in providing security, including by performing specific duties mandated by the Government. Groups of revolutionary fighters have joined the semi-official military and security structures, such as Libya Shield, the National Mobile Force and the Supreme Security Committee, while some have returned to civilian life. Notwithstanding progress by the Ministries of Defence and Interior to integrate these revolutionary fighters or reintegrate them into civilian life, a considerable number of revolutionary fighters are not willing to surrender their weapons to State authorities and be absorbed into official State security structures or resume civilian life. Progress in the identification of employment opportunities and social and medical support for these fighters is essential.⁷⁹¹

The Small Arms Survey also notes that despite the government's assertion that it would provide \$8 billion for DDR programmes, "implementation delays are breeding discontent among fighters, weakening their commitment to participate in the transition and their willingness to follow local civilian and military leadership".⁷⁹²

According to the Small Arms Survey, an effective policy to support the ongoing transition "must recognise that the demobilisation of combatants is directly tied to the creation of a legitimate national army and police force. Until substantial reform of the National Army and MoD is undertaken, it is unlikely that national demilitarization will make significant progress".⁷⁹³

6.1.3 Libyan Shield Forces

The International Crisis Group explains that the Libyan Shield Forces (LSF) was established as a parallel military structure "to compensate for the army's deficiencies and allow the revolutionary coalitions to deploy in military zones for extended periods".⁷⁹⁴ The International Crisis Group further describes that:

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 pre-requisite 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.⁷⁹⁵

The same source describes that the first LSF unit was set up in March 2012 in Kufra and that by May 2012 the LSF had become a "systematised, nationwide – and entirely parallel – defence force that both looked and acted very much like an auxiliary national army and was awarded year-long contracts by the defence ministry".⁷⁹⁶ It further notes that as a military force the LSF "faced huge impediments, plagued by divided loyalties and lack of discipline".⁷⁹⁷

⁷⁹¹ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 43

⁷⁹² Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, Conclusion, p. 57

⁷⁹³ Small Arms Survey, [After the Fall: Libya's Evolving Armed Groups](#), October 2012, Background, p. 11

⁷⁹⁴ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, C. Revolutionary Coalitions and the Libyan Shield Forces, p. 18

⁷⁹⁵ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, C. Revolutionary Coalitions and the Libyan Shield Forces, p. 18

⁷⁹⁶ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, C. Revolutionary Coalitions and the Libyan Shield Forces, p. 19

⁷⁹⁷ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, IV. Implementing Ceasefires, p. 21

A September 2012 BBC article describes that the Libyan Shield Forces operates in the east of the country:

The Libya Shield Force grouping of militias appears to be the most widely-deployed across Libya. Its appearance and conduct resemble that of a conventional army unit. The force reports to the Libyan defence ministry under the command of Wisam Bin Ahmid (or Humid), who commanded a Benghazi brigade called "Free Libya Martyrs".

The force includes smaller militias from Misrata, Khums and other small towns in central Libya. The force is divided into three main brigades in eastern, central and western Libya and carries out law and order and combat tasks. On social media, reactions to the group are favourable across Libya in comparison to other militias, particularly over its charitable work.⁷⁹⁸

The International Crisis Group reporting on the relationship between councils of notables and revolutionary brigades to bring about ceasefires for communal conflicts notes that:

The role played by these two actors reflects the deficit at the centre of the state and distrust at the core of the political system. Without adequate equipment or manpower, the army (and, it follows, the central authorities) have had to reach out to the LSF – a parallel armed force only partially responsive to government directives. At the same time, lack of trust between the army and revolutionary brigades encouraged both sides to turn separately to local armed groups rather than to each other, further muddying the picture. A clear casualty has been the army's and LSF's perceived neutrality. More broadly, mistrust and lack of communication among the army, LSF and various armed groups – made worse by their significant political differences – undermine their ability to implement and enforce local ceasefires. Worse, in central and western parts of the country, it brings units into conflict with each other as well as with local armed groups.

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The Carnegie Endowment for International Peace notes that in many instances the Shield has "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 [in] that city in April. In other cases, locals see the Shield's commanders being party to the conflict because of their tribal affiliation".⁸⁰⁰ See sections [3.3.2 Fighting around Kufra and Sebha](#) and [3.3 Violence in Benghazi in May and June 2013](#).

6.1.4 The Warriors' Commission

The International Crisis Group, reporting in December 2011 on NTC initiatives to centralise control, noted that a 'Mobilisation Committee' was announced on 24 October 2011, with the purpose to assist with the reintegration of militia.⁸⁰¹ It further notes that on 26 November 2011 the NTC also reportedly set up an "inter-ministerial Commission of Warrior Affairs, which includes the defence, interior, finance and labour ministers, yet here too its precise agenda and status remain unclear".⁸⁰² A further report from the International Crisis Group describes that the Commission was set up as an "effort to assert control and reduce the armed groups' influence".⁸⁰³ It goes on to describe that:

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

⁷⁹⁸ BBC, [Disarming Libya's militias](#), 28 September 2012

⁷⁹⁹ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, VIII. Conclusion, p. 33

⁸⁰⁰ The Carnegie Endowment for International Peace, [Libya's Militia Menace](#), 15 July 2012

⁸⁰¹ International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, Conclusion, p. 32

⁸⁰² International Crisis Group, [Holding Libya Together: Security Challenges after Qadhafi](#), 14 December 2011, Conclusion, p. 32

⁸⁰³ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, B. The Fledgling State, p. 10

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.⁸⁰⁴

The International Crisis Group further reports that whilst the committee was supposed to have been allocated \$8 billion, according to news reports only \$1.8 billion was handed over to the supposed former fighters before the scheme was shut down.⁸⁰⁵ At the same time, the interior and defence ministries began their own registration programmes. See section [6.1.5 The Police and Supreme Security Committee](#) for further information.

The Carnegie Endowment for International Peace notes that as the implied goal of the Warriors Affairs Commission (WAC) is to break up the brigades by appealing to individual interest, it is unsurprising that reaction from brigades has been tepid, "Misratan brigade commanders believe that the WAC is either unwittingly or knowingly recruiting loyalist soldiers and that it has been slow to register its fighters. The commander of a powerful Zintani brigade, which is based in Tripoli but has forces guarding southern borders and oil installations, dismissed the WAC as an "academic" exercise that will face difficulty being implemented".⁸⁰⁶

A February 2013 report of the UN Secretary-General noted with regards to the slow progress of disarmament, demobilization and reintegration that "uncertainty regarding many programmes devised by the Warriors' Affairs Commission for Rehabilitation and Development still remains. A programme of limited disarmament commenced under the auspices of the Office of the Chief of General Staff, but results were modest, and there was no clear understanding of control and/or destruction arrangements for returned weapons and ammunition".⁸⁰⁷

6.1.5 The Police and Supreme Security Committees

The International Crisis Group explains that upon the November 2011 formation of the NTC, "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".⁸⁰⁸

The U.S. State Department explains that "the institutions of uniformed police and military remained in place after the revolution, although many in these services never returned to work. The high level of

⁸⁰⁴ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, B. *The Fledgling State*, p. 12

⁸⁰⁵ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September 2012, B. *The Fledgling State*, p. 11 (footnote 78)

⁸⁰⁶ The Carnegie Endowment for International Peace, [Libya's Militia Menace](#), 15 July 2012

⁸⁰⁷ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 42

⁸⁰⁸ International Crisis Group, [Divided We Stand: Libya's Enduring Conflicts](#), 14 September, B. *The Fledgling State*, p. 10

desertion coupled by low levels of competency and capacity led to a security and institutional vacuum following the 2011 conflict”.⁸⁰⁹ The International Crisis Group similarly reports that:

Fearing retribution for past abuse, many police officers fled during the uprising and did not report back to work; those who remained in office tended to be powerless, unarmed and subservient to the will of armed brigades. Indeed, some former police officers joined the armed groups, seeking protection or status.⁸¹⁰

The U.S. State Department further notes that in 2012 “in the militia-dominated security environment, a blurred chain of command led to confusion over who was responsible for these nascent security institutions, even if they were nominally under government control. In these circumstances police and security forces were ineffective in preventing or responding to societal violence, frequently committed by militia groups”.⁸¹¹

The International Crisis Group describes that in addition to setting up the Warriors’ Commission to engage revolutionary fighters in the interior and defence ministries, (see section [6.1.4 The Warriors’ Commission](#)), the ministries of defence and interior began their own registration programmes.⁸¹² The International Crisis Group describes that the interior ministry set up a temporary body, the Supreme Security Committee (SSC), designed to quickly absorb revolutionary brigades under its own command.⁸¹³ To attract recruits the SCC established local branches so young fighters could serve in their home towns and offered a relatively generous salary and by late May 2012, 85,000 had registered.⁸¹⁴ The International Crisis Group further reports that “most recruits came from the unemployed local youth who had formed brigades following the fall of Tripoli; by recruiting such groups wholesale into the SSC, the latter reinforced the authority and autonomy of unit commanders, with barely any oversight”.⁸¹⁵ However, the International Crisis Group describes that “distrust of the interior ministry was still so great that the ministry and police officers were granted no oversight or command over the SSC, which was entirely run and led by revolutionaries”.⁸¹⁶ It also reports that indiscipline was rife, including beatings, arbitrary detention, and a training camp in Jordan was cancelled due to trainees’ use of alcohol, cavorting with local women and, in one incident, setting a training centre on fire.⁸¹⁷

The International Crisis Group notes that in late 2011, the transitional government officially recognised the SSC as a parallel police force.⁸¹⁸ The U.S. State Department explains that the purpose of the SCC was “to prevent militia freelancing by integrating demobilized revolutionary fighters into a government chain of command and to supply a pool of auxiliary forces for use in crisis areas”.⁸¹⁹ The International Crisis Group further explains with regards to the SCC that:

Members of this body, which by summer 2012 exceeded 100,000, were legally entitled to open probes, conduct arrests and refer cases to prosecutors. Although some of its units by and large followed legal

⁸⁰⁹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 1 d Role of the Police and Security Apparatus

⁸¹⁰ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, Justice after Qadhafi, p. 21

⁸¹¹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 1d Role of the Police and Security Apparatus

⁸¹² International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, B. The Fledgling State, p. 12

⁸¹³ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, B. The Fledgling State, p. 12

⁸¹⁴ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, B. The Fledgling State, p. 12

⁸¹⁵ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, B. The Fledgling State, p. 13

⁸¹⁶ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, B. The Fledgling State, p. 13

⁸¹⁷ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September, B. The Fledgling State, p. 13

⁸¹⁸ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, Justice after Qadhafi, p. 24

⁸¹⁹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 1d Role of the Police and Security Apparatus

procedures, that was not the norm for an organisation that lacked a formal command and control structure. As a result, official recognition essentially granted legal imprimatur to oftentimes arbitrary conduct. Worse, according to several former fighters and members of the judiciary, roughly 150 ex-criminals, officially still wanted by the law, currently are in charge of revolutionary brigades. SSC commanders themselves acknowledged that criminals had infiltrated their ranks.⁸²⁰

A July 2012 Carnegie Endowment for International Peace report further notes that the SSC is estimated to consist of 90,000-100,00 fighters and that 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 longtime 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.⁸²¹

The International Crisis Group also reports that whilst the SCC was theoretically a temporary security force, "despite several attempts to integrate at least parts into the police force and its stated intention to dismantle the SSC by December 2012, the government encountered strong resistance, and some units continue to operate".⁸²²

The International Crisis Group reports that in addition to the SSC, "hundreds of other armed groups that emerged after the war also carry out their own policing activities. Nominally under the authority of either the defence or interior ministry, these katibas (brigades) for the most part act independently, with little or no government oversight or direction from the general prosecutor's office" and that "allegations of abuse are rife".⁸²³ It further notes that revolutionary brigades – and, at times, criminal gangs posing as such "all at once assume the roles of police, prosecutors, judges and jailers".⁸²⁴ See section [6.7 Prison Conditions](#) for further information on militias continuing to operate detention facilities.

Human Rights Watch reports in its 2013 annual report that "the police force remained weak, and depended largely on the SSC for ensuring law and order—a quasi-official body of former anti-Gaddafi fighters that is cooperating with the Interior Ministry—for ensuring law and order. The SSC's lack of vetting criteria and scant training contributed to abuse by its members".⁸²⁵

An April 2013 International Crisis Group reports that many citizens view the police, who are tasked with conducting preliminary investigations, recording witness statements and carrying out arrests, as "Qadhafi-era relics" and it is for this reason that armed groups supervised over local police stations throughout most of 2012.⁸²⁶ According to Fiona Mangan, a policy officer with the United States Institute of Peace, there is an urgent need to improve investigative procedures; "many of those now joining the police force are civilians and have not had proper police training ... this has created frustration among both judges who can't rule on the cases for lack of evidence, and prosecutors who don't have enough evidence to proceed with cases".⁸²⁷

⁸²⁰ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 24

⁸²¹ The Carnegie Endowment for International Peace, [Libya's Militia Menace](#), 15 July 2012

⁸²² International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 24

⁸²³ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 25

⁸²⁴ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, *Executive Summary*, p. ii

⁸²⁵ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Security and Militias*

⁸²⁶ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 20

⁸²⁷ Institute for War and Peace Reporting, [Prosecuting Gaddafi-Era Crimes in Libya](#), 11 April 2013

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6.1.6 Military Conscription

Physicians for Human Rights cites the 2005 Library of Congress Profile on Libya as stating that “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”.⁸²⁸

In May 2011 the BBC cited a civil servant as stating that “we’ve been informed that the first conscription phase is for those between the ages of 20 and 40 years old and for those who have completed military training between the years 2000-2011”.⁸²⁹ The same source explains that all Libyan men were required to do this training at some point in their lifetime.⁸³⁰ A June 2011 Congressional Research Service similarly reports on conscription during the uprising that:

There has been increased talk of conscription in Qaddafi-controlled areas. In early May, public sector companies were given military draft plans through a letter for all male employees, and there has been increased references to it on state- controlled media. The Libyan Defense Ministry has thickened loyalist ranks with veterans recalled to duty in poor physical condition or cadets with little training. From various statements taken by captured soldiers, it appears that loyalist forces have been told by their officers that they are fighting a foreign- inspired al-Qaeda jihad.⁸³¹

Al-Jazeera reported in April 2011 that African migrants claim that they had been abducted and forced to fight with Gaddafi’s forces.⁸³² The same article notes that “the extent to which Gaddafi’s military has used foreign mercenaries, or press-ganged migrants into fighting, remains unclear”.⁸³³ The March 2012 Report of the International Commission of Inquiry confirmed its earlier finding that “there have been violations of international humanitarian law by Qadhafi forces which amount to war crimes” amongst which it identified recruitment and use of child soldiers.⁸³⁴ For further information on the recruitment of children see [4.7.4 Forced recruitment](#).

6.2 The Libyan judicial system

6.2.1 Use of Libyan Penal Code versus Islamic legal principles

The International Crisis Group reports that by the mid-1970s, Qadhafi “turned the judiciary into a more national institution and, in line with the goal of diminishing what they saw as the West’s negative influence, sought to conform domestic laws to Sharia. They instituted a committee of jurists (nadwa al-tashraiya al-islamiya) to review pre-existing civil, commercial and criminal codes and harmonise them with Islamic law. In November 1973, Sharia courts, which until then had retained autonomous jurisdiction on personal status matters, were abolished and their judges were absorbed into the state judicial system”.⁸³⁵

⁸²⁸ Physicians for Human Rights, [Witness to War Crimes: Evidence from Misrata](#), Libya, August 2011, *Background*, p. 6 (footnote 11)

⁸²⁹ BBC, [Tripoli witness: Tribalism and threat of conscription](#), 13 May 2011

⁸³⁰ BBC, [Tripoli witness: Tribalism and threat of conscription](#), 13 May 2011

⁸³¹ Congressional Research Service, [The Libyan Uprising: An Uncertain Trajectory](#), 20 June 2011, *The Libyan Army*, p. 21

⁸³² Al Jazeera, [Migrants forced to fight for Gaddafi](#), 9 April 2011

⁸³³ Al Jazeera, [Migrants forced to fight for Gaddafi](#), 9 April 2011

⁸³⁴ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph 119

⁸³⁵ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, II Legacies of the Past, C. Qadhafi and the Revolutionary State (1969-2011), p. 10

The International Crisis Group explains that when the NTC came into effect, apart from altering the composition of the Supreme Judicial Council and banning all special tribunals, it kept in place the existing judicial system's broad structures.⁸³⁶ When the GNC came to power in August 2012 it "defended the current civil and criminal courts as well as overall body of laws. Likewise, judges and prosecutors overwhelmingly backed preservation of the current legal codes, arguing they followed European models from the 1950s, well before Qadhafi came to power".⁸³⁷ The same source further notes that "the mufti of Tripoli, the highest religious authority, essentially adopted the same position. As he saw it, lawmakers' principal tasks were threefold: eliminate articles that deviate from principles of Islamic law; repeal laws that distort the regulatory framework; and purge the system of judges who had been regime cronies".⁸³⁸ In relation to eliminating articles that deviate from Islamic law, it further notes that:

To this end, the NTC set up a special committee, as Qadhafi had done in the 1970s, to ensure conformity of the codes and laws with Sharia. The NTC appointed Fakhiri and seven other legal experts in Sharia, criminal, civil and penal law to revise existing codes to ensure their compatibility with Sharia. With regard to criminal laws, Fakhiri said that he did not expect the committee to make significant amendments, since the changes implemented by Qadhafi's tashraiya commission in the early 1970s and additional amendments as recent as 2010 already had brought the codes in line with Islamic law (this view contrasts with the Mufti's who claimed that Qadhafi-era Shariasation of the legal codes was limited, see above). These changes included introduction of hudud (literally fixed, but generally used to mean corporal) punishments for theft, brigandage, fornication or adultery, false accusation of fornication and alcohol consumption. Corporal punishment, though theoretically available, was rarely if ever applied under Qadhafi.⁸³⁹

In February 2012 the International Educational Development, Inc submitted to the Human Rights Council that:

The Libyan Ministry of Justice has indicated that it will incorporate Sharia law in Libya's judicial system. However, although Libyan lawyers and judges may have knowledge of Islamic jurisprudence, they cannot have had practical experience with Sharia as the Gaddafi government did not implement Sharia in Libya. It is clear that the future government of Libya will need significant aid building a permanent legal system within the framework of Sharia.⁸⁴⁰

The 2011 draft Constitution sets out in Article 1 that "Islam is the religion of the State and the principle source of legislation is Islamic Jurisprudence (Sharia)".⁸⁴¹ The 2012 U.S. State Department report explains with regards to the use of the Penal Code that "Qadhafi-era laws that did not contravene the TNC's 2011 Constitutional Declaration remained in force, but their applicability remained unclear, due to the lack of enforcement capability, lack of competency of the courts, and confusion over the applicability of new and old laws".⁸⁴²

The Congressional Research Service reports that calls for and against strict interpretations and enforcement of sharia have featured regularly in public discourse since the fall of the Qadhafi regime:

Libyans hold a wide array of views on these questions and are now freely sharing them. During January 2012, public gatherings in the low thousands emerged in Benghazi and Misuratah to demand that sharia be codified and enforced as the primary component of Libya's new constitution. Salafist groups such as Ansar al Sharia

⁸³⁶ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 16

⁸³⁷ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 16

⁸³⁸ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 17

⁸³⁹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 17 (footnote 70)

⁸⁴⁰ International Educational Development, [Written statement submitted to the Human Rights Council by International Educational Development, Inc., a non-governmental organization on the roster](#), 27 February 2012

⁸⁴¹ [Draft Constitutional Charter for the Transitional Stage \[Libya\]](#) September 2011, Article 1

⁸⁴² U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *Executive Summary*

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and Hizb al Tahrir, which support that position, are growing more organized and have been increasingly publicly active. Muslim Brotherhood leaders have indicated they 'are calling for the establishment of a civilian state but with an Islamic reference. In an October 2012 interview GNC President Magariaf said, "We want to build a constitutional, democratic, civil, and secular state. But this does not mean at all that the constitution or any laws and legislation should contain anything that clashes with or is in contradiction to Islamic sharia and its objectives." He called for separation of religion and state "in the sense that parliament, the government, and the authorities, under this constitution, are the bodies that define the laws, legislation, and decisions, and that they are not issued by a religious body." His remarks sparked an outcry from Libyan Islamists, and while he did not fully retract them, President Magariaf said publicly that it was inappropriate for him to have made the original statements because of the responsibilities of his position and the limits on his authority to determine constitutional principles. In July 2012, the TNC issued a declaration advising the newly elected government and the yet-to-be appointed constitutional committee to preserve sharia as the principal source of legislation under the new constitution and to not submit the matter to a national referendum.⁸⁴³

For further information, see [4.1 Drafting of new Libyan Constitution](#).

6.2.2 Transitional Justice Law

In February 2012, the NTC enacted a transitional justice law entitled "Laying a Foundation for National Reconciliation and Transitional Justice".⁸⁴⁴ The UN Secretary-General reports that the law provides for "the establishment of a fact-finding and reconciliation commission to investigate human rights violations since 1969 and provide compensation to victims".⁸⁴⁵ As of April 2013, the Fact-Finding and Reconciliation Committee has yet to begin its work.⁸⁴⁶

The International Crisis Group reports that both foreign and domestic legal experts argue that the NTC transitional justice law contained several flaws:

It is limited in scope and does not define the goal of the transitional justice process – whether to deal with former regime abuses, ongoing communal conflicts or both; and it is not, they say, sufficiently geared toward victims, mentioned only in relation to compensation. They also fault the commission for being a quasi-judicial entity (all members are elderly, male judges) and claim that its purpose – to achieve national reconciliation and transitional justice – would have been best achieved through the appointment of local, respected leaders instead. Some of these criticisms are well founded, and the government has sought to address them.⁸⁴⁷

In September 2012 UNSMIL issued a report on transitional justice noting with regards to the law that:

It is not clear whether the law as currently conceived will allow for a dynamic truth-seeking process. The law was not broadly consulted before it was passed and its goals are unclear. The Fact-Finding and Reconciliation Commission established by the law and composed purely of senior judges, appears to be a quasi-judicial process that may not provide sufficient scope for examining legacies of violations, reflecting on them through public hearings, and creating a space for victims to air their views. Victims are not mentioned in Libya's law except in relation to compensation.⁸⁴⁸

⁸⁴³ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Islam and the State*, p. 6

⁸⁴⁴ UNSMIL, [Transitional justice – Foundation for a New Libya](#), 17 September 2012

⁸⁴⁵ UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 1 March 2012, paragraph 26

⁸⁴⁶ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 18

⁸⁴⁷ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 18 (footnote 73)

⁸⁴⁸ UNSMIL, [Transitional justice – Foundation for a New Libya](#), 17 September 2012

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UNSMIL has called on the Libyan government to revise the transitional justice law.⁸⁴⁹ Amongst other issues, it recommended that the Libyan government commit to implementing a comprehensive transitional justice process, with more public dialogue and debate in Libyan society to decide the goals and the scope of transitional justice processes, stating that

Transitional justice should encompass not just criminal justice but also truth seeking, reparations, and reforms intended to guarantee that such violations do not recur. As a starting point, Libyan authorities should consider instituting a socially dynamic approach to truth-seeking that ensures participation of wide-section of Libyan society particularly victims of past and present violations of human rights.⁸⁵⁰

The February 2013 report of the UN Secretary-General noted that the Ministry of Justice incorporated many of UNSMIL's recommendations in the new draft transitional justice law it submitted in December 2012 for consideration by the General National Congress.⁸⁵¹ In March 2013 the UK Foreign and Commonwealth Office reported that the draft Transitional Justice Law was before the General National Congress "which should pave the way for trials of conflict related detainees to begin".⁸⁵²

According to the International Crisis Group, this draft law "specified that members of the commission could be professionals, such as sociologist, archivists and psychologists. However, this version, too, fails to explicitly mention whether communal conflicts or score settling carried out during the transitional period are to be covered. Members of local branches appear to believe they are, but confessed that 'given the current security situation, it would be impossible for us to start investigating the violence carried out by armed groups; these will probably be the last type of cases that we will look into – many years from now'".⁸⁵³

6.2.3 Amnesty Law

The U.S. State Department report explains that on 2 May 2012, the TNC passed Law 38 which included a provision that amnesty will be granted for any "acts made necessary by the 17 February revolution" and for the revolution's "success or protection".⁸⁵⁴ Reportedly, "Government officials stated that the provision would not be used to provide amnesty for human rights violations or war crimes committed by revolutionary forces during the conflict".⁸⁵⁵ The same source reports that this law "was interpreted to provide a blanket amnesty for actions by revolutionaries performed to promote or protect the revolution".⁸⁵⁶ Human Rights Watch considers that "the blanket immunity in Law 38 for people seen as having promoted or protected the February 17 Revolution violates Libya's obligations under international law to investigate and prosecute serious violations of international human rights and humanitarian law".⁸⁵⁷ It also notes that any grant of immunity by the NTC has no legally binding effect on other national or

⁸⁴⁹ UNSMIL, [Transitional justice – Foundation for a New Libya](#), 17 September 2012

⁸⁵⁰ UNSMIL, [Transitional justice – Foundation for a New Libya](#), 17 September 2012

⁸⁵¹ UN Security Council, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, Paragraph 32

⁸⁵² UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Country updates: Libya](#), 31 March 2013

⁸⁵³ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 18 (footnote 73)

⁸⁵⁴ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 5. *UN and Other International Bodies*

⁸⁵⁵ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 5. *UN and Other International Bodies*

⁸⁵⁶ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 1d *Arrest Procedures and Treatment While in Detention*

⁸⁵⁷ Human Rights Watch, [Libya: Amend New Special Procedures Law](#), 11 May 2012

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international courts such as the International Criminal Court (ICC).⁸⁵⁸ The International Crisis Group considers that:

The NTC in effect gave legal sanction to impunity in May 2012 when it amnestied those who had committed crimes – including murder and forced displacement – during the uprising. The broader impression that action taken in defence of the new order is de facto legitimate has emboldened armed groups, many of whom justify ongoing illegal activity as necessary to safeguard the “17 February revolution”.

[...] Legal immunity awarded to the fighters, their status as heroes of Libya’s liberation, together with the apparent ability of some of them to extort false statements or confessions, has made it extremely difficult to prosecute *thuwwar*, even for more recent wrongdoings.⁸⁵⁹

6.3 Impunity for war crimes committed in the course of the armed conflict in 2011

See [3.1 Gaddafi’s security forces during and after the 2011 uprising](#) and [6.1.1 Role of militias in the 2011 uprising](#) for human rights abuses committed during the armed conflict.

In a September 2012 report on transitional justice in Libya, UNSMIL reports that:

Crimes committed during the conflict are fresh in memory, generating strong emotions among the communities that suffered the most. In some cases, perpetrators of past crimes became victims, while victims also became perpetrators. While the Libyan society honors those who selflessly fought against the brutality of the former regime, particularly those who lost life or limb, it is also faced with the difficult responsibility of holding accountable members of revolutionary forces for crimes committed during and after the Revolution, including torture of detainees and revenge attacks against communities perceived to be supporters of the former regime. Transitional justice will also have to deal with such violations.⁸⁶⁰

An April 2013 International Crisis Group report considers that “overshadowing the security situation has been the lack of accountability for crimes committed by rebel fighters during and after the 2011 conflict. Rather than being investigated, those suspected of such acts often are hailed as national heroes. The state’s unwillingness or inability to look into the unlawful killing of prisoners of war throughout 2012 has contributed to the fighters’ feeling of operating above the law”.⁸⁶¹

The final March 2012 report of the International Commission of Inquiry on Libya reported that “accountability mechanisms in Libya are deficient in a number of respects, many of which are the direct consequence of the legacy of the Qadhafi era”.⁸⁶² It further states that:

The Commission found that the authorities are failing to hold accountable *Thuwar* who have committed serious violations including unlawful killings and arbitrary arrests. That situation is symptomatic of a lack of equal implementation of the law and a serious obstacle to the achievement of the objective of full accountability for serious crimes.⁸⁶³

UNSMIL also identifies that the NTC transitional justice law and amnesty law risk promoting impunity.⁸⁶⁴ The International Crisis Group further notes that “legal immunity awarded to the fighters, their status as

⁸⁵⁸ Human Rights Watch, [Libya: Amend New Special Procedures Law](#), 11 May 2012

⁸⁵⁹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 29

⁸⁶⁰ UNSMIL, [Transitional justice – Foundation for a New Libya](#), 17 September 2012

⁸⁶¹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, C, *Impunity*, p. 28

⁸⁶² UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph

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⁸⁶³ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph

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⁸⁶⁴ UNSMIL, [Transitional justice – Foundation for a New Libya](#), 17 September 2012

heroes of Libya's liberation, together with the apparent ability of some of them to extort false statements or confessions, has made it extremely difficult to prosecute *thuwwar*, even for more recent wrongdoings".⁸⁶⁵ The 2012 U.S. State Department report similarly reports that "due to the scarcely functioning judicial system, limited government control over security forces, and legal ambiguity regarding amnesty for revolutionaries (in Law 38), high-profile cases of killings reported in 2011 did not progress, apart from the UN Commission of Inquiry's work".⁸⁶⁶ Also see section [6.2.2 Amnesty Law](#).

Amnesty International reports on impunity for militias that:

Even when victims and relatives of those extrajudicially executed or tortured to death have lodged complaints, few meaningful investigations have been initiated, perpetuating a climate of impunity and facilitating the repetition of violations. In a meeting with Amnesty International on 4 June 2012, General Prosecutor Abdelaziz al-Hasadi confirmed his commitment to prosecute all crimes equally, but was unable to provide any details of *Thuwwar* (revolutionaries), as anti-Gaddafi fighters were commonly known, being brought to justice for torture or other human rights abuses. Some prosecutors and criminal investigators willing to address violations by *thuwwar* lack the capacity to enforce summons or arrest orders. Several have faced intimidation and even violent attacks at the hands of armed militias.⁸⁶⁷

Amnesty International further notes that public criticism of the *Thuwwar*, who are widely considered heroes, is uncommon, and that critics are called Gaddafi loyalists or the "fifth column".⁸⁶⁸ See [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#).

The International Crisis Group similarly reports in April 2013 that although the general prosecutor has asserted that the state has detained a number of militia fighters, these appear to have been handed over by militias themselves or relatives in response to retaliatory threats issued by the victim's family or tribe.⁸⁶⁹ Furthermore, it notes that "even those fighters who fall into government hands seldom face justice: potential witnesses refuse to testify for fear of retribution; prosecutors are reluctant to proceed for similar reasons; and detaining officers, afraid of being attacked, often release them or hand them over to another armed group".⁸⁷⁰

Human Rights Watch's 2013 report observes that "the judicial system remained weak, especially in its ability to pursue criminals affiliated with anti-Gaddafi militias".⁸⁷¹ The International Educational Development Inc, in a report submitted to the UN Human Rights Council noted the issue of "institutionalized impunity" in Libya:

Libya has managed some progress, albeit halting, in setting up a provisional judiciary. This task has been and continues to be extremely difficult because legitimate Libyan authorities have never had full control of the country. As a result not only are people detained by the militias with no recourse to justice, but many of thousands of others held by the Libyan justice system have not been brought before a judge. While this can be attributed to the very weak condition of the existing Libyan infrastructure and the lack of legal personnel currently employed in the system, it could also point to a more subtle trend of inheriting the culture of impunity prevalent during the Gaddafi years. It is important that Libya build a judicial system that is capable

⁸⁶⁵ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, C. Impunity p. 29

⁸⁶⁶ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, 1a Arbitrary or Unlawful Deprivation of Life

⁸⁶⁷ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, 1. Introduction, p.9

⁸⁶⁸ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, 1. Introduction, p.10

⁸⁶⁹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, C. Impunity, p. 29

⁸⁷⁰ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, C. Impunity, p. 30

⁸⁷¹ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, Judicial System and Transitional Justice

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of providing a fair trial for suspected mercenaries and former Gaddafi regime members, not to mention Gaddafi family members.⁸⁷²

Human Rights Watch notes that as of January 2013, “no one has been charged or arrested for the apparent execution of 53 Gaddafi supporters in Sirte in October 2011, or for the apparent execution of Muammar Gaddafi and his son Muatassim. An NTC-formed commission to look at Gaddafi’s death released no results”.⁸⁷³ It further notes that in contrast, the judicial authorities began proceedings against several former Gaddafi officials, in conditions which lacked due process.⁸⁷⁴

The 2012 U.S. State Department report notes that with regard to punishment for crimes committed by Gaddafi officials that:

Impunity was a serious problem. Although militias detained abusive Qadhafi-era officials, the scarcely functioning criminal courts struggled to try them, and when they did attempt to conduct trials, judges often faced threats of violence. In the same vein, with the judiciary not fully functioning, the government had not taken concrete steps by year’s end to advance transitional justice. There were rarely investigations and still fewer prosecutions of those believed to have committed abuses.⁸⁷⁵

A September 2012 International Crisis Group report notes that there remains no judicial mechanism to address crimes committed during the war, with the result that “Qadhafi-era officials, military officers and others facing serious charges remain in prison awaiting the start of investigative procedures, hindering conflict resolution efforts; in other instances, investigations into violent attacks by one community against another have yet to begin”.⁸⁷⁶ The final March 2012 report of the International Commission of Inquiry on Libya, in addition to reporting that the absence of a functioning court system prevents perpetrators being held accountable, further notes that Libya’s existing Criminal Code does not adequately define international crimes, and it provides for a statutory limitation of 10 years.⁸⁷⁷

Freedom House noted in January 2013 that “the court system has begun to recuperate, with some functioning courts in city centers trying ordinary cases. However, investigations into a large number of cases involving torture and extrajudicial executions before and during the civil conflict, including that of Mu’ammar al-Qadhafi, have made little progress, and an estimated 9,000 individuals remain in government or militia custody without any formal trial or sentencing”.⁸⁷⁸

The International Crisis Group reports that after some delays, mainly due to chaos in state institutions, including the judiciary, the first trials against former Qadhafi officials began in mid-2012, in both criminal and military courts.⁸⁷⁹ It considers that “the main problem emerging from these prosecutions is that they are too few and— from the perspective of many armed group members – too slow. These complaints feed into the already widespread feeling that the state is unable to carry out justice”.⁸⁸⁰ See section [6.2 the Libyan Justice System](#) for further information.

⁸⁷² International Educational Development, [Written statement submitted to the Human Rights Council by International Educational Development, Inc., a non-governmental organization on the roster](#), 27 February 2012

⁸⁷³ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Judicial System and Transitional Justice*

⁸⁷⁴ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Judicial System and Transitional Justice*

⁸⁷⁵ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *Executive Summary*

⁸⁷⁶ International Crisis Group, [Divided We Stand: Libya’s Enduring Conflicts](#), 14 September 2012, *VII Implementing Peace: The Central Government’s Role*, p. 30 (footnote 242)

⁸⁷⁷ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, *paragraph*

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⁸⁷⁸ Freedom House, [Freedom in the World 2013 – Libya](#), January 2013

⁸⁷⁹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, *IV In Court*, p. 34

⁸⁸⁰ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, *IV In Court*, p. 34

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6.4 ICC Jurisdiction in Libya

Human Rights Watch reports that on 27 June 2011, the International Criminal Court (ICC) issued arrest warrants for Muammar Gaddafi, Saif al-Islam Gaddafi, Muammar Gaddafi's son and Abdallah Sanussi, Gaddafi's head of intelligence.⁸⁸¹ The three were wanted for crimes against humanity for attacks on civilians, including peaceful demonstrators, in Tripoli, Benghazi, Misrata, and other locations in Libya.⁸⁸² The U.S. State Department explains that "UN Security Council Resolution 1970 (2011) provides the ICC with jurisdiction as of February 2011 and obliges Libya to cooperate. The government expressed its desire to prosecute both individuals domestically. The Rome Statute of the ICC contains provisions to deal with situations in which a state with jurisdiction wishes to pursue charges itself; the matter is ultimately one for ICC judges to decide".⁸⁸³ Human Rights Watch further notes that "on May 1, 2012, Libya challenged the admissibility of the ICC's case against Saif al-Islam Gaddafi, and on April 2, 2013, it challenged the admissibility of Sanussi's case. It will be up to ICC judges to decide if national proceedings exist that meet the criteria for a successful challenge".⁸⁸⁴

The International Crisis Group describes that Tripoli and the ICC are at "loggerheads over the question of jurisdiction for the trials. Both the government and armed groups are determined to try the two in a domestic court, with or without ICC approval. Yet to do so in conformity with international law, Libya would need to satisfy ICC judges that it has the willingness and ability to guarantee a fair trial".⁸⁸⁵ The Institute for War and Peace Reporting notes in April 2013 that a decision from the ICC's pre-trial chamber on whether Libya should be given the opportunity to try the two men was expected soon, although there is no deadline.⁸⁸⁶

Amnesty International has called on Libya to hand over al-Sanussi to the ICC, expressing concern that "since his incarceration in Libya, it appears no independent organizations, relatives or his lawyers have had access to him".⁸⁸⁷ Amnesty International also considers that "Al-Sanussi's case is symptomatic of a wider situation in Libya of a justice system in disarray".⁸⁸⁸ Human Rights Watch similarly reports in April 2013 that "the Libyan government should immediately ensure that Sanussi has full access to a lawyer of his own choosing, whether a Libyan lawyer or one from abroad, and formally notify him of the charges he faces in Libya. The authorities should also allow visits by lawyers authorized to represent Sanussi before the ICC".⁸⁸⁹ Critics of the Libyan justice system have also pointed to the fact that Saif al-Islam has remained in jail in Zintan for nearly 18 months without trial and it has not been made clear what he is accused of.⁸⁹⁰

Human Rights Watch further notes that from 7 June to 2 July 2012, the militia in Zintan holding Gaddafi "arbitrarily detained ICC staff members, who traveled to Libya to meet with Gaddafi in a visit authorized by the ICC judges and agreed to by Libya".⁸⁹¹ The Libyan authorities accused Saif al-Islam al-Gaddafi's

⁸⁸¹ Human Rights Watch, [Libya: Ensure Abdallah Sanussi Access to Lawyer](#), 17 April 2013

⁸⁸² Human Rights Watch, [Libya: Ensure Abdallah Sanussi Access to Lawyer](#), 17 April 2013

⁸⁸³ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 1a Arbitrary or Unlawful Deprivation of Life

⁸⁸⁴ Human Rights Watch, [Libya: Ensure Abdallah Sanussi Access to Lawyer](#), 17 April 2013

⁸⁸⁵ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. Introduction, p. 6

⁸⁸⁶ Institute for War and Peace Reporting, [Prosecuting Gaddafi-Era Crimes in Libya](#), 11 April 2013

⁸⁸⁷ Amnesty International, [Libya must seek justice not revenge in case of former al-Gaddafi intelligence chief](#), 18 October 2012

⁸⁸⁸ Amnesty International, [Libya must seek justice not revenge in case of former al-Gaddafi intelligence chief](#), 18 October 2012

⁸⁸⁹ Human Rights Watch, [Libya: Ensure Abdallah Sanussi Access to Lawyer](#), 17 April 2013

⁸⁹⁰ Institute for War and Peace Reporting, [Prosecuting Gaddafi-Era Crimes in Libya](#), 11 April 2013

⁸⁹¹ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *International Justice and the International Criminal Court*

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appointed defence counsel of passing documents to him that undermined Libyan national security.⁸⁹² According to Amnesty International, this incident cast “serious doubts” over Libya's ability and willingness genuinely to grant fair trials to former al-Gaddafi government figures.⁸⁹³

Human Rights Watch reports that on 31 May 2013 the ICC rejected Libya’s bid to prosecute Saif al-Islam Gaddafi, which obligates the Libyan authorities to surrender him immediately for proceedings in The Hague unless an appeal is successful.⁸⁹⁴ It further notes that “the ICC judges held that Libya had not provided enough evidence to demonstrate that it was investigating the same case as the one before the ICC and that it was able genuinely to carry out an investigation of Gaddafi”.⁸⁹⁵ Reportedly in a recent submission to the ICC, Libya said it “does not dispute that it is bound by Security Council Resolution 1970”.⁸⁹⁶ Lawyers for Justice in Libya explains that the admissibility decision does not preclude Libya from prosecuting Gaddafi in the future for crimes other than those he is facing before the ICC.⁸⁹⁷ The Libya Herald reported on 16 June 2013 that Justice Minister, Salah Bashir Al-Marghani is currently appealing the ICC’s decision.⁸⁹⁸ Al Jazeera reports on 18 June 2013 that Al-Seddik al-Sur of the state prosecutor's office announced that Saif al-Islam Gaddafi, Abdullah al-Senoussi and ex-premier al-Baghdadi al-Mahmoudi, along with ex-spokesman Milad Daman, will be tried in August 2013.⁸⁹⁹

6.5 Due process

Collapse of judicial system

The UK Foreign and Commonwealth Office explains that during the eight-month conflict, the central judicial system collapsed and was replaced by regional militia councils or local officials dealing with issues on an ad hoc basis.⁹⁰⁰ An April 2013 International Crisis Group report notes that:

A core problem plaguing the judicial system is the virtual collapse of the state security apparatus and the widespread availability of weapons. Armed groups that emerged victorious simultaneously took on the roles of police, prosecutors, judges and jailers. Armed brigades set up investigation and arrest units; drafted lists of “wanted” (matlubin) individuals; set up checkpoints or forced their way into homes to capture presumed outlaws or people suspected of aiding the former regime; and, in some cases, ran their own detention facilities.⁹⁰¹

The 2012 U.S. State Department reports that “the interim governments took no concrete actions to reform the justice system, and gaps in existing legislation and unclear separation of powers among the executive, judicial, and legislative branches contributed to a weak judicial system”.⁹⁰² The April 2013 International Crisis Group report further notes that “there is still no functioning court system in many parts of the country, while armed groups continue to run prisons and enforce their own forms of justice”.⁹⁰³ It further

⁸⁹² Amnesty International, [Urgent Action: Release of Four ICC Staffers held in Libya](#), 10 July 2012

⁸⁹³ Amnesty International, [Libya must seek justice not revenge in case of former al-Gaddafi intelligence chief](#), 18 October 2012

⁸⁹⁴ Human Rights Watch, [ICC: Libya Should Comply With Court’s Ruling](#), 31 May 2013

⁸⁹⁵ Human Rights Watch, [ICC: Libya Should Comply With Court’s Ruling](#), 31 May 2013

⁸⁹⁶ Human Rights Watch, [ICC: Libya Should Comply With Court’s Ruling](#), 31 May 2013

⁸⁹⁷ Lawyers for Justice in Libya, [Justice for victims in Libya should not be delayed after ICC decision](#), 5 June 2013

⁸⁹⁸ Libya Herald, [ICC suspends demand for Senoussi](#), 16 June 2013

⁸⁹⁹ Al Jazeera, [Libya to try Gaddafi son in August](#), 18 June 2013

⁹⁰⁰ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2011 Foreign & Commonwealth Office Report - Section IX: Human Rights in Countries of Concern – Libya](#), April 2012

⁹⁰¹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, *III Justice after Qadhafi*, p. 22

⁹⁰² U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, *Section 1d Arrest Procedures and Treatment While in Detention*

⁹⁰³ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, *Executive Summary*, i

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considers that “Judicial reform – including, inter alia, amending legislation inherited from the past, building an independent and capable police force and enhancing the capacity of prosecutors – inevitably will take time”.⁹⁰⁴

In its 2012 annual report the UK Foreign and Commonwealth Office noted that “the Libyan judicial system is not yet fully functioning, despite efforts made by the interim government to rebuild institutions. Many of the police officers, prison guards, lawyers and judges who left during the revolution have not returned. Court cases are often adjourned rather than dealt with immediately by judges, or do not progress as quickly as they should”.⁹⁰⁵ The March 2012 Report of the International Commission of Inquiry on Libya similarly noted that “there still exists a lack of trained staff such as prosecutors, judicial police and forensic investigators”.⁹⁰⁶ A May 2013 report by the International Legal Assistance Consortium notes that “the absence of security for justice sector personnel has led judges and prosecutors to indefinitely delay the processing of detainees’ cases”.⁹⁰⁷ It further notes that:

The justice sector’s ability to act independently during the current transitional period is also degraded by its lack of legitimacy. This issue is complicated by the fact that the justice sector is both the object of transitional reform efforts, and the vehicle for the transitional prosecution of past abuses. Thus, any extensive vetting of justice sector actors (judges, prosecutors, People’s Lawyers, private lawyers) will significantly impact the system’s ability to process cases. Yet, as one interlocutor in the Ministry of Justice put it, “how can the same judges suspected of misbehaviour during the Gaddafi regime sit in judgment of alleged Gaddafi supporters?”⁹⁰⁸

In its 2013 World Report, Human Rights Watch describes the judicial system in Libya as remaining “weak, especially in its ability to pursue criminals affiliated with anti-Gaddafi militias”.⁹⁰⁹ The Congressional Research Service explains that “Transitional authorities have inherited weak national government institutions, and competition among some groups has intensified during the transition”.⁹¹⁰ It further notes that:

Qadhafi used the security bodies of the state to crush political dissent and interfere in the daily lives of Libyans. As a result, debates among Libyans over the relative powers of security authorities and the rule of law are very sensitive. The dispersion of authority in the hands of armed groups and the existence of what one analyst has called “local monopolies of violence” further complicates matters.⁹¹¹

Amnesty International similarly remarks that “human rights violations are taking place against the backdrop of a judicial system that simply cannot cope with the volume of cases and is failing to provide justice and redress. It also suffers from the legacy of being a tool of repression under al-Gaddafi’s rule, where a parallel judicial system was designed for “political cases”.⁹¹² The International Crisis Group also considers that “the severe deficiencies of the current judicial system are rooted, first and foremost, in the failings of the one

⁹⁰⁴ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, VI Conclusion, p. 39

⁹⁰⁵ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013

⁹⁰⁶ UN Human Rights Council, [Report of the International Commission of Inquiry on Libya](#), 8 March 2012, paragraph 124

⁹⁰⁷ International Legal Assistance Consortium, [Rule of Law Assessment Report](#), Libya 2013, 9 May 2013, Executive Summary p.6

⁹⁰⁸ International Legal Assistance Consortium, [Rule of Law Assessment Report](#), Libya 2013, 9 May 2013, Executive Summary p.6

⁹⁰⁹ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Judicial System and Transitional Justice*

⁹¹⁰ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Overview and Analysis*, p. 1

⁹¹¹ Congressional Research Service, [Libya: Transition and U.S. Policy](#), 18 October 2012, *Overview and Analysis*, p. 7

⁹¹² Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, 1. Introduction, p. 9

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that, in principle, it has replaced. Under Qadhafi, the judiciary suffered from politicization of appointments, rampant corruption and the use of extrajudicial means to target political opponents”.⁹¹³

The UK Foreign and Commonwealth Office reports that:

Despite a weak and under-resourced post-conflict system, there were some positive improvements in dealing with non-conflict-related crimes. Most individuals have access to lawyers, either state or privately funded, and straightforward civil cases are processed within reasonable timeframes. However, conflict-related detainees are not processed through the court system because of the political sensitivities surrounding their cases. In addition, those detainees with strong links to militia groups are not being prosecuted because lawyers and judges are fearful of reprisals by members of the militia group.⁹¹⁴

The Institute for War and Peace Reporting notes that in 2012 “a Libyan judge suspended the trial of former intelligence official Buzeid Dorda, who was charged with killing civilians and provoking civil war. The judge said the prosecutor’s office had failed to follow correct procedures. The case highlights one of the central challenges – the extent to which police, investigators and prosecutors are in a position to gather and use evidence of past abuses”.⁹¹⁵

Amnesty International reports that “very few lawyers are willing to represent alleged “Gaddafi loyalists”, either for ideological reasons or out of fear of reprisals” and that it has documented several instances of violence, threats and harassment against lawyers defending alleged al-Gaddafi supporters.⁹¹⁶ The International Crisis Group reports that “armed groups are also known to threaten violence to compel prosecutors to take on a case”.⁹¹⁷ For further information see [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#).

In October 2012 Amnesty International called on the Libyan authorities to hand over the former ruler’s military intelligence chief, al-Senussi to the ICC noting that “trying al-Senussi in Libya, where the justice system remains weak and fair trials are still out of reach, undermines the right of victims to see justice and reparation. Instead, he should face the ICC’s charges of crimes against humanity in fair proceedings”.⁹¹⁸ Furthermore, it considers that “serious doubts were also cast over Libya’s ability and willingness genuinely to grant fair trials to former al-Gaddafi government figures in June 2012, when an ICC legal team was arrested and detained while in the country to interview the former ruler’s son Saif al-Islam al-Gaddafi”.⁹¹⁹

Arbitrary arrest and detention without due process

In March 2013, the UN Security Council extended the mandate of UNSMIL for 12 months.⁹²⁰ The Resolution expressed “grave concern at continuing reports of reprisals, arbitrary detentions without access to due process, wrongful imprisonment, mistreatment, torture and extrajudicial executions in Libya, calls upon the Libyan Government to take all steps necessary to accelerate the judicial process, transfer detainees to State

⁹¹³ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, Executive Summary, i

⁹¹⁴ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013

⁹¹⁵ Institute for War and Peace Reporting, [Prosecuting Gaddafi-Era Crimes in Libya](#), 11 April 2013

⁹¹⁶ Amnesty International, [Libya must seek justice not revenge in case of former al-Gaddafi intelligence chief](#), 18 October 2012

⁹¹⁷ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III Justice after Qadhafi, p. 26

⁹¹⁸ Amnesty International, [Libya must seek justice not revenge in case of former al-Gaddafi intelligence chief](#), 18 October 2012

⁹¹⁹ Amnesty International, [Libya must seek justice not revenge in case of former al-Gaddafi intelligence chief](#), 18 October 2012

⁹²⁰ UN Security Council, [Security Council Extends Mandate of United Nations Support Mission in Libya for Twelve Months, Unanimously Adopting Resolution 2095 \(2013\)](#), 14 March 2013

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authority and prevent and investigate violations and abuses of human rights”.⁹²¹ For further information see [3.1.1 Attacks against former Gaddafi supporters following 2011 uprisings](#).

Human Rights Watch reports in March 2013 that most of the 8,000 detainees held by the Libyan government or militias have been held for more than one year without charges, a judicial review, or access to a lawyer.⁹²² Amnesty International reports with regards to due process in Libya that:

Despite releases and the referral of some suspects to relevant civilian or military prosecution offices, progress in charging detainees with recognizably criminal offences has been extremely slow. Some detainees have been held without charge for a year. With rare exceptions, detainees have no access to lawyers and are interrogated alone, despite guarantees stipulated in the Libyan Code of Criminal Procedure. The Minister of Justice told Amnesty International that by June 2012, 164 people had been convicted in common law cases since the end of the conflict. To Amnesty International’s knowledge, by early June, only three trials have begun in civilian courts in relation to crimes committed in the context of the conflict, leaving thousands of people detained without trial.⁹²³

The U.S. State Department similarly reports that in 2012 “in practice the vast majority of detainees did not have access to bail or a lawyer” and that “incommunicado detention was a severe problem. Government authorities and militias held detainees incommunicado for unlimited periods in recognized, as well as unofficial and unknown, detention centers”.⁹²⁴

Amnesty International also explains in July 2012 that in some detention centres it visited, “interrogations amounted to verbal questioning accompanied by beatings. In other cases, criminal investigations into alleged crimes and decisions to detain or release people fell within the remit of various self-appointed “investigation” or “judicial” committees and individuals – some without any legal or prosecutorial expertise. These interrogations were conducted without the oversight or involvement of the General Prosecution. Lawyers were never present during such interrogations, and those detaining the suspects were either present or within earshot”.⁹²⁵ It also documents that detainees stated that they signed ‘confessions’ extracted under torture or provided self-incriminating evidence in fear of further torture.⁹²⁶ See section [6.7.1 Torture in detention](#) for further information.

The February 2013 UN Secretary-General report noted that “the lack of a judicial process for the thousands of detainees who remain in custody continues to represent a serious human rights issue”.⁹²⁷ It also noted that following the end of hostilities in Bani Walid in October 2012, “hundreds of detainees from Bani Walid remained, without due process, in detention centres in Tripoli, Misrata, Tarhouna, Gheryan and Al-Zawiyah”.⁹²⁸ The International Crisis Group considers that “evidence suggesting that more than twenty people arrested during the attack on Bani Walid died in detention is a worrying indication of the degree of lawlessness that still characterises some government-affiliated armed group”.⁹²⁹ See section [3.3.1 Fighting in Bani Walid](#) for further information.

⁹²¹ UN Security Council, [Resolution 2095 \(2013\)](#), March 2013, point 5

⁹²² Human Rights Watch, [Libya: Stop Revenge Crimes Against Displaced Persons](#), 20 March 2013

⁹²³ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, 1. Introduction, p. 7

⁹²⁴ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 1d Arrest Procedures and Treatment While in Detention

⁹²⁵ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, Defective Legal Process, p. 29

⁹²⁶ Amnesty International, [Libya: Rule of law or rule of militias?](#) 5 July 2012, Defective Legal Process, p. 29

⁹²⁷ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 30

⁹²⁸ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 31

⁹²⁹ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. Introduction, p. 5

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6.6 Situation of judges

In October 2012 Amnesty International reported that “although a new General National Congress has been elected in Libya, the country’s justice system is virtually paralysed”.⁹³⁰ The U.S. State Department notes that “judges cited concerns about the overall lack of security in and around the courts as one of the reasons that they had not yet returned to work, further hindering the judiciary’s reestablishment”.⁹³¹ Human Rights Watch reports in its 2013 World Report that “the judicial system remained weak, especially in its ability to pursue criminals affiliated with anti-Gaddafi militias. Threats and physical attacks on prosecutors and judges further inhibited the rule of law”.⁹³² The International Crisis Group reports with regards to vetting judges:

In October 2012, the Supreme Judicial Council (SJC) presented the GNC with a draft law on vetting judges. It suggested that all judges be dismissed and that a secret committee – comprising the chief of judicial inspections and other members of the judiciary who could show “tangible participation in the 17 February revolution” and “are proven to have good ethics” – would be responsible for readmitting judges and prosecutors meeting certain qualifications. Whether this can restore public confidence in the judiciary is unclear. Moreover, in its current form, it risks giving rise to a politicised judiciary; most troubling is the lack of transparency and of the right to appeal.⁹³³

The same report notes that in addition to structural problems, judicial authority has also been eroded by an overall lack of security “The absence of an effective national police force, widespread availability of weapons and persistent assassination of security officials have hampered the state’s investigative capacity as well as its ability to carry out justice. Tellingly, the investigation into the September 2012 attack against the U.S. consulate in Benghazi, which killed the ambassador and three other U.S. citizens, has come to a standstill”.⁹³⁴ In June 2013 Lawyers for Justice in Libya reported that it was “concerned by the increase in attacks on judges and lawyers in Libya after a senior judge from Bayda, Mohammed Naguib Huwaidi was shot dead in a drive-by shooting in front of the local courthouse”.⁹³⁵ It further noted that this marked the third assassination of a judge in Libya, including Justices Murad Alarouby in Tripoli and Gumma Aljawi in Benghazi.⁹³⁶

Amnesty International has documented cases of violence against members of the prosecution, threats against judicial officers and challenges that defence teams face.⁹³⁷ It further reports that:

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. Amnesty International recognizes the challenges facing prosecutors, police, criminal investigators and other staff in the justice sector, in light of the de facto authority exerted by armed militias. 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.⁹³⁸

⁹³⁰ Amnesty International, [Libya must seek justice not revenge in case of former al-Gaddafi intelligence chief](#), 18 October 2012

⁹³¹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 1e Denial of Fair Public Trial

⁹³² Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Judicial System and Transitional Justice*

⁹³³ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 21

⁹³⁴ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. *Introduction*, p. 3

⁹³⁵ Lawyers for Justice in Libya, [Lawyers for Justice in Libya concerned by attacks on judges and lawyers in Libya](#), 19 June 2013

⁹³⁶ Lawyers for Justice in Libya, [Lawyers for Justice in Libya concerned by attacks on judges and lawyers in Libya](#), 19 June 2013

⁹³⁷ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, *Defective Legal Process*, p. 33

⁹³⁸ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, *Defective Legal Process*, p.32

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The February 2013 report of the UN Secretary-General similarly notes that:

The volatile security situation continued to represent a major challenge for the full resumption of the Libyan court system, with armed elements often cited by judges and prosecutors as a source of continuous threat. Following a number of attacks on courts, including the appeals court in the Green Mountain region and the office of the Chief Prosecutor in Benghazi, a number of senior judges threatened to suspend the work of the courts if their security were not guaranteed.⁹³⁹

In December 2012 the North Benghazi Prosecutor's Office was targeted in a bomb attack, which caused cosmetic damage to the building but no casualties.⁹⁴⁰ The Libya Herald further reported that:

It is understood that the bomb, which was a crudely-made TNT device, was placed against the wall of a building next to the office and smashed nearby car windows and lightly damaged the Prosecutor's building itself. This comes just one day after Minister of the Interior Ashour Shuwail and Army Chief of Staff Major General Yusuf Al-Mangoush visited Benghazi to unveil their plans to improve the security situation in the eastern city.⁹⁴¹

Reporting on the same incident, Al Arabiya news noted that during 2012, Benghazi, Libya's second city "witnessed a series of assassinations targeting security officials and judges, many of whom had served under the previous regime".⁹⁴² In June 2012, Jumah Hasan al-Jazwi, a judge investigating the murder of Gen Abdel Fattah Younes, who had defected from Col Gaddafi's regime was shot dead.⁹⁴³ The International Crisis Group considers that:

Across the country, criminal courts operate at a bare minimum. In the Jebel Akhdar region, east of Benghazi, inadequate security and threats against local prosecutors and judges have forced the suspension of all investigations and trials since December 2012. The courthouse in Waddan, a desert city some 600km south east of Tripoli, was torched in February 2013 and all case files destroyed. Most government-controlled prisons are overcrowded and devoid of proper security, a situation that has led to numerous jailbreaks since the end of the conflict.⁹⁴⁴

The International Crisis Group further reports that "explosions and attacks against police stations and the courthouse have rocked the eastern capital since mid-2012, with a peak of deadly violence in mid-December, when six attacks against police stations occurred within a few days".⁹⁴⁵

6.7 Prison conditions

The UK Foreign and Commonwealth Office reports that "approximately half of Libya's detention facilities are under some form of government control, but most are in practice run by militias. The Minister of Justice, with the support of the UN, aims to bring all detention facilities under the control of the Judicial Police".⁹⁴⁶ The International Crisis Group explains that in May 2012, the NTC imposed a two month deadline

⁹³⁹ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 26

⁹⁴⁰ Libya Herald, [Bomb targets North Benghazi Prosecutor's Office](#), 31 December 2012

⁹⁴¹ Libya Herald, [Bomb targets North Benghazi Prosecutor's Office](#), 31 December 2012

⁹⁴² Al Arabiya, [Bomb hits prosecutor's office in Libya's Benghazi](#), 31 December 2012

⁹⁴³ BBC news, [Libyan rights group condemns killing of judge al-Jazwi](#), 22 June 2012

⁹⁴⁴ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, I, Introduction, p. 4

⁹⁴⁵ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, Justice after Qadhafi, p. 28

⁹⁴⁶ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013

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to refer those detainees to proper judicial authorities “against whom there is sufficient evidence attesting that they have committed acts considered crimes under the law or otherwise set them free”.⁹⁴⁷ It goes on to note that the “releases were hindered by three factors: fear that freed detainees would carry out revenge attacks against former jailers, as happened in Misrata; threats by Libyans harbouring grievances toward detainees to kill them upon their release and retaliate against their jailers and screening officials; and objections voiced by some jailers”.⁹⁴⁸

According to Human Rights Watch, as of October 2012 roughly 8,000 persons were in detention in Libya; the Ministry of Justice held around 3,000 detainees, around 2,000 were held by the Ministry of Defense or Supreme Security Committee and the rest were being held illegally by various armed groups.⁹⁴⁹ Human Rights Watch further notes that “the majority of them were held for more than a year without charge or due process rights, including judicial review and access to a lawyer.”⁹⁵⁰ Prior to the UN Security Council’s March 2013 extension of UNSMIL’s mandate, the UN Secretary-General’s Special Representative and Head of UNSMIL, Tarek Mitri, noted that “the Government had taken measures to accelerate the screening of detainees and their transfer to State-controlled detention facilities. But, UNSMIL continued to highlight the plight of detainees, particularly those held in secret detention facilities, including farms and private homes in the Tripoli area”.⁹⁵¹

The U.S. State Department report notes that during 2012, there was little reliable information available about conditions inside prisons and detention facilities.⁹⁵² It provides the following overview:

Because of the 2011 conflict, makeshift facilities appeared throughout the country to accommodate detainees collected by all sides. These facilities’ conditions were uneven and varied widely, but consistent problems included overcrowding, poor ventilation, the lack of necessities such as mattresses, and poor access to hygiene and health care. Militias reportedly detained persons at schools, former government military sites, and other informal venues, including private homes and, in one case, a soccer club. Many prisons and detention centers were outside of central government control, and the conditions in some prisons and detention centers were harsh to the point of being life threatening. Access to food in Ministry of Justice prisons was generally adequate, although access to potable water was a critical problem in Joodayem, Salah Aldeen, and Dafniya prisons.⁹⁵³

According to the UK Foreign and Commonwealth Office reporting in December 2012, “there was concern about the treatment of detainees who were held in detention facilities, especially those controlled by semi-official armed groups rather than government controlled forces, and the numerous reports by NGOs of continued human rights abuses”.⁹⁵⁴ It further notes that “overcrowding, lack of food and medical supplies and allegations of mistreatment and torture have been reported”.⁹⁵⁵

⁹⁴⁷ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 31

⁹⁴⁸ International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, III, *Justice after Qadhafi*, p. 31

⁹⁴⁹ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Arbitrary Detention, Torture, and Deaths in Custody*

⁹⁵⁰ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Arbitrary Detention, Torture, and Deaths in Custody*

⁹⁵¹ UN Security Council, [Security Council Extends Mandate of United Nations Support Mission in Libya for Twelve Months, Unanimously Adopting Resolution 2095 \(2013\)](#), 14 March 2013

⁹⁵² U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 1c Prison and Detention Center Conditions

⁹⁵³ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 1c Prison and Detention Center Conditions

⁹⁵⁴ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2011 Foreign & Commonwealth Office Report - Quarterly Updates: Libya](#), 31 December 2012

⁹⁵⁵ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2011 Foreign & Commonwealth Office Report - Quarterly Updates: Libya](#), 30 September 2012

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Human Rights Watch further reports that “conditions in militia-run facilities varied, with detainees in some facilities reporting repeated torture and deaths in custody. Conditions in state-run facilities appeared to improve, although there continued to be cases of abuse and some deaths in custody”.⁹⁵⁶ In June 2013 an inmate in Sebha prison was shot dead after a guard reportedly let in fellow tribesmen from the members of the Abu-Zahra family of the Awlad Sulaiman tribe.⁹⁵⁷

According to Human Rights Watch interviews with detainees, only a small number of detainees had been brought before a judge, been formally charged, or had cases that had been reviewed by a court in government-run facilities.⁹⁵⁸ Amnesty International similarly reports that very few detainees have been charged with any crime and with rare exceptions, detainees have no access to lawyers or the possibility to challenge the legality of their detention.⁹⁵⁹

The February 2013 report of the UN Secretary-General provides the following overview of detention conditions:

The lack of a judicial process for the thousands of detainees who remain in custody continues to represent a serious human rights issue. Concerns also remain about acts of revenge against detainees who were accused of perpetrating sexual violence during the conflict. While there has been some progress in the screening of detainees, there was no significant decrease in the number of conflict-related detentions. Similarly, while there has been a slight increase in the number of detainees transferred to State authority, up to 4,700 out of an estimated total of 7,000 armed brigades continue to exercise variable degrees of influence over a number of prisons operated by the judicial police, rendering detainees vulnerable to mistreatment. Violations of human rights continued to be reported in detention centres controlled by the revolutionary brigades, with several deaths recorded over the reporting period.⁹⁶⁰

6.7.1 Torture in detention

The 2012 U.S. State Department reports that “abuse took place in facilities under the nominal authority of the government following the fall of Qadhafi, as well as in nongovernment facilities run by the militias that filled the security vacuum left by government’s lack of capability. In both types of establishments, detainees and prisoners were reportedly tortured and abused”.⁹⁶¹

The Cairo Institute for Human Rights Studies reports that the lack of central oversight and accountability in prison facilities under the control of independent armed militia groups of these facilities has “allowed for the widespread use of torture against prisoners, including with whips, metal chains, and electro-shock weapons, which has led to frequent deaths in detention”.⁹⁶² In January 2012 Médecins Sans Frontières

⁹⁵⁶ Human Rights Watch, [World Report 2013: Libya](#), 31 January 2013, *Arbitrary Detention, Torture, and Deaths in Custody*

⁹⁵⁷ Libya Herald, [Prisoner gunned down inside his Sebha cell](#), 16 June 2013

⁹⁵⁸ Human Rights Watch, [Libya: New Government Should End Illegal Detention](#), 16 November 2012

⁹⁵⁹ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, 2. *Abusive and flawed justice System*, p. 14

⁹⁶⁰ UN, [Report of the Secretary-General on the United Nations Support Mission in Libya](#), 21 February 2013, paragraph 30

⁹⁶¹ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 1c *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*

⁹⁶² Cairo Institute for Human Rights Studies, [Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human rights situation in Libya](#), 19 February 2013, *Torture and ill-treatment of prisoners*

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suspended its medical activities in detention centres in Misrata due to the organisation continuing to receive patients who had been subjected to torture.⁹⁶³

According to a July 2012 Amnesty International report, “torture and other ill-treatment continue, particularly in detention facilities controlled by armed militias. Detainees appear to be most vulnerable upon capture, in the first days of detention, and during interrogation”.⁹⁶⁴ It also notes that “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”.⁹⁶⁵ It further reports that:

Most frequently, detainees are beaten for hours, sometimes while suspended in contorted positions, with various implements such as hoses, rifle butts, electric cables, water pipes and belts. Other forms of torture include electric shocks; burns inflicted by cigarettes, boiling water or heated metal; threats of murder or rape; and mock executions.⁹⁶⁶

The U.S. State Department similarly reports that:

Treatment varied from facility to facility and was typically worst at the time of arrest. Reported abuses included beatings with belts, sticks, rifles, and hoses; administration of electric shocks; burns inflicted by boiling water, heated metal, or cigarettes; mock executions; suspension from metal bars; and rape. Abuses against detainees, particularly alleged Qadhafi loyalists and sub-Saharan Africans aligned with Qadhafi, were similarly reported at other militia-run facilities throughout the country.⁹⁶⁷

Amnesty International reports that “many detainees ‘signed ‘confessions’ under torture or duress. Article 2 of Law 38 of 2012 gave legal weight to interrogation records of armed militias, at the discretion of judges”.⁹⁶⁸

Amnesty International also documented at least 20 cases of deaths in custody between September 2011 to July 2012, with medical records and forensic reports confirming that the deaths were the results of abuse, mostly prolonged beatings.⁹⁶⁹ The UN mission for Libya expressed its concern in May 2012 over the deaths of three people in a detention centre in Misrata which it believed were the result of torture.⁹⁷⁰

The Cairo Institute for Human Rights Studies also notes that whilst the Interior of Minister announced a new initiative to investigate abuses committed by police, no similar accountability efforts have been made for military personnel or non-state perpetrators of torture, such as militias.⁹⁷¹

⁹⁶³ Médecins Sans Frontières, [MSF suspends work in detention centres in Misrata](#), 26 January 2012

⁹⁶⁴ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, *Torture and other ill-treatment*, p. 17

⁹⁶⁵ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, 1. Introduction, p. 6

⁹⁶⁶ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, *Torture and other ill-treatment*, p. 17

⁹⁶⁷ U.S. State Department, [Country Report on Human Rights Practices: Libya](#), 19 April 2013, Section 1c Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

⁹⁶⁸ Amnesty International, [Annual Report 2013 The state of the world's human rights: Libya](#), 22 May 2013

⁹⁶⁹ Amnesty International, [Libya: Rule of law or rule of militias?](#), 5 July 2012, *Deaths in Custody*, p. 24

⁹⁷⁰ UN news service, [UN mission voices concern over detainee deaths resulting from torture](#), 2 May 2012

⁹⁷¹ Cairo Institute for Human Rights Studies, [Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human rights situation in Libya](#), 19 February 2013, *Torture and ill-treatment of prisoners*

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6.8 Death Penalty

Libya currently retains the death penalty.⁹⁷² According to the UK Foreign and Commonwealth Office's 2012 report, "there have been no executions since liberation".⁹⁷³ However, it also notes that in November 2012, "there were reports that a military court in Benghazi issued the death penalty against a number of individuals in absentia for crimes committed during the revolution".⁹⁷⁴ According to Amnesty International, Libya imposed over 5 death sentences in 2012, some of which by military courts on civilians.⁹⁷⁵

⁹⁷² International Crisis Group, [Trial by Error: Justice in Post-Qadhafi Libya](#), 17 April 2013, 1. Introduction, p. 3

⁹⁷³ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013

⁹⁷⁴ UK Foreign and Commonwealth Office, [Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Libya](#), 15 April 2013

⁹⁷⁵ Amnesty International, [Death sentences and executions in 2012](#), 10 April 2013, Middle East and North Africa, p. 29

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