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ICC Should Investigate Forced Displacement of Tawerghans

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Make-shift tent camp in Qararet al-Qatef for forcibly displaced residents of Tawergha who are blocked from returning to their hometown by militias from Misrata, Qararet al-Qatef, Libya, February 10, 2018. \ © 2018 Emad Ergeha

(Beirut) – Armed groups and civilian authorities in the [Libyan](#) coastal city of Misrata are blocking thousands of people from the town of Tawergha from returning to their hometown after seven years of forced displacement. Two men have died following strokes since February 1, 2018, in the deteriorating conditions for families stranded in makeshift desert camps that lack adequate health facilities.

The International Criminal Court (ICC) prosecutor, Fatou Bensouda, should investigate those implicated in possible crimes against humanity against the Tawergha community, as part of her continued efforts to address ongoing grave abuses in Libya.

"Misrata militias and authorities who are barring 40,000 forcibly displaced people from returning to their homes after seven years of living in squalid conditions are being cruel and vindictive," said [Sarah Leah Whiston](#), Middle East and North Africa director at Human Rights Watch. "The authorities in Tripoli should act to ensure that people already on their way to Tawergha reach it in safety and help them to rebuild their lives."

On February 1, the Misrata forces blocked thousands of people from Tawergha from returning to their town. The effort to return followed a long-anticipated [decision](#) by the United Nations-backed Tripoli-based Government of National Accord (GNA) to initiate the return process, based on an [agreement](#) brokered by the UN between representatives from Misrata and Tawergha that provided for reconciliation between the communities and compensation for victims on both sides.

Misrata militias forcibly displaced at least 40,000 Tawerghans from their town in 2011 as collective punishment for their support of the deposed leader Muammar Gaddafi and alleged abuses by some Tawerghans against Misrata residents. Since then, the Tawergha community has been dispersed around the country in makeshift camps and private housing.

Thousands of people have tried to return since February 1. Human Rights Watch spoke on the phone on February 2 and 12 with Emad Ergeha, an activist and media spokesman for the Tawergha Local Council, the main body representing the displaced Tawergha community and coordinating relief. He said that when Tawerghans tried to reach their village on February 1, armed groups from Misrata burned tires, harassed people, and shot in the air to intimidate them.

The Tawerghans were forced to retreat from checkpoint 14 and an area known as Industrial River road, on February 1 and again on February 4. During the February 4 incident, armed groups from Misrata injured Itimah Mohamed Jebreel, a woman from Tawergha, inside a relative's car, Ergeha said.

Ergeha said that the families were stranded in newly erected makeshift tent-camps east of Tawergha. In Qararet al-Qatef, 35 kilometers east of Tawergha, between 240 and 300 families were staying in tents provided by the United Nations High Commission for Refugees (UNHCR). An additional unknown number of people were staying with friends or relatives in the nearby town.

In Harawa, 280 kilometers southeast of Tawergha, an unknown number of families were staying in 20 to 25 tents, he said. People were also staying in a mosque and a social gathering hall in the town, provided by the municipal council. In Bani Walid, 100 kilometers southwest of Tawergha, 55 newly arrived families were added to the 230 families there who have been displaced from Tawergha since 2011.

"Libyan authorities and the UN both have critical roles to play in challenging these spoilers from Misrata," Whitson said. "After accepting a generous compensation package, it's deplorable that the Misrata groups are still trying to violently sabotage a long-negotiated agreement."

Ergeha said that the number of people in the camps has fluctuated as many families have gone back to Tripoli and other cities, given harsh weather conditions, poor sanitation, lack of health care, and poor living conditions. He said that two men suffered strokes and died in separate incidents. He said that Al-Shaali Abunab, 65, died on February 1 in Tripoli Medical Center, 245 kilometers from where he had been staying. Imhamed Ahmed Baraka, died in the town of Tarhouna on February 12 after suffering a stroke on February 10, Ergeha said.

On February 13, a fire broke out at around 10pm in one of the tents in Qararet al-Qatef, after families attempted to cook dinner, according to Ergeha. The incident resulted in two women from Tawergha suffering minor burns, he said.

On January 31, the [Misrata Military Council, the Misrata Association of Families of Martyrs and Missing, and the Council of Elders of Misrata issued a statement](#) opposing the anticipated return of Tawerghans on February 1 and seeking a postponement, claiming that parts of the UN-brokered agreement between the parties had not been fulfilled.

Human Rights Watch spoke by phone on February 12 with Abdelrahman al-Shakshak, head of Tawergha's Local Council and lead negotiator on behalf of Tawerghans. He said that some people in Misrata opposed the return of Tawerghans despite the agreement and the transfer of 25 percent of the compensation promised by the GNA as a first installment to victims from both sides. The agreement was to provide 463 million Libyan Dinars (US\$348 million based on the official exchange rate) as compensation, according to an [interview](#) with Shakshak on the online news site Al Wasat, of which Tawerghan victims are to receive 170 million Libyan Dinars.

Shakshak said that the Government of National Accord had also made payments to the Interior Ministry, Ministry of Local Governance, and to the forces aligned with the government in the central region to facilitate the return.

Tawerghans have attempted to [return to their hometown](#) on several occasions since their forced displacement, but have been prevented each time by Misrata militias, who accuse them of fighting on the side of Gaddafi's forces during the 2011 conflict and of committing war crimes in Misrata. Militias mostly from Misrata ransacked Tawergha in 2011, demolishing and burning many buildings in that city. Since 2011, armed groups from Misrata have been responsible for a range of abuses against Tawerghans, including shooting at camps of displaced Tawerghans, arbitrary detention, enforced disappearances, and torture.

There has been a lack of accountability for crimes committed against Tawerghans. Libyan authorities have prosecuted only crimes attributed to Tawerghans, convicting them mostly for killings and unlawful possession of weapons, sentencing those found guilty to jail and even imposing death sentences. No one, in particular from the militias, has yet been prosecuted for the forced displacement of Tawerghans or other serious abuses against them.

[The Guiding Principles on Internal Displacement](#) provide that displacement should be limited in time and should not last "longer than required by the circumstances." International law further stipulates that civilians forcibly displaced from their homes during a conflict should be allowed to return home as soon as possible without conditions.

Certain abuses committed as part of a widespread or systematic attack on a civilian population, including torture, arbitrary detention, and forced displacement, may constitute crimes against humanity. The UN International Commission of Inquiry on Libya concluded in its March 2012 report that Misrata militias had committed crimes against humanity against Tawerghans and that the deliberate destruction of Tawergha "has been done to render it uninhabitable."

The ICC prosecutor has a mandate to investigate crimes against humanity, war crimes, and genocide committed in Libya since February 15, 2011. [Human Rights Watch's research in Libya](#) since 2011 has found rampant violations of international human rights and humanitarian law, including mass long-term arbitrary detention, torture and other ill-treatment, forced displacement, and unlawful killings. In the face of mounting atrocities, Human Rights Watch has called on the ICC prosecutor to [urgently expand her investigations](#) into ongoing grave crimes by all sides, including possible crimes against humanity.

Bensouda has said that the Libya situation continues to be a priority for her office and that she will not hesitate to seek new arrest warrants should the evidence support doing so. Given the serious crimes committed in Libya and the challenges facing the authorities, the ICC's mandate remains crucial to ending impunity in Libya. The UN Security Council, which gave the ICC a mandate in 2011, together with ICC member countries should ensure the court has the political backing and resources to fully and fairly provide justice for the worst international crimes in Libya, Human Rights Watch said.

"The ICC Prosecutor should commit to investigating those implicated in serious crimes against the people of Tawergha," said Whitson. "Libyan authorities are at the same time obligated to allow this displaced community to return home in full security and without risk of reprisal."

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