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**Technical assistance and capacity-building**

### **Report of the Independent Fact-Finding Mission on Libya<sup>\*</sup>, <sup>\*\*</sup>**

#### *Summary*

The present report, submitted pursuant to Human Rights Council resolution 48/25, is based on investigations conducted by the Independent Fact-Finding Mission on Libya between 11 October 2021 and 27 June 2022. It contains the Mission's findings on a range of violations of international human rights law and international humanitarian law – some amounting to war crimes and crimes against humanity – that were committed by State and non-State actors across the country. Specifically, it details violations in the context of detention centres; migration; extrajudicial killings; enforced disappearances; violations of the rights to freedom of expression, association, peaceful assembly and to participate in public life; and sexual and gender-based violence. Furthermore, the report includes the Mission's findings on violations against women, children and minorities in many of the aforementioned contexts and includes the distinct impacts that those violations have on those vulnerable groups.

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\* The present report was submitted after the deadline so as to reflect the most recent information.  
\*\* The annex to the present report is circulated as received, in the language of submission only.



## I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 48/25, in which the Council extended the mandate of the Independent Fact-Finding Mission on Libya and requested it to present a comprehensive report at the Council's fiftieth session. It should be read in conjunction with the Mission's first two reports.<sup>1</sup> The Mission submits further detailed findings on violations committed in the town of Tarhuna in the form of a conference room paper.<sup>2</sup>
2. Established pursuant to Human Rights Council resolution 43/39, the Mission was mandated to establish, in an independent and impartial manner, the facts and circumstances of the human rights situation throughout Libya, and to collect and review relevant information, to document alleged violations and abuses of international human rights law and international humanitarian law by all parties in Libya since the beginning of 2016, including any gendered dimensions of such violations and abuses, and to preserve evidence with a view to ensuring that perpetrators of violations and abuses are held accountable.
3. The Mission comprises three members: Mohamed Auajjar, of Morocco; Tracy Robinson, of Jamaica; and Chaloka Beyani, of Zambia and the United Kingdom of Great Britain and Northern Ireland.
4. The Mission was established at the request of the Government of Libya to support the Libyan people's aspirations for justice, national reconciliation, respect for human rights and the rule of law. It has achieved considerable progress in fulfilling its mandate and reached important conclusions. However, its investigative work is incomplete. The Mission continues to await access to prisons and wishes to highlight the delays by the authorities in the west and the east in allowing it to visit Sabha (south). Further investigations on the ground in other regions, including the east, are also essential. Furthermore, the true operational duration of the Mission has been significantly limited by the coronavirus disease (COVID-19) pandemic, a United Nations budgetary freeze and other administrative matters, including the recruitment of staff.<sup>3</sup> The Mission needs additional time to discharge its mandate fully.
5. The request by the Government of Libya for the Mission to support the national authorities in uncovering the truth of what has occurred since 2016 is commendable. The Mission remains ready to support the Libyan authorities in fulfilling their primary responsibility to protect human rights, hold perpetrators of gross human rights violations accountable and achieve reconciliation. Its recommendations include the development of a Libyan-led national human rights plan of action, with international technical support, as a sustainable contribution to achieving truth, accountability and reconciliation.

## II. Political and security situation

6. The start of the Mission's temporal mandate coincided with the direct aftermath of the Libyan Political Agreement, which was meant to provide a way out of the conflict that had divided Libya into two rival sets of parliaments, governments and military coalitions since July 2014. However, efforts to fully implement the Libyan Political Agreement have been unsuccessful, with the Government of National Accord, created by the Agreement, struggling to consolidate its authority. In particular, the Libyan legislature, the House of Representatives, has never endorsed the composition of the Government of National Accord.
7. The lack of political stability also influenced the resurgence of military confrontations and hostilities of varying intensity, in the east, west and south of the country, including a non-international armed conflict from April 2019 to June 2020 between the Libyan National Army and the Government of National Accord, both supported by a variety of foreign actors. Ultra-local dynamics became subsumed into this conflict and pre-existing rifts between

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<sup>1</sup> [A/HRC/48/83](#) and [A/HRC/49/4](#).

<sup>2</sup> See the conference room paper of the Independent Fact-Finding Mission on Libya on detailed findings on the situation in Tarhuna, available on the web page of the Human Rights Council ([www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session50/list-reports](http://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session50/list-reports)).

<sup>3</sup> [A/HRC/48/83](#), paras. 12–13.

armed groups in all regions of Libya crystallized along the Libyan National Army/Government of National Accord divide leading to numerous armed confrontations throughout the country. On 3 October 2020, the forces affiliated with the Government of National Accord and the Libyan National Army signed an Agreement for a Complete and Permanent Ceasefire.

8. On 15 November 2020, the Libyan Political Dialogue Forum adopted a political road map, providing for the establishment of a Government of National Unity and the holding of presidential and parliamentary elections on 24 December 2021. However, two days prior to the scheduled date, the High National Elections Commission declared its inability to organize elections, citing inadequacies in the electoral legislation and irregularities in the judicial process relating to the eligibility of candidates.

9. The House of Representatives, considering that the Government of National Unity's mandate had expired, appointed the Government of National Stability headed by former interior minister Fathi Bashagha in March 2022, leading to another deadlock between two rival governments, the internationally recognized Government of National Unity led by Abdul Hamid Dbeibah and the Government of National Stability. At the time of writing, this political stalemate persists.

10. These developments occurred against a backdrop of persistent insecurity with armed groups and militias assuming various degrees of control over territory, infrastructure and security institutions throughout the country. Political allegiances of such groups often shift in their pursuit of official mandates, legitimacy and funds. At the time of writing, localized tensions persist and some key issues continue to contribute to insecurity and ongoing human rights violations in the country. They include the continued presence of Da'esh-affiliated groups, as well as mercenaries, private military companies and foreign fighters. The limited capacity of Libya to conduct operations to clear landmines and other explosives is also a contributing factor.

### **III. Cooperation of the Libyan authorities**

11. In its resolution 43/39, the Human Rights Council urged the Libyan authorities to grant the Mission unhindered access to all Libyan territory without delay and to allow it to visit sites, and to meet and speak freely and privately, when it so requested, with whomever it wished.

12. The Mission expresses its appreciation to the Permanent Mission of Libya to the United Nations Office and other international organizations in Geneva, the Ministry of Foreign Affairs and the Libyan authorities in Tripoli and Benghazi for their cooperation. The Mission expresses its regret at not receiving the necessary security clearance and permission for road movements from Tripoli to Sabha, which prevented it from conducting an important mission to southern Libya in May 2022, despite having finalized all logistic and security arrangements.

13. The Mission continued to observe that many individuals and non-governmental organizations based in Libya did not feel able to meet and speak freely and privately with it. In particular, and despite calls from the Mission to repeal it, Presidential Council Decree No. 286 of 2019 regulating the work of civil society organizations in Libya remains in force at the time of writing.

### **IV. Methodology**

#### **A. Applicable law**

14. Factual and legal findings are made in accordance with international human rights law, international humanitarian law and international criminal law. The Mission also considers Libyan law where relevant to its findings.

15. International human rights law establishes obligations for States to protect persons within their jurisdiction. International humanitarian law applies to the conduct of all parties to an armed conflict, including non-State actors, who are bound by the relevant customary rules of international humanitarian law. It complements international human rights law during times of armed conflict and, of the two bodies of law, is the only one applicable in peacetime.

16. Given its mandate to document all violations of international human rights law and international humanitarian law by all parties in Libya, and its accountability function, the Mission has regard to the rules and definitions of international criminal law.

## **B. Scope of investigations**

17. The Libyan context – in which gross violations of human rights and serious violations of international humanitarian law have occurred over a prolonged period – poses a challenge. Mindful of the broad nature of its mandate, the Mission chose to adopt three objective criteria to inform and circumscribe the scope of its investigations. They include: (a) grave and widespread or systematic violations; (b) violations, abuses and crimes against vulnerable groups that are subjected to multiple forms of victimization; and (c) violations, abuses and crimes that especially hamper the transition to the rule of law and democratic elections.<sup>4</sup> The thematic categories included in the section on the Mission’s findings below reflect these guiding criteria.

18. The Mission has endeavoured to investigate all geographical regions in Libya, as well as incidents that have occurred throughout its temporal mandate. However, there is a need for additional investigations on the ground in several regions.

19. The Mission’s findings described in the present report are not exhaustive and should not preclude further findings, by this or other accountability mechanisms, that other violations and abuses have occurred in Libya since 2016.

## **C. Methods of work**

20. Despite encountering several operational difficulties, the Mission was able to gather a substantial body of evidence and information to support its findings. Consistent with the practice of most United Nations fact-finding bodies, the Mission employs the “reasonable grounds to believe” standard in making factual and legal determinations.<sup>5</sup>

21. Over the course of its mandate, the Mission gathered and examined a large amount of information and evidence through desk-based research, including reviews of laws and regulations, court documents, medical and forensic reports, public calls for submissions,<sup>6</sup> in-person and remote interviews, medical examinations by the Mission’s forensic physician, as well as in-person investigative visits. In all its investigative activities, the Mission remained guided by the principles of “do no harm”, confidentiality, voluntary participation and informed consent.

22. In situations in which the Mission found information pointing to the responsibility of an armed force, armed group or security force for specific violations, that entity was identified. In situations in which the Mission established a link between specific acts and alleged perpetrators that would be sufficient to warrant future criminal investigations or prosecutions, such evidence was collected and preserved on a strictly confidential basis.

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<sup>4</sup> Human Rights Council resolution 43/39, para. 43; and [A/HRC/49/4](#), paras. 18–22.

<sup>5</sup> [A/HRC/48/83](#), paras. 18–20.

<sup>6</sup> The Mission issued two calls for submission, on 25 January 2021 and again on 14 December 2021, following the Human Rights Council’s decision to extend its mandate.

23. The Mission has conducted more than 300 interviews since it started operating and organized eight investigative visits to Libya<sup>7</sup> and third States.<sup>8</sup> The Mission regrets not being able to travel to Sabha despite its extensive preparations. Given the significant interest in engaging with the Mission expressed by stakeholders there, additional time to conduct this visit would allow exploration of crucial investigative opportunities to appropriately address allegations of violations in the south.

24. Throughout its mandate, the Mission made specific efforts to integrate a gender-mainstreaming lens into its methods of work in line with the emphasis in Human Rights Council resolution 43/39 on the impact of violations and abuses on women and the importance of capturing the gendered dimensions of such violations and abuses. The Mission also paid specific attention to violations committed against children.

25. The Mission wishes to express its appreciation to the Libyan authorities, United Nations entities, civil society organizations and other States that have provided it with valuable assistance. The Mission also wishes to express its deepest gratitude to all who provided it with information, in particular witnesses, victims and their families who consented to share their traumatic experiences, some of whom were children at the time of the violations.

## V. Findings

### A. International humanitarian law violations

26. In addition to incidents previously investigated by the Mission, such as the strikes in 2019 against a migrant detention centre in Tajoura and the attack in January 2020 against the Hadaba Military Academy,<sup>9</sup> the Mission continued its investigations of alleged violations of international humanitarian law. These included both direct and indiscriminate attacks on civilians and civilian objects, including homes, health facilities, schools and cultural property; failure to respect the principle of proportionality; failure to exercise precaution in attack and to protect civilians from the effects of hostilities; and the use of indiscriminate weapons. The Mission learned of hundreds of incidents resulting in civilian casualties and/or in the destruction or damage of civilian objects. The destruction of essential civilian infrastructure has further affected a range of economic, social and cultural rights, such as the rights to housing, food, water and sanitation, health and education. The Mission reviewed information, for instance, regarding the three-month suspension of all health services at the Weryemma polyclinic, the only maternal health facility for a population of 48,000 persons in the municipality of Tajoura, after it was hit by Grad rockets in April 2020.

27. The Mission's continued investigations of alleged violations of international law that occurred within the non-international armed conflict in and around Murzuq in 2019 uncovered further allegations, including the potential war crimes of forced displacement, murder and torture. The need for additional investigations of these violations is manifest. Under customary international law, Libya has a duty to investigate war crimes allegedly committed by its nationals or armed forces, or on its territory, however, few such investigations have taken place.

28. *Murzuq drone strikes.* The Mission continued to investigate a series of drone strikes that had occurred in Murzuq around 4 August 2019, focusing on two strikes by the Libyan National Army that hit an area where people had gathered in the Blad District (Al-Qalaa neighbourhood). These strikes resulted in at least 43 deaths and 51 wounded, including men, women and children. The Mission has reasonable grounds to believe that the weapon used was a BA-7 Blue Arrow missile launched from the Wing Loong II unmanned combat air vehicle<sup>10</sup> and that the victims were not taking a direct part in hostilities. Although there are

<sup>7</sup> Tripoli (July 2021, August 2021 and May 2022) and Benghazi (March 2022).

<sup>8</sup> Egypt (November 2021), Malta (March 2022), Rwanda (April 2022) and an undisclosed country (May 2022).

<sup>9</sup> A/HRC/48/83, paras. 30–33 and 62.

<sup>10</sup> S/2019/914, annex 16.

indications that some were armed, as is common in the south, the Mission found no evidence that those individuals were preparing for a specific hostile act. There is also no evidence that the location that was hit was used for military purposes.

29. The Mission therefore has reasonable grounds to believe that, in relation to these air strikes, the Libyan National Army perpetrated direct attacks on civilians, amounting to war crimes.<sup>11</sup> Even if some of the victims were found to have been directly participating in hostilities, there would be reasonable grounds to believe that the attack violated the principle of proportionality, in which case the Libyan National Army would be considered responsible for violations of international humanitarian law.<sup>12</sup>

30. *Gharyan Hospital*. The Mission examined the alleged execution of 43 wounded combatants from the Libyan National Army inside the premises of Gharyan hospital, on 26 June 2019, reportedly committed by Government of National Accord forces who had gained control over the city that day. Based on witness and documentary evidence thus far gathered by the Mission, it could not determine to the requisite standard of proof whether the victims had been killed during combat operations or whether they were *hors de combat* at the time of the violations and thus victims of war crimes. These grave allegations merit a full investigation.

31. The Mission also takes this opportunity to update the Human Rights Council on two important matters of grave impact on protracting the conflict and on inflicting indiscriminate harm against civilians, respectively: violations by mercenaries, private military and security companies and foreign fighters, as well as the presence of landmines and unexploded ordnance. There has been a decrease in the number of foreign fighters and mercenaries in Libya, however, a full withdrawal has not yet taken place.<sup>13</sup> Mercenaries in Libya have been associated with violations of international humanitarian law, and the Organization of African Unity Convention for the Elimination of Mercenarism in Africa considers mercenarism a crime.<sup>14</sup> In this regard, further investigations into such allegations are warranted.

32. With respect to landmines and other unexploded ordnance, recent reporting suggests that, between May 2020 and March 2022, 130 people died and 196 were injured by mines and explosive devices across Libya, mostly in southern Tripoli, but also in Benghazi, Sirte and southern Libya.<sup>15</sup> The victims, aged between 4 and 70, included 299 men and boys and 26 women and girls. In its report submitted to the Human Rights Council in October 2021, the Mission reported that landmines and other unexploded ordnances had been found in 35 locations marked on a tablet left behind by the private military company Wagner Group in Ain Zara, in locations that had been under the Libyan National Army's control and in which Wagner personnel had been present at that time. Further information gathered since confirms this conclusion. There are reasonable grounds to believe that Wagner personnel and the Libyan National Army violated their obligations under international humanitarian law by (a) failing to take precautions in attack and failing to minimize the indiscriminate effects of landmines, with respect to laying mines in civilian areas; and (b) by failing to remove them at the end of active hostilities.<sup>16</sup>

## B. Deprivation of liberty

33. As previously reported, the Mission has identified clear patterns of human rights violations and abuses in places of detention, both official and unofficial. While there is no comprehensive official statistical data on prisons in Libya, the evidence collected by the Mission over the course of its mandate relates to more than 27 such places of detention

<sup>11</sup> Rome Statute of the International Criminal Court, art. 8 (2) (e) (i).

<sup>12</sup> *Customary International Humanitarian Law – Volume I: Rules*, pp. 46–50 (rule 14).

<sup>13</sup> [S/2022/427](#), para. 24.

<sup>14</sup> Art. 1. See also the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

<sup>15</sup> Human Rights Watch, “Libya: landmines, other war hazards, killing civilians”, 27 April 2022.

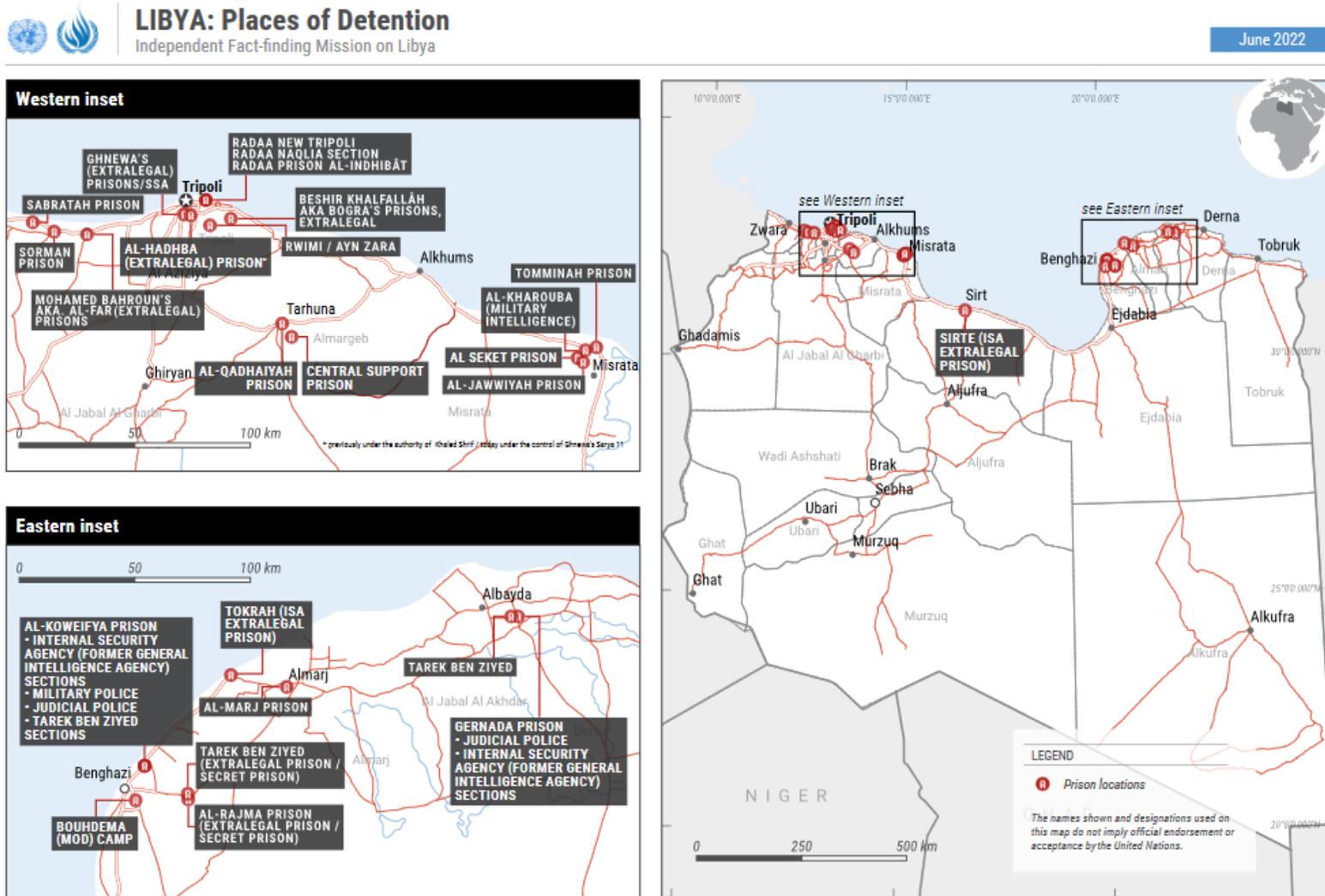
<sup>16</sup> *Customary International Humanitarian Law – Volume I: Rules*, pp. 280–283 (rule 81) and pp. 285–286 (rule 83).

located in the east and the west of Libya and reportedly holding thousands of inmates, including secret and extralegal prisons.<sup>17</sup>

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<sup>17</sup> The Mission considers extralegal prisons to be places of detention that are not officially acknowledged as prisons, some may be secret. By secret prisons, the Mission refers to places of detention the location of which is hidden and known to only a few.

Figure



Updated: 7 June 2022 Sources: Independent Fact-Finding Mission on Libya Contact: ohchr-ffmlibya@un.org

34. Based on a substantial body of evidence, including more than 80 interviews with former and current detainees from the east, west and south of the country, victims' relatives and insider witnesses, the Mission has reasonable grounds to believe that the crimes against humanity of murder, torture, imprisonment, rape, enforced disappearance and other inhumane acts have been committed in several places of detention in Libya since 2016.

35. In the more recent period, the Mission focused on four specific armed groups or units in control of places of detention or parts thereof: the Special Deterrence Force (Radaa), now known as the Deterrent Agency for Combating Terrorism and Organized Crime; the Tarek Bin Ziad Brigade of the Libyan National Army; the Stability Support Apparatus; and the Internal Security Agency in the East.<sup>18</sup>

36. For instance, the Mission has collected more than 40 first-hand accounts of widespread violations perpetrated by Radaa in Mitiga, the largest prison in western Libya, estimated to hold up to 5,000 detainees. All the victims interviewed testified that they and fellow detainees had been arrested and detained without due process, in contravention of the Code of Criminal Procedure of Libya,<sup>19</sup> as well as international law,<sup>20</sup> and subjected to cruel and inhuman treatment as a result of the conditions of detention. Many had been detained for prolonged periods, some up to seven years, and had been subjected to torture. Some had endured a string of detention periods in multiple prisons controlled by other armed groups, prior to their detention in Mitiga. Many former detainees have been left with psychological and physical scars, including disabilities.

37. Many of the victims interviewed have languished in detention, losing years of their lives, imprisoned simply because they were perceived to be members or supporters of an opposing political or religious ideology or as punishment for the acts of their family members. Given the sheer number of corroborative testimonies obtained, it is highly improbable that this course of conduct is random, accidental or perpetrated by rogue elements. Mitiga prison operates without judicial oversight, and orders of release and acquittal issued by judicial authorities are often not implemented.

38. There are reasonable grounds to believe that some of the acts committed in Mitiga prison against detainees belonging to or affiliated with the Libyan National Army also amount to war crimes committed in the context of the non-international armed conflict that took place in and around Tripoli from April 2019 to June 2020, especially when individuals linked to the Army were tortured when its forces advanced on Tripoli.

39. The Mission has also collected evidence regarding places of detention run by the Stability Support Apparatus. The evidence collected, including testimonies of former detainees, their families and former members of the Apparatus, provides reasonable grounds to believe that individuals are systematically detained arbitrarily, forcibly disappeared and tortured. The Mission found evidence of prisoner transfers between secret prisons run by the Stability Support Apparatus and Mitiga prison, including direct testimonies from detainees recounting how they were first held in secret detention locations where they were subjected to torture before being moved to Mitiga.

40. The Mission investigated several prisons controlled by the Libyan National Army, including official prisons such as Al-Koweifya and Gernada, and extralegal detention sites run by the Internal Security Agency in the East and by the Tarek Bin Ziyad Brigade, sometimes located within such official prisons. Evidence gathered demonstrates the systematic use of prolonged arbitrary detention and acts of murder, torture, rape and other inhumane acts against the predominantly civilian populations of these prisons, including vulnerable groups. The Mission has reasonable grounds to believe crimes against humanity are occurring in these prisons in the context of a systematic attack against those suspected of being members of terrorist organizations, or to repress freedom of expression, thought and

<sup>18</sup> The Mission differentiates between the Internal Security Agency in the East and the Tripoli-based Internal Security Agency.

<sup>19</sup> Articles 30, 112 and 187 bis (b).

<sup>20</sup> Universal Declaration of Human Rights, art. 9; International Covenant on Civil and Political Rights, art. 9; and African Charter on Human and Peoples' Rights, art. 6.

association with the aim of silencing ideological opponents, journalists, activists and actual or perceived critics of the Libyan National Army.

41. There are reasonable grounds to believe that the leadership of the aforementioned groups are responsible for these crimes by virtue of their authority and effective control over the direct perpetrators. These groups have a clear and demonstrable hierarchical structure, giving rise to the inference that these crimes have occurred with, at least, the tacit approval of their leadership in Tripoli and in the east. Given the widespread and systematic nature of the acts, occurring in defined locations with the same *modus operandi*, they have known or should have known of the crimes taking place in these places of detention. Nonetheless, and despite the Mission's two previous reports serving to place these groups on notice, perpetrators remain unpunished and continue to commit violations with total impunity. The absence of security sector reform, and the lack of investigations and prosecutions, perpetuates this cycle of violence. Access to these prisons remains critical to the Mission's investigations and to devising a path to meaningful reform.

### **C. Extrajudicial killings**

42. The Mission continued its investigations of extrajudicial killings in relation to violations of the right to life associated with the mass graves discovered in and around Tarhuna, in western Libya. The Mission found reasonable grounds to believe that the Al-Kaniyat militia was responsible for crimes against humanity against men, women and children, through imprisonment, enforced disappearance, extermination, torture and persecution, committed as part of a widespread and systematic attack on actual and perceived opponents and critics and their relatives. Using its technological capacities, the Mission uncovered new potential locations of mass graves that will be shared as part of technically supporting the Libyan authorities' accountability efforts and contributing to the victims' right to know the truth. The Mission's detailed findings on Tarhuna are presented in the aforementioned conference room paper accompanying the present report.

43. The Mission also documented international crimes committed near Al-Abyar, approximately 50 kilometres east of Benghazi. On the morning of 26 October 2017, local authorities were alerted to the bodies of 36 men at an execution site. The Mission believes that the men had been systematically arrested and detained without due process by armed groups affiliated with the Libyan National Army. These violent abductions occurred at different times during 2017, from more than a month to just the day before the bodies of all 36 victims were discovered. Family members interviewed by the Mission witnessed their relatives being beaten and abducted from their homes. Some perpetrators threatened to shoot family members if they tried to intervene.

44. According to evidence collected by the Mission, including interviews with individuals who first discovered the bodies, and material examined by the Mission's forensics expert, all the victims were handcuffed, had gunshot wounds and were lying in fresh pools of blood. Some showed signs of torture. Family members interviewed by the Mission verified seeing signs of torture (such as broken ribs, dislocated joints and significant bruising) and one or more gunshot wounds (primarily to the head, face and neck areas, but also to other body areas) when they inspected the bodies at the morgue. The victims were all civilians, including a Sufi sheikh, perceived members of the Benghazi Revolutionaries Shura Council and Da'esh.

### **D. Enforced disappearances**

45. Enforced disappearances are a continuous and complex human rights violation, encompassing violations of the right to life, the right not to be subjected to torture or cruel treatment and the right to liberty. The Mission's previous reports and more recent investigations reflect reporting by other United Nations entities and civil society actors that the State widely employs, directly or through affiliated armed groups, enforced disappearance as a tactic to silence critics and intimidate opponents and their families.

46. The Mission reiterates its great concern regarding the continued disappearance of Sihem Sergiwa, a member of the House of Representatives, who was abducted in July 2019

in an area controlled by the Libyan National Army, with the Army failing to provide information on her fate. There are reasonable grounds to believe that she is a victim of enforced disappearance. Since the establishment of the Mission, there does not appear to have been any developments in the Libyan authorities' investigation. Her family has the right to know what happened to her, and the authorities in Benghazi are under an obligation to disclose to them all available information on the progress of their investigation.

47. The Mission has collected information on cases of enforced disappearance in Tripoli, Benghazi, Murzuq and elsewhere. Many cases of enforced disappearances documented by the Mission started with violent abductions and arbitrary detention and were frequently accompanied by torture and ill-treatment, including the case of Mansour Mahmoud Atti, a human rights activist, head of the Libyan Red Crescent and Civil Society Commission of Ajdabiya, and a producer of a popular television series. On 3 June 2021, Mr. Atti was abducted and detained by Brigade 302 of the Libyan National Army. His family requested information from the Brigade, to no avail. In August 2021, the General Command of the Libyan National Army finally informed Mr. Atti's family that they had detained him, that he was alive and that he would not be released until after the election set to occur in December 2021. Mr. Atti was subsequently released on 2 April 2022.

48. The Mission confirmed the manner of his abduction, including that he had been blindfolded and handcuffed. He was detained, without due process, in a Brigade 302 prison in Ganfouda, kept in solitary confinement in inhumane conditions. He was never charged nor brought before a judge. He was then transferred to a prison operated by the Tarek Ben Ziad Brigade, where he was arbitrarily detained for approximately six months in solitary confinement. Accordingly, there are reasonable grounds to believe that Mr. Atti was a victim of arbitrary detention, torture and enforced disappearance, in contravention of international human rights law. His family was also deprived of the right to know about his fate and whereabouts until two months after his abduction.

49. The emblematic cases of extrajudicial killings and enforced disappearances included in this and previous reports highlight how impunity continues to prevail in Libya. Investigations and prosecutions of such gross violations of human rights are urgently needed.

## **E. Sexual and gender-based violence<sup>21</sup>**

50. As previously reported, uncovering sexual violence in the Libyan context is a difficult task. However, the Mission has made progress in this respect: the occurrence of sexual and gender-based violence was mentioned or addressed in at least 63 interviews conducted by the Mission during the course of its mandate. The Mission also received information from organizations and legal and health professionals who provide assistance to survivors in and outside Libya.

51. Sexual and gender-based violence happens in a multitude of settings, including in the family, the community, the workplace, the public sphere, in places of detention and in camps for internally displaced persons. Such violence is committed by State officials, armed groups and militias, and private individuals, and is fuelled by patriarchy, religious and cultural conservatism, as well as sexism, misogyny and homophobia.

52. Of great concern to the Mission is the fact that the domestic legal framework fails to provide for the protection of survivors of sexual violence and, at times, exacerbates the problem.<sup>22</sup> Similarly, the lack of structures to support survivors of sexual violence, such as shelters, needs to be highlighted.

53. The Mission has identified deprivation of liberty, including by armed groups associated with the State, weak institutions and prevailing lawlessness as key factors in facilitating sexual violence.

<sup>21</sup> Sexual and gender-based violence against women and girls is further addressed in sects. V.I. and V.G. Sexual and gender-based violence against men and boys is also addressed in sects. V.B. and V.G.

<sup>22</sup> See United Nations Development Programme and others, "Libya: gender justice & the law" (New York, 2018), pp. 9–10.

54. The Mission has received consistent reports of men and women detainees in all parts of Libya being threatened with sexual violence against them or their relatives, being stripped naked for prolonged periods of time or subjected to intrusive body searches amounting to rape. It has also received reports of threats of rape or other sexual violence during interrogation and has documented instances of sexualized torture, including electricity being applied to the genital area and rape. The Mission is also concerned by reports of women being arrested and subjected to sexual violence, or the threat of it, in order to force male family members to hand themselves over.

55. Several migrants interviewed by the Mission described experiencing sexual violence at the hands of traffickers and smugglers, often with the aim of extorting families, as well as State officials in detention centres, employers or other migrants. The known risk of sexual violence in Libya is such that some migrant women and girls get fitted with a contraceptive implant before travelling there to avoid unwanted pregnancy due to such violence.

56. The Mission has also documented cases of rape in places of detention or captivity whereby migrant women are forced to have sex in order to survive, in exchange for food or other essential items. A coercive environment, such as a detention centre, negates the ability to give consent and such practices amount to rape. A migrant woman interviewed by the Mission, who had been held captive in Ajdabiya, described how her captors had demanded sex in exchange for access to water she direly needed to wash her 6-month-old sick child's soiled clothes. According to the victim: "I let them rape me. I had no choice. It was for my daughter. I could not leave her like that."

57. The Mission received first-hand accounts of individuals being targeted for arrest and abuse, including sexual violence, solely because of their sexual orientation, gender identity or gender expression. The Mission received such reports from different parts of Libya and has conducted detailed interviews with 10 individuals. Since November 2021, the Mission has also monitored with great concern the arrests of men, including activists, by security agencies on the ground of their perceived sexual identity.

58. In at least three separate cases documented by the Mission over the course of its mandate, men and teenagers were accosted or arrested by members of armed groups and their mobile phones checked. These men and teenagers ended up in Mitiga prison, where they were harassed and intimidated. In at least one case documented by the Mission, a young detainee had to undergo a forced anal examination. Such examinations have no scientific validity and amount to torture and other ill-treatment.<sup>23</sup>

59. The emblematic cases highlighted in this and previous reports reveal grave and endemic sexual and gender-based violence. The inadequate legal framework and weak capacity for investigations and prosecution exacerbate impunity.

## **F. Violations of the rights to freedom of expression, association, peaceful assembly and to participate in public life**

60. Civil society organizations are a vital component of any democratic society. Yet, the Mission's investigations in Libya reveal a gradually shrinking civic space characterized by increasingly draconian laws and regulations.

61. Of great concern is the role played by the Civil Society Commission in the registration and oversight of civil society organizations. The Mission has reviewed several statements issued by the Tripoli-based Commission. Besides the inflammatory tone of some of them, the Commission's announcement, in April 2022, that organizations that had not sought reregistration were considered shut sent a chilling message to all civil society organizations. The Commission also demanded that prior authorization be obtained before carrying out any activities, participating in conferences, workshops and training even if outside Libya. The Mission received worrying reports regarding the opening of the Commission's membership to representatives of intelligence agencies and the Central Bank.

<sup>23</sup> [A/HRC/31/57](#), para. 36.

62. Civil society activists and citizens attempting to exercise their freedom of expression are denigrated and vilified online and in statements made by State officials and armed groups. They can be labelled as foreign agents and their religious beliefs, feminist stance and morality are questioned. The threats they encounter in the digital space translate into physical violence offline.

63. Throughout the Mission's mandate, journalists, members of the legal profession, civil society organizations and activists, including human rights defenders, have been targeted for abduction, arrest, arbitrary detention, torture, including sexual violence, enforced disappearance and even killings. Activists interviewed by the Mission recounted their experience of intimidation, threats and harassment. Some had to leave the country, for prolonged periods of time, or to live in exile.

64. In a case documented by the Mission, an activist was summoned by the Internal Security Agency in the East, in 2020, for questioning. During her interrogation, which lasted an entire day, the activist was asked about the human rights organization that she had established, their activities, including on women's rights and elections, the origin of their funding, as well as her travels. She described to the Mission having been beaten, asked to remove her shirt and burned with a hot metal rod, insulted and being called "damaged". Her morality was questioned and she described having been sexually harassed. After a day of questioning, she was released. Following her release, she received threats and pornographic messages and images on her phone and Facebook account.

65. The Mission also wishes to bring the attention of the Human Rights Council to the recent arrest and detention by the Tripoli-based Internal Security Agency of seven young activists, including a defender of migrants rights.<sup>24</sup> Between November 2021 and March 2022, their "confessions" were recorded on video and posted on the Facebook page and website of the Tripoli-based Internal Security Agency. In the videos reviewed by the Mission and believed to have been obtained under duress, the men incriminate themselves and state that they are members of the Tanweer Movement,<sup>25</sup> atheists, agnostics, feminists and seculars. These videos sent out shockwaves among activists, with the Mission also documenting several ensuing cases of activists going into hiding or fleeing the country. The Mission has been able to confirm that at least some of the individuals arrested in the crackdown are currently held in Mitiga prison. Following their arrests, they were presented to the Office of the Public Prosecution acting on instruction of the Attorney General and are now facing trial on charges of promoting actions against the principles and values of the State (Penal Code, art. 207), insulting and offending the Islamic religion (ibid., art. 291) and misuse of Internet networks (Law No. 22 of 2010 on communications, art. 35). According to information available to the Mission, some of them were due to stand trial inside Mitiga prison on 8 June 2022 but were not presented to court.

66. The Mission has also received credible information regarding instances of violations of press freedom and freedom of expression in the country since 2016, including details of cases of arbitrary detention, extrajudicial killing and other attacks on journalists, as well as media outlets. In February 2022, the Mission documented the case of an anchor woman who had been beaten by a group of young men who warned her that the leadership of the Libyan National Army was a red line not to be crossed. The day before the assault, the television network for which she worked had broadcast a programme on corruption, mentioning the involvement of the inner circle of the leadership of the Libyan National Army. In another case, a journalist was abducted in December 2019 at Mitiga Airport by the Nawasi Brigade, arbitrarily detained and subjected to ill-treatment. After five days, he was presented to the Attorney General accused of practising journalism without authorization and having contacts with international organizations without State permission. He was released seven days later.

<sup>24</sup> See also Office of the United Nations High Commissioner for Human Rights, "Deepening crackdown on civil society", 25 March 2022.

<sup>25</sup> According to its website (<http://tanweer.co>), Tanweer is an organization working to spread the principles of human rights, equality and non-discrimination.

67. Finally, in Sirte, the Mission continued to follow with concern successive waves of abductions, arrests and arbitrary detentions by armed groups and militias in the context of several peaceful demonstrations and gatherings.

68. These and previous conclusions from the Mission, regarding repeated attacks on freedoms of expression, association and assembly, as well as attacks and threats directed at election candidates, officials and infrastructure, cast doubt on the Libyan authorities' ability to guarantee citizens' rights to participate in public life, in which individuals are able to seek and receive information, peacefully organize with others, discuss public interest issues, run for elections and cast their ballots without intimidation, harassment or threats to their safety.

## G. Migrants

69. Throughout its mandate, the Mission has reported on widespread and systematic human rights violations against migrants – a term used to encompass migrants, refugees and asylum seekers. In investigations conducted remotely, in Libya and in third States, the Mission has collected significant amounts of evidence, including more than 80 interviews of migrants from diverse backgrounds and circumstances, demonstrating that migrants are routinely subjected to gross and systematic human rights violations.

70. Since its first report, the Mission's investigations have provided a strong basis to confirm that acts of murder, enslavement, torture, imprisonment, rape and other inhumane acts are committed against migrants. They also show that little has been done by the Libyan authorities to reform their practices and address these crimes, or by their international partners, including Italy and Malta, which have cooperation agreements with Libya in the field of migration control.<sup>26</sup>

71. Over the period covered by the Mission's mandate, the number of migrants held in centres run by the Department for Combating Illegal Migration has varied between a couple of thousand to nearly 20,000, with thousands more believed to be detained in facilities controlled by non-State armed groups or held captive by traffickers.<sup>27</sup> Although the Mission has observed positive efforts by the Libyan authorities to conduct raids of places of captivity operated by traffickers, migrants are often simply transferred to facilities run by the Department for Combating Illegal Migration, in which they continue to be subjected to abuse.

72. The specific involvement and level of cooperation between actors, including State authorities, such as the Libyan Coastguard, involved in the interception of migrants at sea and officials of the Department for Combating Illegal Migration, armed groups with unclear official mandates, traffickers, smugglers and other individuals attempting to profit from this system have been documented, but not always clearly defined.

73. For instance, in interviews with the Mission, several migrants mentioned collusion between smugglers, traffickers and State officials, be it the Department for Combating Illegal Migration or the Libyan Coastguard. One of the migrants explained that he recognized the smugglers that had put them on a boat onboard a Libyan Coastguard ship that later intercepted them: "This happened to me twice. If we tell them that we recognize them, they beat us." As previously noted by the Mission, there are also reports that migrants have disappeared after having been intercepted and disembarked in Libya, raising concerns that significant numbers of migrants may have been returned to smugglers and traffickers who further abuse them.

74. The Mission has also collected evidence regarding the role of the Stability Support Apparatus, an entity already implicated in gross human rights violations,<sup>28</sup> in both the interception of migrants at sea and their subsequent detention in the Mayah detention centre. Migrants interviewed by the Mission reported being subjected to cruel treatment, including

<sup>26</sup> Italy signed a memorandum of understanding in February 2017, committing to provide technical support to Libyan institutions engaged in combating irregular migration; Malta did the same in July 2020. There is a case on a related matter against Italy in front of the European Court of Human Rights, see *S.S. and others v. Italy*, application No. 21660/18.

<sup>27</sup> See, for instance, *S/2018/140*, para. 48; and *S/2022/409*, para. 71.

<sup>28</sup> See para. 39 above.

undressing during searches, beatings by guards, denial of medical care, starvation and enslavement practices in the Mayah detention centre.

75. The Mission has reasonable grounds to believe that crimes against humanity are being committed against migrants in Libya. Migrants are subjected to widespread and systematic arbitrary detention. Acts of murder, enforced disappearance, torture, enslavement, sexual violence, rape and other inhumane acts are being committed in connection with their arbitrary detention. The ongoing, systematic and widespread character of these practices by the Department for Combating Illegal Migration and other actors involved reflects the fact that mid- to senior-level officials are participating in the cycle of violence against migrants.

76. Torture and rape are a feature of the detention of migrants in Libya, routinely employed as a means of intimidation, punishment, humiliation, gratification or exploitation, with migrants being subjected to electric shocks, extinguishing cigarettes, burning, regular beatings, rape and sexual violence against men, women, boys and girls, and/or other brutal infliction of physical and psychological torture, such as witnessing the rape or execution of fellow detainees. Many of the migrant women interviewed by the Mission corroborated that they, including some underage girls, had been either raped, witnessed somebody else being raped or seen fellow women detainees return to their cells in tears after having been taken away by their guards or captors. Some migrant women told the Mission that they had had sex with guards and other detention officials in exchange for food, water or other basics.<sup>29</sup> The Mission also received reports of men and boys experiencing sexual violence in detention centres.

77. The Mission received regular reports of enslavement of migrants. In this regard, there is ample evidence that migrants are treated like commodities in various ways by their captors. While in detention and without receiving compensation, skilled migrants are sometimes forced to work outside the detention facility for individuals or companies whereas others, including unaccompanied children, are forced to work on farms, factories or in other situations of menial labour, often without adequate food or water.

78. The recent involvement of the Stability Support Apparatus, in the second half of 2021, in migrant detention and exploitation highlights how persistent impunity perpetuates cycles of violence and encourages new actors to engage in such activities in their pursuit of further legitimacy and funds. Such impunity is further reinforced by the weaknesses in institutions, the domestic legal framework and the judicial system of Libya.

## H. Internally displaced persons

79. Mass internal displacement from locations, such as Tripoli, Benghazi and Misrata, caused by conflict and persecution have resulted in a number of human rights issues, including loss of property and livelihood, severe psychological trauma and high rates of exposure to violent criminality in camps for internally displaced persons.<sup>30</sup> The Mission also received reports of increased early marriages among communities of internally displaced persons but was not able to obtain specific data.

80. By January 2022, the International Organization for Migration accounted for 168,011 internally displaced persons in Libya. Of these, 37,896 were displaced across the five municipalities of Benghazi, the largest number of internally displaced persons in Libya. A majority of these internally displaced persons in the east face protracted displacement as they have been displaced since 2017 or earlier from areas affected by armed conflict.<sup>31</sup>

81. The plight of the Tawerghan community, which the Mission previously reported on, has not improved. In a survey published in December 2021, the Norwegian Refugee Council concluded that only a “trickle” of Tawerghans had actually returned and that their homeland

<sup>29</sup> See para. 56 above.

<sup>30</sup> See also [A/HRC/38/39/Add.2](#).

<sup>31</sup> International Organization for Migration, “IOM Libya: IDP and returnee report round 40 – December 2021–January 2022” (2022).

was “largely uninhabitable”.<sup>32</sup> The Mission also learned about the forced eviction of displaced Tawerghan families from two camps in early May 2022, following instructions from the Attorney General. On 30 May 2022, armed individuals reportedly entered the last remaining Tawerghan camp for internally displaced persons in Tripoli and gave its residents an ultimatum to leave within 24 hours.

82. The Mission previously signalled its intention to investigate the predicament of civilians displaced by the 2019 conflict between the Tebu and the Al-Ahali communities in southern Libya. The Mission learned that approximately 35,000 civilians, more than half of the local population, had been displaced by that conflict, including a near full displacement of Al-Ahalis from Murzuq. While the situation has stabilized, tensions between the two groups remain and have hindered the return of internally displaced persons. According to sources on the ground, and despite explicit provisions on the matter, peacebuilding and reconciliation agreements agreed to by both sides in February and March 2022 have not yet resulted in the return of internally displaced persons to the area.

83. The Mission believes that displacement presents a serious yet underappreciated human rights issue that is negatively affecting efforts to forge stability in Libya, as well as inhibiting the country’s efforts to transition to democracy and the rule of law. The possibility for internally displaced persons to have their voices heard during any upcoming elections is critical in this regard.<sup>33</sup> Libya should take appropriate steps to provide comprehensive solutions to the many challenges internally displaced persons currently encounter in Libya.

## I. Women and girls

84. Women and girls in Libya have been confronted with a barrage of challenges and obstacles that victimize them and prevent them from fully enjoying their human rights and meaningfully participating in public life. Over the course of the Mission’s mandate, the situation has been compounded by the militarization of Libya, the proliferation of armed groups and their increasing power, as well as the weakening of State institutions.

85. While some positive developments, such as the establishment of two dedicated courts for cases of violence against women and children, are to be noted,<sup>34</sup> violence against women remains vastly underreported, due to factors ranging from cultural/societal and legal hurdles to a lack of trust in State institutions, such as the police and the judiciary.

86. The Mission found that the very term “feminist” had not only become a slur but also a ground for investigation and arrest, including by the Tripoli-based Internal Security Agency. For example, in all the videoed confessions reviewed by the Mission with respect to the case of the seven young activists arrested between November 2021 and March 2022 and mentioned above,<sup>35</sup> the men had been forced to confess that they were feminists or interested in feminism, among other things. In another case documented by the Mission, in which a young activist had been abducted and disappeared for over two years, and subjected to ill-treatment and torture in detention, the victim explained to the Mission that part of his interrogators’ focus was on his perceived efforts to “liberate women”.

87. Online, the increasing use of platforms and applications has provided spaces and means for women to freely receive information, express their views, organize and assert themselves in public life. However, it has also turned into a potent tool to delegitimize them

<sup>32</sup> Norwegian Refugee Council Libya, “Rapid needs assessment of returnees to Tawergha, December 2021” (Oslo, 2021), p. 4.

<sup>33</sup> See also Ahmed Shalghoum and Inga Trauthig, “IDPs in Libya and the upcoming national elections: assessing an unresolved issue” (Tunis, Friedrich-Ebert-Stiftung, 2022).

<sup>34</sup> United Nations Support Mission in Libya, “UN in Libya statement on ‘International Day for the elimination of sexual violence in conflict zones’”, 19 June 2020.

<sup>35</sup> See para. 65 above.

and their activism, terrorize and silence them.<sup>36</sup> Violence online often induces self-censorship, silencing and leads to psychological harm, if not physical violence.<sup>37</sup>

88. The Mission has reviewed several threatening and denigrating messages received by women activists and public figures through WhatsApp, Club House, Messenger and Facebook. It was also informed of the existence of dedicated rooms on Club House and Facebook pages that impersonate women activists and contain provocative political statements, which in the polarized context of Libya, can endanger their lives. In a December 2021 report, Meta identified the creation of Facebook pages purporting to be run by Libyan female public figures “to make inflammatory statements on their behalf” likely to encourage harassment.<sup>38</sup> In this respect, women shared with the Mission their frustration that social media companies did not sufficiently moderate debates or proactively monitor them. They also mentioned the need for social media platforms to have Arabic speakers in their teams, specifically people who understand the Libyan context and dialect to truly grasp the nature and seriousness of threats levelled against them. The Mission reviewed several messages in which harassers used a mixture of Arabic and English letters, signs and numbers to avoid detection by content moderation algorithms.

89. Women have sometimes been targeted for killing or arrest for their political beliefs. One such case is that of Iftikhar Boudraa who was sentenced, on appeal, to 10 years in prison, for social media posts critical of the leadership of the Libyan National Army. She and her family were abducted from her home in November 2018 by the Internal Security Agency in the East. Reports received by the Mission indicate that she has been subjected to torture and ill-treatment in Al-Koweifya prison where she is detained. The Mission sought clarification from the authorities in the east about her case, to no avail.

90. Finally, as Libya finds itself at a critical juncture with presidential and parliamentary elections still due to take place, the Mission considers that the continued impunity for the enforced disappearance of Sihem Sergiwa<sup>39</sup> serves as a cautionary tale to any woman seeking to be elected. These concerns are heightened by reports that women candidates for local, parliamentary and presidential elections were threatened, including online; a concern that representatives of the High National Elections Commission also shared with the Mission.

## J. Children

91. Throughout its mandate, the Mission has collected evidence demonstrating that children up to the age of 18 have been subjected to similar human rights violations as adults, including abduction, summary execution, arbitrary detention and torture, in violation of the obligations of Libya under international law, including those to respect and protect children’s rights under the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

92. The Mission has collected substantial evidence, including testimonies from direct victims and eyewitnesses, of children arbitrarily detained and being held in detention alongside adults. Such detention exposed them to further abuses, particularly of a sexual nature, including in Al-Koweifya, Gernada, Mitiga, Jawiyyah, Rajma and Sidi Frej prisons. In an interview that included an examination by the Mission’s forensic doctor, a young man explained that he had been arrested when he was 15 years old in Benghazi in early 2016 for presumed links to a terrorist organization. He was made to confess under torture and then detained in Al-Koweifya prison. During the six years he spent in detention, he was deprived of an education, was held for long periods in solitary confinement or together with adults and was subjected to torture.

<sup>36</sup> [A/76/258](#).

<sup>37</sup> United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), “Violence against women in the online space: insights from a multi-country study in the Arab States – summary report” (2021).

<sup>38</sup> Meta, “Detailed report: December 2021 coordinated inauthentic behavior report” (2021), p. 11.

<sup>39</sup> See para. 46 above.

93. The Mission also collected information relating to the prolonged detention of children under the age of 15 solely because of their parents' alleged association with Da'esh. As of March 2022, at least 64 children aged between 1 and 15 years old were held together with their mothers who remain detained without charges since 2016, in Mitiga, Jawiyyah and Al-Koweifya prisons.

94. In the context of migration, the Mission found that, like adults, child migrants are victimized by State and non-State actors. The Mission also received information about migrant boys who were victims of forced labour and compelled to drive boats to Europe, a form of exploitation amounting to trafficking, after which they were detained in Italy on the grounds of facilitating migrant smuggling. The Mission considers the recent establishment of a committee, which includes the Ministry of Social Affairs, specifically tasked to set up a shelter for migrant women and children<sup>40</sup> as a promising development, as long as it meets the required minimum standards for childcare, and women and children are free to leave the shelter if they so wish.

95. The substantive evidence collected by the Mission throughout its mandate demonstrates that violations against children are rampant and deserve more extensive investigations.

## **K. Minorities**

96. Over the course of its mandate, the Mission investigated the situation of minorities in Libya who continue to be subjected to discriminatory practices and violations.

97. Activists from Amazigh, Tebu and Tuareg minorities have told the Mission of their difficulties in exercising their cultural and linguistic rights, as well as in accessing health, education and political representation, in particular for individuals with "undetermined legal status". Individuals with such a status do not have access to birth certificates, national identity numbers or family books, and are denied Libyan nationality.

98. The Mission also found that the demolition of the Zawiyat Bin Issa Sufi shrine in Sirte on the morning of 5 February 2020, on which it had previously reported,<sup>41</sup> formed part of a wider pattern of discrimination and attacks against Sufism. Throughout Libya, armed groups motivated by zealous religious ideology have attacked Sufi religious sites and cultural property, as well as abducted or otherwise illegally arrested and detained Sufi followers. On the day of the attack, for instance, between 23 and 25 Sufi persons who had gone to the site of the destruction, including elderly sheikhs, were arbitrarily arrested and detained for seven days. The Mission also learned that some of them then decided to flee Sirte out of fear.

99. The Mission reiterates its conviction that protection, inclusivity and representation of all voices are essential if Libya is committed to achieving a truly meaningful reconciliation.

## **VI. Transition to accountability and reconciliation**

100. Libyans have made it clear to the Mission that they want peace, justice and reconciliation. To achieve these aims, such a transition must take the form of a sustainable process that results in ending impunity, guaranteeing the independence of the judiciary and ensuring effective State oversight over the security sector.

### **A. Accountability**

101. In its three reports, the Mission has reported on serious violations of international human rights law and international humanitarian law, some of which amount to crimes under international law. It has made repeated calls for the relevant authorities to conduct prompt

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<sup>40</sup> Presidential Council Decision No. 233 of 15 December 2021.

<sup>41</sup> [A/HRC/49/4](#), paras. 91–92.

investigations, compliant with international standards, into alleged violations and to prosecute those responsible.

102. Challenges in ensuring accountability and achieving transitional justice in Libya are multifaceted. In this respect, the adoption of a permanent constitution and legislation consistent with international human rights law are key to ensuring a future for Libya based on justice, national reconciliation, respect for human rights and the rule of law, and guarantees of non-reoccurrence.

## **B. Administration of justice**

103. The Mission's investigations reveal that many Libyan judges are willing and determined to facilitate the prevalence of the rule of law in Libya. However, many Libyan judges reported to the Mission a real sense of fear due to threats and intimidation from armed groups. Judges and members of the legal profession should be protected, and strong guarantees should be in place to allow the judiciary to administer the law independently and free from threats and violence.

104. In a context characterized by division and polarization, the fact that the Libyan judiciary remains largely unified, with judges and prosecutors operating under the authority of a single Supreme Judicial Council and applying the same Penal Code and Code of Criminal Procedure, is a positive aspect. Similarly, the unity of the Libyan Bar Association should be acknowledged.

105. The Libyan judiciary has, on several occasions, showed a sincere will to assert its independence and many judges are keen to defend an effective and impartial unified judiciary. However, the Libyan justice system does not currently appear to have the means or capacity to conduct prompt, independent and impartial investigations, as evidenced by the many cases documented by the Mission characterized by an inability to prosecute those responsible in accordance with international human rights standards.

106. Courts in Libya are effectively non-functional in numerous places, with justice actors facing continuing intimidation, death threats and other forms of violence, especially by non-State actors. The Mission has documented instances in which members of the judiciary were subjected to attacks, including abduction and arbitrary detention. For instance, the Mission wishes to bring the attention of the Human Rights Council to the recent arrest, on 22 May 2022, of the Head of the Military Anti-Terrorism Prosecution, by the Deterrent Agency for Combating Terrorism and Organized Crime on no apparent or stated legal grounds, which prompted his colleagues from the Military Prosecutor's Office to issue a statement announcing the suspension of their work. The ensuing environment of fear and intimidation has severely undermined the criminal justice system, resulting in a lack of investigation and prosecution of crimes.

## **C. Security sector reform**

107. Important institutional changes in the form of security sector reform are vital for guarantees of non-recurrence of atrocities. In a context characterized by the proliferation of weapons and significant power entrusted to armed groups and militias to perform law enforcement functions, it is essential to ensure that the State remains the sole legitimate holder of power through effective security sector reform.

## **D. Reconciliation**

108. The Mission followed up on several reconciliation initiatives in Libya and reiterates its strong support for the Libyan people in this regard. Libyans have a right to live in peace, without divisions, in a society free from instability, violence and insecurity. Reconciliation can only be achieved through a holistic and inclusive transitional justice process. Such a process needs to be sustainable and rooted in accountability, truth-telling, reparation for the victims, a strong independent judiciary and a reformed security sector under the control of

the State. The Mission believes that the development of a national human rights plan of action can aid this process.

## VII. Conclusions and recommendations

109. Urgent remedial action is required to enable victims in Libya to realize their rights to truth, justice and reparations. The request by Libya for the Mission to assist national authorities in their efforts to investigate human rights violations during the past six years in the country reflects a welcomed commitment by the Government. The Mission supports the efforts by Libya to maintain the unity of the judicial sector and remains ready to assist in ensuring its independence despite the challenges.

110. All previous recommendations made by the Mission<sup>42</sup> remain relevant and must be implemented if there is to be any reasonable prospect of a future Libya based on justice, national reconciliation, respect for human rights and the rule of law.

111. In addition, the Mission calls upon Libya to:

(a) Adopt a holistic national human rights plan of action to address all findings and recommendations of the Mission and other human rights bodies, ensure a sustainable transition to peace, democracy and full respect for human rights and commit to inclusive reconciliation pledging to “leave no one behind”;

(b) Take all necessary measures to fight impunity and develop a comprehensive agenda on transitional justice and accountability, including by ensuring prompt, thorough and effective investigations of allegations of violations by independent and impartial judicial bodies;

(c) Adopt and implement a comprehensive vetting programme and ensure that those reasonably suspected of crimes under international law and serious human rights violations do not remain, or are not placed, in positions in which they could continue to commit such crimes;

(d) Strengthen unified State-building activities, with a focus on building inclusive and integrated institutions, effective law enforcement agencies under the sole purview of the State, and an independent and impartial justice sector;

(e) Address urgently the proliferation and legitimization of armed groups that are acting as separate islands of control in Libya, outside the State’s authority, and establish strong programmes of disarmament, demobilization and reintegration;

(f) Create a safe, inclusive and enabling environment for all civil society stakeholders, including women, minorities and vulnerable groups, to be able to fully participate in political and public life, including elections;

(g) Accelerate efforts to remove landmines and other unexploded ordnances, including by allocating resources to mine action activities and facilitating relevant national and international efforts;

(h) Ensure that all prisons and detention facilities are brought under the supervision of the judiciary and the effective control of the Ministry of Justice; and ensure respect for due process, immediately release those who are arbitrarily detained and ensure respect of all rights of detainees, such as the right not to be subjected to torture and cruel treatment, including sexual violence;

(i) Take effective action to eliminate sexual and gender-based violence, including by lifting legal and structural barriers preventing its reporting, providing rehabilitation services and access to justice for victims, publicly condemning all such forms of violence and holding perpetrators of sexual and gender-based violence to account;

<sup>42</sup> See the recommendations in [A/HRC/48/83](#) and [A/HRC/49/4](#).

(j) Ensure the protection of journalists, members of the legal profession, civil society organizations and activists, including human rights defenders, from harassment, intimidation and acts of violence, both online and offline, and hold the perpetrators of such acts accountable;

(k) Amend Law No. 19 of 2010 to end the automatic and arbitrary detention of migrants, asylum seekers and refugees, and decriminalize irregular migration; ensure that all migrants detained are held in detention centres with government oversight, are provided with adequate conditions and are protected from torture and other cruel treatment, sexual violence and exploitation, as well as forced labour; protect specific groups, such as women and children, by ensuring that women are held in facilities with adequately trained women guards and that children are held separately from unrelated adults;

(l) Ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa and establish a national plan for the safe return and reintegration of the internally displaced to their homes and land according to the Guiding Principles on Internal Displacement, the principles on housing and property restitution for refugees and displaced persons and international human rights standards;

(m) Comply as a matter of priority with its obligations to promote and protect the rights of children, with particular regard to its obligations under the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

112. The Mission calls upon the international community and the United Nations to:

(a) Provide technical support and capacity-building to support Libya in its development and implementation of a holistic national human rights plan of action, addressing all findings and recommendations of the Mission and other human rights bodies to ensure compliance with its international human rights obligations;

(b) Provide support to transitional justice mechanisms that are compliant with international standards and assistance to strengthen the capacity of the justice and related sectors;

(c) Provide support to disarmament, demobilization and reintegration programmes compliant with international human rights standards;

(d) Call upon States to exercise universal jurisdiction to arrest and prosecute perpetrators who are found on their territories and accused of committing the international crimes documented in the Mission's reports;

113. The Mission finally calls upon all social media platforms active in Libya, including messaging systems, to exercise greater due diligence in combating and prohibiting incitement to hatred and human rights violations, particularly against activists, human rights defenders, women, minorities and vulnerable groups.

Annex

Map of Libya



Map No. 3787 Rev. 10 United Nations  
November 2015

Department of Field Support  
Geospatial Information Section (formerly Cartographic Section)