

# LIBYA

**HUMAN RIGHTS ABUSES  
CONTINUE AS COUNTRY  
DESCENDS INTO CHAOS**

*Amnesty International  
Submission to the UN Universal  
Periodic Review, May 2015*

**AMNESTY  
INTERNATIONAL**



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# INTRODUCTION

This document is based on the submission prepared for the Universal Periodic Review (UPR) of Libya in May 2015. In it, Amnesty International evaluates the implementation of recommendations made in the previous cycle of the UPR and the situation of human rights on the ground, and makes recommendations to the government of Libya on how to address some of the major human rights challenges with which it is faced.

Amnesty International draws attention to shortcomings in the human rights framework in Libya, including as regards the new Constitution, which is in the process of being drafted by the Constitutional Drafting Assembly and the legislative framework and policy. With respect to the human rights situation on the ground, Amnesty International is concerned about the use of torture and other ill-treatment in state and militia-run detention facilities under the control of armed groups. Arbitrary detentions have been carried out by militias formed during and after the 2011 armed conflict.

The justice system remains dysfunctional; lack of due process, unfair trials and selective justice prevail and legislation contains discriminatory provisions against women. Impunity for human rights abuses is widespread, including as regards possible war crimes and crimes against humanity.

There are severe restrictions on the rights of freedoms of expression, association and assembly, and attacks on media and journalists are rife. The authorities are failing to safeguard the rights of refugees, asylum seekers and migrants, as well as internally displaced persons. The death penalty continues to be prescribed for a wide range of offences, including activities that amount to no more than the peaceful exercise of the right to freedom of expression and association.

After this submission was originally drafted and submitted to the UN in September 2014, Libya descended into chaos as the country became engulfed in violence and armed conflicts along political, ideological, regional and tribal lines. The already dire human rights situation deteriorated even further as loose coalitions of armed groups affiliated with two competing governments and parliaments, fought for legitimacy.

Militias and other armed forces have committed possible war crimes, other serious violations of international humanitarian law and human rights abuses. They have killed or injured hundreds of civilians and destroyed and damaged civilian infrastructure and objects in indiscriminate shelling of civilian areas in Benghazi, Tripoli, Warshafana, Zawiya, the Nafusa Mountains and elsewhere. Abductions of civilians and hostage-taking are commonplace, while the number of summary killings by armed groups and other forces has increased.

The rise of radical Islamist armed groups aiming at enforcing their own interpretation of Shari'ah and in some cases affiliated to the group calling itself the Islamic State, which is fighting in Iraq and Syria, has presented a new threat to human rights in Libya.

## **FOLLOW UP TO THE PREVIOUS REVIEW**

In its first Universal Periodic Review (UPR) in 2010, Libya accepted 66 recommendations, rejected 24 and gave no clear position on a further 30 recommendations.<sup>1</sup> Following the 2011 armed conflict that toppled the rule of Colonel Muammar al-Gaddafi, Libya formed a committee to revise its previous positions. In a welcome step, Libya accepted a further 47 recommendations in 2012.<sup>2</sup>

However, despite their public commitment, successive governments since 2011 have failed to ensure accountability for human rights abuses, which are perpetrated by the state, state-affiliated militias and armed groups at an alarming scale.

Libya accepted in principle a recommendation to commute all existing death sentences and establish a moratorium on the use of the death penalty as a first step towards its abolition, but to date has not done so.<sup>3</sup> Regrettably, Libya has refused to “amend or repeal legislation that applies the death penalty to non-serious crimes”.<sup>4</sup> It continues to be prescribed for a wide range of offences, including those related to the peaceful exercise of the rights to freedom of expression and association.

Amnesty International welcomes Libya’s commitment to bring the security forces under legal oversight in compliance with international human rights standards.<sup>5</sup> However, since 2011, the authorities have not been able to disband militias that have operated with little state oversight and perpetrated serious human rights abuses with impunity.<sup>6</sup>

Libya also accepted recommendations to repeal laws that criminalize the peaceful exercise of the rights to freedom of expression, assembly and association.<sup>7</sup> However, since 2011, the authorities have prosecuted and detained individuals for peacefully expressing their views under existing legislation.

Amnesty International also welcomes Libya’s commitment to adopt national asylum legislation, sign a memorandum of understanding with the United Nations High Commissioner for Refugees (UNHCR)<sup>8</sup> and accede to international refugee protection instruments.<sup>9</sup> Refugees and asylum-seekers, including unaccompanied children, continue to be detained indefinitely without ever being brought before a judge.

Amnesty International regrets Libya’s refusal to amend discriminatory legislation against women with regard to divorce, marriage and inheritance.<sup>10</sup> Women continue to face discrimination in law and in practice.

The organization notes Libya’s commitment to investigate all allegations of torture, disappearances and arbitrary detention, as well as the 1996 Abu Salim Prison killings, but regrets that this pledge has not been translated into action.<sup>11</sup>

# THE NATIONAL HUMAN RIGHTS FRAMEWORK

## THE CONSTITUTIONAL DECLARATION

In August 2011, the National Transitional Council (NTC) adopted an interim Constitutional Declaration, which contains some human rights guarantees, but omits others - thus failing to meet Libya's international obligations.<sup>12</sup> The elected Constitution Drafting Assembly is currently in the process of drafting a new constitution.

## LEGISLATIVE FRAMEWORK AND POLICY

Several laws and measures aiming at addressing past human rights abuses have been adopted since the last review. In 2013, the General National Congress (GNC)<sup>13</sup> adopted the Law on Transitional Justice establishing accountability, truth-seeking and reparation mechanisms for victims of human rights violations.<sup>14</sup> A law was also enacted to form a committee tasked with investigating the mass killing of more than 1,200 prisoners in Abu Salim Prison in 1996.<sup>15</sup> In 2014, a decree was adopted providing for reparations and legal support to victims of sexual violence by state agents under al-Gaddafi and during the 2011 conflict. However, these measures remain unimplemented largely due to poor security and political infighting that have marred the transitional period.

Reforms of the Penal Code have yet to be carried out. Provisions that fail to comply with international human rights law and standards remain in force. For example, the definition of torture as a crime under Law 10 of 2013 on "Criminalizing torture, enforced disappearance and discrimination" falls short of international standards,<sup>16</sup> and Law 38 of 2012 on "Some Special Procedures during the Transitional Period" undermines efforts to achieve justice for victims.<sup>17</sup>

In May 2013, the GNC passed the Law on Political and Administrative Isolation (No.13 of 2013), which bars Gaddafi-era officials from holding positions of responsibility within public institutions for ten years. Although it guarantees the right to appeal decisions, its criteria for exclusion are overly broad and vaguely worded.<sup>18</sup> In February 2015, the House of Representatives, which was elected in June 2014 to replace the GNC, voted to repeal the law. It is however unclear how this decision will be implemented in light of the current political crisis and fighting.

## NATIONAL COUNCIL FOR HUMAN RIGHTS AND CIVIL LIBERTIES

The National Council for Human Rights and Civil Liberties was established as a legal entity in November 2011.<sup>19</sup> Some of its members and staff were threatened by militias after the escalation of violence in Tripoli in mid-July 2014 and fled the country. Those that stayed continued to face intimidation by groups affiliated with the Libya Dawn coalition, one of the warring parties in the current conflict. In November 2014, armed men claiming to belong to Libya Dawn shut down the offices of the National Council for Human Rights. By February 2015, the National Council for Human Rights and Civil Liberties had not resumed its work.

# THE HUMAN RIGHTS SITUATION ON THE GROUND

## TORTURE AND OTHER ILL-TREATMENT

Torture and other ill-treatment remain rife in state and militia-run detention facilities.<sup>20</sup> Amnesty International has documented 24 cases of deaths under torture perpetrated between September 2011 and October 2014. The organization is not aware of any militia member or member of a state agency being brought to justice on charges of torture since 2011 despite the adoption of Law No.10/2013.<sup>21</sup>

National legislation continues to prescribe corporal punishment, including for extramarital sexual relations,<sup>22</sup> defamation,<sup>23</sup> and theft and *haraba* (highway robbery or rebellion). Under Law No.13 of 1425, theft is punished by the amputation of the right hand, while *haraba* is punishable by death if there has been a killing or by cross amputation (right hand and left foot).<sup>24</sup>

## ARBITRARY DETENTION, ABDUCTIONS AND SUMMARY KILLINGS

Militias formed during and after the 2011 armed conflict have arbitrarily arrested and detained thousands of suspected al-Gaddafi loyalists, and its members have been allowed to enter state institutions without adequate vetting. Efforts by the authorities to take over detention centres controlled by militias have been met with resistance. In practice, the government's control over many detention facilities is nominal only. As of March 2014, approximately 6,200 detainees were held in prisons under the Ministry of Justice; only 10 percent had been tried. Hundreds have been held since 2011 without charge or trial or access to lawyers. The authorities have not met a deadline set by the Law on Transitional Justice to charge or release all detainees "affiliated to the former regime".<sup>25</sup>

Release orders have at times not been implemented; detainees have been re-arrested or abducted upon release. Mohamed al-Madani Mansour al-Shweirif, aged 84, remains imprisoned despite the issuance of a release order by the Cassation Prosecution Office on 24 June 2014. He was sentenced to seven years in prison on charges of intentionally spreading false information during a state of war in relation to a televised speech he made in August 2011.<sup>26</sup>

During the armed conflict that started in western Libya in July 2014, militias abducted civilians on account of their place of origin, to secure a ransom or a prisoner exchange.<sup>27</sup> Since this submission was made to the UN in September 2014, the situation has further deteriorated, as documented by Amnesty International in its most recent reports on Libya.<sup>28</sup>

Armed forces on all sides have carried out reprisal abductions, holding civilians solely on account of their origin or perceived political affiliation, often as hostages to secure prisoner exchanges. Both Libya Dawn forces and armed groups affiliated with the Zintan-Warshafana coalition have tortured and otherwise ill-treated captured fighters and civilians they abducted, using electric shocks, stress positions, and denial of food, water and adequate washing facilities. The fate and whereabouts of scores of abducted civilians across the country remain unknown.

Captured fighters have been subjected to summary killings by all warring parties. In Benghazi, forces affiliated with the Shura Council of Benghazi Revolutionaries have

abducted civilians and carried out summary killings, including beheadings of captured soldiers and purported supporters of Operation Dignity. Groups aligned with Operation Dignity forces have burned and destroyed scores of homes and other property of perceived Islamists; detained civilians on account of their political affiliation; committed acts of torture and other ill-treatment, and carried out several summary killings.

### **LACK OF DUE PROCESS, UNFAIR TRIALS AND SELECTIVE JUSTICE**

The justice system remains dysfunctional. In 2014, courts have effectively suspended their work in Benghazi, Derna and Sirte for security reasons. In Misratah and in Sabha, attacks and threats have led to temporary closures of courts in 2013. At least eight judges have been assassinated by unknown assailants since October 2011. The authorities have been unable to protect witnesses, lawyers and prosecutors from threats, intimidation, abductions or physical assaults. Detainees have been prevented from meeting their lawyers in private due to pressure from militias.<sup>29</sup>

The trial of 37 former al-Gaddafi officials started in March 2014 amid fair trial concerns. Their lawyers have not been granted full access to evidence or sufficient time to prepare a defense at the pre-trial stages. Saif al-Islam al-Gaddafi, who remains in militia custody in Zintan, has appeared in court via video-link in violation of his right to be present at his own trial. The authorities have failed to surrender him to the ICC to face prosecution on charges of crimes against humanity despite their legal obligation to do so.<sup>30</sup>

### **WOMEN'S RIGHTS AND GENDER-BASED DISCRIMINATION**

Libyan legislation contains discriminatory provisions against women with regard to marriage, divorce and inheritance. In 2013, the Supreme Court ruled to authorize polygamy without the first wife's consent or a court's authorization, as previously required under Law No. 9 of 1993. Article 407 (4) of the Penal Code prescribes a five year maximum prison sentence for consensual sexual relations outside of marriage. Law No. 70 (1973) on *zina* (adultery and fornication) imposes corporal punishment on adults of sound mental capacity, who committed the act willingly, and is an obstacle to women reporting sexual violence.<sup>31</sup>

Article 408 of the Penal Code can be used to prosecute consensual sexual relations between same-sex partners.<sup>32</sup>

Women active in the public sphere, including women's rights activists and journalists, have faced intimidation and in some cases assault by militias and armed groups. Unveiled women have increasingly been stopped, harassed and threatened at checkpoints. Several women are reported to have been killed by male relatives in so-called "honour killings" in the Sabha area.

### **IMPUNITY FOR HUMAN RIGHTS ABUSES, WAR CRIMES AND POSSIBLE CRIMES AGAINST HUMANITY**

Law 38/2012 on Some Special Procedures effectively provides for total exemption from prosecution for unlawful acts perpetrated by opposition fighters in the name of promoting or protecting the "17 February Revolution", including war crimes and crimes against humanity.

The authorities have not carried out meaningful investigations into alleged war

crimes and serious human rights abuses, such as the alleged extrajudicial execution of Colonel al-Gaddafi and his son Mutasim and other captured soldiers and the forcible displacement of some 40,000 Tawarghas.<sup>33</sup>

Hundreds of politically motivated killings of security officers, judges, activists and journalists perpetrated since October 2011, mainly in Benghazi and in Derna, have gone unpunished. Political activist Abdel Salam al-Mismari was shot dead in July 2013.<sup>34</sup> His assassination was followed by that of editor Muftah Bou Zeid<sup>35</sup> and human rights lawyer Salwa Boughaighis in 2014.<sup>36</sup>

On 15 November, 43 people died and 460 were injured when militias opened fire at unarmed protesters in Gharghour district of Tripoli. The police failed to intervene and protect protesters.<sup>37</sup>

The authorities have also failed to carry out an investigation into the Abu Salim Prison massacre, to bring perpetrators to justice, to publish a list of names of victims, and to grant families death certificates.<sup>38</sup>

As of May 2014, armed groups and other forces affiliated with both governments, including the UN-recognized government in Tobruk and the self-declared National Salvation Government based in Tripoli have perpetrated gross human rights abuses and serious violations of international humanitarian law. Some of these abuses include abductions, summary killings, torture, indiscriminate shelling, hostage-taking and destruction and looting of civilian property, and may amount to war crimes.

Radical Islamist armed groups aiming at enforcing their own interpretation of Shari'ah (Islamic law), including those affiliated with the group known as the Islamic State, have also perpetrated serious human rights abuses and violations of international humanitarian law, which may amount to war crimes. These abuses include, amongst other things, abductions of civilians on account of their origin, religion or political affiliation, summary killings, and deliberate attacks on civilian property.

## **FREEDOMS OF EXPRESSION, ASSOCIATION AND ASSEMBLY**

Several provisions of Law No. 65/2012, which regulates the right to peaceful protest, fail to uphold international human rights law and standards.<sup>39</sup>

The Penal Code retains articles that place severe restrictions on the right to freedom of expression, association and assembly. Since 2011, the transitional authorities have used these provisions to silence voices perceived as critical of the "17 February Revolution", including Articles 195, 205, 178, 207 and 203.<sup>40</sup>

On 1 January 2014, the al-Zawiya Criminal Court sentenced an individual to three years in prison under Article 178 for publishing false information on the internal situation in Libya and participating in a pro-Gaddafi demonstration in London.<sup>41</sup> Others have been prosecuted for defamation, which continues to be a criminal offence under Articles 439 and 245 of the Penal Code.<sup>42</sup>

In 2014, the GNC adopted Decree 13/2014 suspending scholarships, salaries and bonuses of students and state employees abroad who engaged in "activities hostile to the 17 February Revolution", and instructing relevant authorities to submit their names for interrogation. Decree 5/2014 imposed a ban on satellite television stations broadcasting views considered "hostile to the '17 February Revolution'".

Militia attacks against the media are rife. Television channels have been attacked, looted, damaged and set on fire.<sup>43</sup> Journalists have faced abductions, torture and other ill-treatment, physical assaults, threats and assassinations. Such attacks have intensified since the start of the 2014 armed conflict.

## REFUGEES, ASYLUM-SEEKERS AND MIGRANTS

Migrants, asylum-seekers and refugees face arbitrary arrests, indefinite detention, torture and other ill-treatment, exploitation and remain at risk of *refoulement*. When detained, foreign nationals, including unaccompanied children, found to be in Libya irregularly, are never brought before a judge. Libya lacks asylum legislation and system. Deportations are carried out without procedural safeguards, at times on health grounds.<sup>44</sup> Detainees are held in overcrowded cells with limited access to fresh air, sanitary facilities, drinking water and hygiene products; and inadequate medical care. They face verbal abuse, beatings, whippings and shootings with assault rifles; women have reported invasive strip searches by men.<sup>45</sup> UNHCR continues to operate without an official agreement which undermines its ability to provide effective protection.

Foreign nationals have also been abused or abducted for ransom. Many have been victims of human trafficking by smugglers following irregular entry into Libya.

The gradually deteriorating security situation and the rise of lawlessness have pushed unprecedented numbers of migrants and refugees to cross the Mediterranean in unseaworthy fishing boats.

Foreign nationals, in particular Egyptian Copts, have been abducted, abused and unlawfully killed on account of their religious beliefs. In February 2014, seven Egyptian Coptic migrant workers were abducted and shot dead in Benghazi, allegedly by members of Ansar al-Sharia. In one particularly horrific example, on 15 February 2015, a video published online by the media wing of the group calling itself the Tripoli Province of the Islamic State purported to show the beheadings of 21 mostly Egyptian Coptic Christians.<sup>46</sup>

## RIGHTS OF INTERNALLY DISPLACED PERSONS

The authorities have failed to ensure the safe return of some 40,000 Tawarghas, a community of black Libyans, who were driven from their town in 2011 for their perceived allegiance to Colonel al-Gaddafi. Misratah militias accused them of committing war crimes on Colonel al-Gaddafi's behalf, and arbitrarily detained, routinely tortured or ill-treated hundreds of Tawargha men and boys as young as 15. Many Tawargha reportedly died under torture. The Tawargha were re-displaced in mid-2014 in the context of a renewed armed conflict in western Libya and in Benghazi. The authorities have failed to protect the Tawargha from retaliatory attacks on their camps and bring perpetrators to justice.<sup>47</sup> New abductions of members of the Tawargha community on account of their origin have been reported.

## THE DEATH PENALTY

The death penalty continues to be prescribed for a wide range of offences, including activities that amount to no more than the peaceful exercise of the right to freedom of expression and association. In 2013, at least 18 death sentences, all involving murder, were issued by civilian and military courts. Some were sentenced to death amid serious unfair trial concerns.

# RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

## Amnesty International calls on the government of Libya to:

### *Constitution*

- Include human rights guarantees in the new Constitution.

### *Torture and ill-treatment*

- Ensure that all those detained are protected from torture and other ill-treatment, that allegations of torture are investigated and the perpetrators held accountable, and that detention conditions meet international standards;
- Bring the crime of torture in national law into conformity with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Repeal legislation, which allows for the application of corporal punishment, such as flogging and amputation, including Law No. 70 of 1973, Law No. 52 of 1974 and Law No. 13 of 1425;
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### *Due process and unfair trials*

- Release detainees held without charge, or charge them with recognizably criminal offences and promptly bring them to trial in proceedings that meet international fair trial standards and without recourse to the death penalty;
- Ensure that all detainees are granted unimpeded access to their lawyers and sufficient time to prepare an effective defence.

### *Internally displaced persons*

- Protect internally displaced communities, in particular the Tawargha, from attacks by militias;
- End the forcible displacement of all communities as soon as the reasons for their displacement cease to exist, and ensure that they are able to return to their homes or given the necessary information and resources to enable them to make an informed and voluntary choice concerning local integration, the return to their place of origin or resettlement in other parts of Libya;
- Provide full and effective reparations for abuses suffered by internally displaced persons.

### *Impunity for human rights violations and abuses*

- Amend Law No. 38 of 2012 to lift the blanket immunity granted to members of militias responsible for human rights abuses and other crimes under international law in the name of the “17 February Revolution”.

### *Freedoms of expression, association and assembly*

- Repeal Articles 178, 195, 206 and 207 of the Penal Code which criminalize activities which merely amount to the peaceful exercise of the rights to freedom of expression and association;
- Repeal Law No. 5 of 2014, which outlaws all criticism of the “17 February Revolution” and insults to public officials, Articles 439 and 245 of the Penal Code that criminalize defamation, and Article 291 which criminalizes insult to religion;
- Release all individuals held solely for the peaceful exercise of their right to freedom of expression, assembly and association;
- Review and amend Law No. 65 of 2012 to ensure that it is consistent with international standards, in particular provisions related to prior government approval of demonstrations.

*Refugees, asylum-seekers and migrants*

- Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, adopt asylum legislation consistent with international law and standards, and immediately sign a memorandum of understanding with UNHCR;
- Protect suspected irregular migrants from violence, exploitation, abductions and abuse by smugglers, and bring those responsible to justice.

*Women’s rights and gender-based discrimination*

- Review all laws and practices that discriminate on the basis of gender and bring them in line with international law and standards;
- Repeal all discriminatory legislation with regard to marriage, divorce, and inheritance;
- Decriminalize sexual relations between consenting adults, including between same-sex partners, by amending Article 407 and 408 of the Penal Code and repealing Law No. 70 of 1973.

*The death penalty*

- Immediately establish a moratorium on executions, commute all death sentences and reduce the number of crimes punishable by death to “the most serious crimes” with a view to abolition of the death penalty.

*International Criminal Court*

- Fully cooperate with the ICC and surrender Saif al-Islam al-Gaddafi to face prosecution on charges against humanity in accordance with the Court’s Appeals Chamber decision of May 2014.

## ENDNOTES

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<sup>1</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Libyan Arab Jamahiriya*, A/HRC/16/15, 4 January 2011, para 93, 94, 95 and 96, (A/HRC/16/15).

<sup>2</sup> A/HRC/16/15/Add.1

<sup>3</sup> A/HRC/16/15/Add.1, recommendation 95:19 (United Kingdom)

<sup>4</sup> A/HRC/16/15, recommendation 96:6 (Israel). The recommendation was rejected by Libya at the Universal Periodic Review in 2010. Libya did not change its position post 2011.

<sup>5</sup> A/HRC/16/15/Add.1, recommendation 93:35 (Canada)

<sup>6</sup> In 2013, the GNC enacted law 27 and law 53 aiming at disbanding militias. These laws have not been implemented.

<sup>7</sup> These recommendations were first rejected by Libya under the rule of Colonel al-Gaddafi. See: A/HRC/16/15 recommendation 96.19 (Canada). See also recommendations 96.14 (United States), 96.15 (Czech Republic), 96.16 (France), 96.17 (Mexico), 96.18 (Australia) and 96.20 (Slovakia). In 2012, upon further study, Libya accepted recommendations 96.16, 96.17, 96.18 and 96.20. It gave no clear position on recommendations 96.14 and 96.15 stating that the grievances that were at the origin of recommendations made by the United States and the Czech Republic did no longer exist. Article 178 continues to be used to prosecute individuals merely for exercising their right to freedom of expression and assembly.

<sup>8</sup> A/HRC/16/15, recommendation 94.4 (United States) and A/HRC/16/15/Add.1, recommendations 96.1,2,3,4 and 5

<sup>9</sup> A/HRC/16/15/Add. 1, Recommendations 96.1,2,3,4 and 5 (Canada)

<sup>10</sup> A/HRC/16/15 recommendation 95.27 (Canada) and A/HRC/16/15/Add.1, recommendation 95.27 (Canada)

<sup>11</sup> Recommendations 96.9, 96.10 and 96.12 were initially rejected by Libya. They were accepted in 2012 by the new authorities formed following the toppling of Colonel Muammar al-Gaddafi. See A/HRC/16/15/Add.1.

<sup>12</sup> The Constitutional Declaration contains some human rights guarantees. For example, Article 10 guarantees the right to enjoy asylum and recognizes the principle of *non-refoulement* for “political refugees”. The rights to freedom of expression, assembly and association are guaranteed in Article 14 and Article 15. Article 31 of the 2011 Constitutional Declaration guarantees the right to a fair trial and upholds both the presumption of innocence and the requirement of legality. Other rights are missing. Any new Constitution must ensure the supremacy of international law over national legislation, guarantee gender equality and women’s rights, the right to life, the right to liberty, contain a prohibition against torture, and expressly recognize the freedom of thought, conscience, religion and belief. Although Article 6 of the Constitutional Declaration provides for equality for all Libyans, it fails to clearly state that men and women are equal and have full equality in law and practice.

<sup>13</sup> The General National Congress was elected on 7 July 2012 in Libya’s first parliamentary elections. The GNC was primarily tasked with overseeing the political transition, passing necessary legislation and preparing new parliamentary elections. On 25 June, a new parliament was elected following months of political crisis. Elections were marred by boycotts and violence. The House of Representatives sits in the eastern city of Tobruk.

<sup>14</sup> The law aims at addressing human rights violations perpetrated during 42 years of Colonel al-Gaddafi’s rule and in the transitional period following his fall. The transitional period is set

to end with the adoption of a new constitution.

<sup>15</sup> The law was enacted in December 2013.

<sup>16</sup> Article 435 of the Penal Code imposes a prison term ranging from three to ten years on any public official who “orders tortures of an accused or tortures them himself”. The article is limited to public officials and fails to define the crime of torture. These shortcomings were somewhat addressed by Law 10 of 2013 on “Criminalizing torture, enforced disappearance and discrimination”. Still, the definition of torture included in the new legislation falls short of international standards. Although the law imposes heavier sentences than those prescribed under Article 435, (life sentence if torture results in death), it lacks the clarity and precision which criminal offences require. The definition of torture is not consistent with that included in the Convention against Torture and the law fails to expressly prohibit the admission of statements under torture amongst other things.

<sup>17</sup> The law adopted by the NTC in 2012 grants immunity from prosecution to anti al-Gaddafi fighters for military, security and civilian acts committed with the “purpose of rendering successful or protecting the 17 February Revolution”. The same law gave legal weight to interrogation reports and other information collected by anti-Gaddafi fighters.

<sup>18</sup> The criteria for exclusion are based on affiliation and individual conduct in the period between 1 September 1969 and 23 October 2011.

<sup>19</sup> The National Council for Human Rights and Civil Liberties was established under Law 5 of 2011.

<sup>20</sup> Torture methods include beatings with hoses, rifle butts, electric cables, water pipes, in some cases while being suspended in contorted positions. Detainees also reported electric shocks, burns with cigarettes, heated metal or boiling water, threats with murder or rape and shootings with assault rifles on their limbs.

<sup>21</sup> Law 10 of 2013 sets a minimum prison sentence of five years for anyone found guilty of inflicting, or ordering someone else to inflict, physical or mental suffering against anyone detained under their authority with the aim of eliciting a forced confession. The prison term is increased to no less than eight years if the torture results in “grave harm”, ten if it results in serious harm. If the acts of torture results in death, the crime is punishable by a life sentence.

<sup>22</sup> Extramarital relations are punishable by 100 lashes under Law No. 70 of 1993.

<sup>23</sup> Defamation is punishable by flogging under Law No. 52 of 1974.

<sup>24</sup> Law No.13 of 1425 was amended by Law No. 10 of 1369.

<sup>25</sup> The deadline set by the Law on Transitional Justice expired on 2 March 2014. It was extended by the GNC until 2 April 2014.

<sup>26</sup> Sheikh Mohamed al-Madani Shwerif is currently held in the al-Jawiya Corrections and Rehabilitation Institution in Misratah. In addition to seven years in prison, Sheikh Mohamed al-Madani al-Shwerif was sentenced to a fine and the suspension of his civil rights for the entire duration of the sentence.

<sup>27</sup> In 2014, clashes between militias and armed groups evolved in an armed conflict in Benghazi, Tripoli and parts of the western coast. In Tripoli, since mid-July, all sides of the conflict – both the “Operation Dawn” coalition of militias and their rivals predominantly from the town of Zintan and area of Warshafana – have committed serious human rights abuses and violations of international humanitarian law, some of which amount to war crimes. The clashes followed months of tensions and a deep political divide over the legitimacy of state institutions, the shape of Libya’s political transition and the future of its security forces. Amnesty International has documented a number of indiscriminate attacks that have resulted in the killing and injury of civilians and damage to medical institutions, civilian homes,

businesses and infrastructure. Militias on all sides have carried out tit-for-tat abductions. Many civilians, including activists, lawyers, journalists and public figures have been threatened, abducted and subjected to torture and other ill-treatment solely on account of their origin, opinion or perceived political affiliation.

<sup>28</sup> See Amnesty International, *The rule of the gun, abductions, torture and other militia abuses* (Index: MDE 19/009/2014) and Amnesty International, *Benghazi's descent into chaos, abductions, summary killings and other abuses* (Index: MDE 19/001/2015).

<sup>29</sup> For example, Ahmad Ibrahim, a former education minister, was sentenced to death in 2013 on charges related to the 2011 conflict, while his lawyers were threatened and denied the right to see him in private. See for example Amnesty International press release, *Libya: al-Gaddafi loyalists at risk of 'revenge' death sentences*, 2 August 2013, available at: <http://www.amnesty.org/en/news/libya-al-gaddafi-loyalists-risk-revenge-death-sentences-2013-08-02>; Jonathan O'Donohue, *Libya's defining moment: Justice or revenge?*, 22 September 2013, available at: <http://m.aljazeera.com/story/201392210557425280>

<sup>30</sup> Libya has a legal obligation to cooperate with the International Criminal Court pursuant United Nations Security Council Resolution 1970. See Amnesty International, *Libya: Trial of former Libyan officials including Saif al-Islam and Abdallah al-Senussi, Questions and Answers*, (Index: MDE 19/003/2014). See also, Amnesty International, *Libya must immediately surrender Saif al-Islam al-Gaddafi to the ICC*, 21 May 2014, available at: <http://www.amnesty.org/en/news/libya-must-immediately-surrender-saif-al-gaddafi-international-criminal-court-2014-05-21>

<sup>31</sup> The legislation is discriminatory against women in that the mere fact of being unmarried and pregnant is considered sufficient evidence of the commission of *zina*.

<sup>32</sup> Article 408 (4) stipulates that "Anyone who commits an indecent act on another person with their consent shall be punished, as shall their partner, by imprisonment."

<sup>33</sup> See Amnesty International, press release, *Libya urged to investigate whether al-Gaddafi death was a war crime*, available at: <http://www.amnesty.org/en/for-media/press-releases/libya-urged-investigate-whether-al-gaddafi-death-was-war-crime-2011-10-21>; See also, Amnesty International, *Detention abuses staining the new Libya* (Index: MDE 19/036/2011).

<sup>34</sup> See Amnesty International public statement, *Libya: Investigation into killing of political activist must be thorough and independent* (Index: MDE 19/008/2013).

<sup>35</sup> See Amnesty International public statement, *Libya: Journalist killed for denouncing abuses by armed group* (Index: MDE 19/004/2014).

<sup>36</sup> See Amnesty International press release, *Libya must ensure proper investigation after prominent lawyer shot dead*, 26 June 2014, available at: <http://www.amnesty.org/en/news/libya-must-ensure-proper-investigation-after-lawyer-salwa-bugaighis-shot-dead-2014-06-26>

<sup>37</sup> See Amnesty International, *Libya: The day militias shot at protesters* (Index: MDE 19/012/2013).

<sup>38</sup> See Amnesty International, *Libya: End long wait for justice for victims of Abu Salim Prison killing* (Index: MDE 19/006/2014).

<sup>39</sup> Article 10 of Law 65 of 2012 prescribes a maximum prison term of six months and a fine for individuals who organize or call in for demonstrations without duly notifying the competent authorities or defy an issued prohibition order. Under Article 5, organizers of demonstrations are required to notify the date, time and venue of the protest to the Security Directorate at least 48 hours in advance. While states in general require notifications, under

international human rights standards, exceptions should be made when demonstrations take place spontaneously. Under Article 7 (a), the authorities may only ban a demonstration if it is considered to disturb “public security”. The provision is overly broad and vague as it fails to define what constitutes such acts.

<sup>40</sup> Article 195 imposes a maximum prison term of 15 years for insulting legislative, executive or judicial authorities. See Amnesty International press release, *Detained journalist's wife asks why publishing articles 'has become so dangerous in Libya'*, 10 April 2013, available at: <http://www.amnesty.org/en/news/detained-journalist-s-wife-asks-why-publishing-articles-has-become-so-dangerous-libya-2013-04-1>. Article 195 was amended in February 2014 to criminalize any act perceived as “an attack against the 17 February Revolution”; insults to officials, the state's emblem and flag. See Amnesty International press release, *Libya: Three years on, Gaddafi-era laws used to clamp down on free expression*, 12 February 2014, available at: <http://www.amnesty.org/en/news/libya-three-years-gaddafi-era-laws-used-clamp-down-free-expression-2014-02-13>. Article 178 is one of the several provisions of the Penal Code that prescribe a harsh punishment for “crimes against the state. It provides for up to a life sentence for any Libyan who publishes or disseminates information considered to “tarnish [the country's] reputation or undermine confidence in it abroad”, or “who engages in any activity liable to harm the country's interests”. Article 203 provides the death penalty for any act “aiming at initiating a civil war in the country, or fragmenting national unity, or seeking to cause discord” between Libyans. Article 207 prescribes the death penalty for promoting “theories or principles” with a view of changing the fundamental principles of the constitution or the fundamental structures of the social system” or “overthrowing the state's political, social and economic systems”. Article 291 criminalizes blasphemy and prescribes a two-year prison term for insults to Islam, “the Divine being”, the Prophet and other prophets. See Amnesty International press release, *Libya: Politicians face death penalty over blasphemous cartoon*, 27 February 2014, available at: <http://www.amnesty.org/en/for-media/press-releases/libya-politicians-face-death-penalty-over-blasphemous-cartoon-2014-02-27>

<sup>41</sup> See Amnesty International press release, *Libyan who attended protests in London could face life in jail*, 10 September 2013, available at: <http://www.amnesty.org/en/news/libyan-who-attended-protests-london-could-face-life-jail-2013-09-10>. [Moad al-Hnesh's lawyers have appealed the court's decision in February 2014. He was released since then pending the outcome of the appeal.](http://www.amnesty.org/en/news/libyan-who-attended-protests-london-could-face-life-jail-2013-09-10)

<sup>42</sup> For example Jamal al-Hajji was convicted of defamation on 31 December 2013 by the South Tripoli District Court and sentenced to eight months in prison and a fine of 400,000 LYD (approximately 317,000 USD) in relation to a television interview. For further information, see Amnesty International press release, *Libya: Activist imprisoned under al-Gaddafi facing jail for televised remarks about politicians*, 22 January 2014, <http://www.amnesty.org/en/news/libya-activist-imprisoned-under-al-gaddafi-facing-jail-televised-remarks-about-politicians-201-0>

<sup>43</sup> For further information, see Amnesty International press release, *Media attacked as tensions rise over Political Isolation Law*, 8 March 2013; see also, Amnesty International press release, *Three years on, Gaddafi-era laws used to clamp down on free expression*, 12 February 2014

<sup>44</sup> In 2013, Amnesty International found evidence that the Libyan authorities have started deporting foreign nationals diagnosed with infections such as hepatitis B and C or HIV. See Amnesty International, *Scapegoats of fear: Rights of refugees, asylum-seekers and migrants abused in Libya* (Index: MDE 19/007/2013).

<sup>45</sup> Amnesty International documented invasive strip searches of detained women migrants, asylum-seekers and refugees by male guards at an immigration detention centre in Soroman in September 2013. See Amnesty International blog, *If an African dies here, no one cares*,

available at: <http://livewire.amnesty.org/2013/12/18/if-an-african-dies-here-no-one-cares-abuses-of-migrants-and-refugees-in-detention-in-libya/>

<sup>46</sup> See Amnesty International, *Cold-blooded murder of Copts in Libya a war crimes* (Index: MDE 19/002/2015).

<sup>47</sup> For more information on abuses against displaced communities see for example Amnesty International, *Libya: Barred from their homes, Continued displacement and persecution of Tawarghas and other communities in Libya* (Index: MDE 19/011/2013). For information on attacks against camps see for example, Amnesty International, *Libya: The day militias shot at protesters* (Index: MDE 19/012/2013).

# ANNEX

## AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE<sup>1</sup>

*Benghazi's descent into chaos: abductions, summary killings and other abuses* (Index: MDE 19/001/2015).

*Rule of the gun, abductions, torture and other militia abuses in western Libya* (Index: MDE 19/009/2014).

*End long wait for justice for victims of Abu Salim Prison killing* (Index: MDE 19/006/2014).

*Trial of former Libyan officials including Saif al-Islam al-Gaddafi and Abdallah al-Senussi, Questions and Answers* (Index: MDE 19/003/2014).

*The Day militias shot at protesters* (Index: MDE 19/012/2013).

*Barred from their homes, the continuous persecution and displacement of Tawarghas and other communities in Libya* (Index: MDE 19/011/2013).

*Scapegoats of fear, rights of refugees, asylum-seekers and migrants abused in Libya* (Index: MDE 19/007/2013).

*Rule of law or rule of militias?* (Index: MDE 19/012/2012).

*The forgotten victims of NATO strikes* (Index: MDE 19/003/2012).

*Militias threaten hopes for a new Libya* (Index: Index: MDE 19/002/2012).

*The battle for Libya, killings, disappearances and torture* (Index: MDE 19/025/2011).

*No place of safe, civilians under attack* (Index: MDE 19/027/2011).

*Misratah, under siege and under fire* (Index: MDE 19/019/2011).

*Detention abuses staining new Libya* (Index: MDE: 19/036/2011).

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<sup>1</sup> All of these documents are available on Amnesty International's website:  
<http://www.amnesty.org/en/region/libya>