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## UNHCR POSITION ON RETURNS TO LIBYA (Update II)

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1. This document provides an update of and replaces the UNHCR Position on Returns to Libya (Update I) published in October 2015.<sup>1</sup> It is based on information available up to 3 September 2018, unless otherwise stated.
2. The current situation in Libya is characterized by political and military fragmentation, hostilities between competing military factions, the proliferation of armed groups and a general climate of lawlessness, as well as a deteriorating human rights situation.<sup>2</sup> Since 2014, armed conflict between rival armed groups has resulted in large numbers of civilian casualties,<sup>3</sup> displaced hundreds of thousands of people,<sup>4</sup> disrupted people’s access to basic services and livelihoods, and destroyed vital infrastructure.<sup>5</sup> In 2017, armed conflict and political instability reportedly had a direct impact on the lives of around 25

<sup>1</sup> UNHCR, *UNHCR Position on Returns to Libya (Update I)*, October 2015, <http://www.refworld.org/docid/561cd8804.html>.

<sup>2</sup> Council on Foreign Relations (CFR), *Civil War in Libya*, updated 29 August 2018, <https://on.cfr.org/2xoLOG7>; Small Arms Survey, *Capital of Militias – Tripoli’s Armed Groups Capture the Libyan State*, June 2018, <https://bit.ly/2m0lWfQ>; Office of the United Nations High Commissioner for Human Rights (OHCHR), *Statement by UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein at the End of Visit to Libya*, 12 October 2017, <http://www.refworld.org/docid/5b6414484.html>. The Global Peace Index 2018 ranked Libya as the 7<sup>th</sup> most dangerous country in the world; *Global Peace Index 2018: Measuring Peace in a Complex World*, June 2018, <https://bit.ly/2sK6cR3>, p. 9.

<sup>3</sup> Between 1 January and 31 July 2018, the United Nations Support Mission in Libya (UNSMIL) documented the killing and injuring of 127 and 308 civilians, respectively. In 2017, UNSMIL documented 160 civilian deaths and 177 injuries. Given limitations on access to and information flow from conflict-affected areas, the actual casualty figures are likely to be significantly higher. Leading causes of civilian casualties reportedly include explosive remnants of war, gunfire, airstrikes, shelling and improvised explosive devices; see UNSMIL, *Human Rights Report on Civilian Casualties*, available at: <https://bit.ly/2n7teXu>. According to the Armed Conflict Location and Event Data Project (ACLED), 1,654 people were killed in 2017. The highest numbers of casualties were recorded in the provinces of Benghazi, Sirte and Tripoli; Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), *Libya, Year 2017: Update on Incidents According to the Armed Conflict Location & Event Data Project (ACLED)*, 18 June 2018, <https://bit.ly/2tcMvB>.

<sup>4</sup> See below “*Internal and External Displacement*”.

<sup>5</sup> See below “*Humanitarian Situation*”.

per cent of the population.<sup>6</sup> Insecurity and the lack of governance have enabled illicit activities such as corruption<sup>7</sup> as well as people smuggling and human trafficking to thrive, further fuelling instability in the country.<sup>8</sup>

### ***Political and Security Developments***

3. Since the overthrow of Colonel Muammar Gaddafi and his government in October 2011, successive transitional governance arrangements have failed to end the political impasse and resulting internal conflict.<sup>9</sup> The UN-backed Libyan Political Agreement (LPA),<sup>10</sup> signed on 17 December 2015, failed to unify the rival political and military authorities under a single administration. As a result, Libya currently has two ruling powers, one based in the capital Tripoli and one based in the eastern cities of Tobruk and Al-Bayda.<sup>11</sup> In Tripoli, the Presidency Council, which was formed under the terms of the LPA, is led by Prime Minister Fayeze al-Sarraj, who carries out the functions of head of state and Supreme Commander of the Libyan Army. The Presidency Council presides over the Government of National Accord (GNA), the internationally recognized Government of Libya.<sup>12</sup> The High Council of State, a consultative body established under the LPA, also operates from Tripoli and its elected head is Khaled Mishri.<sup>13</sup> The second power centre is made up of the House of Representatives (HoR) based in Tobruk, which, under the LPA, would become the legitimate legislative authority; however, the HoR has to date not recognized the LPA and instead endorsed the rival “Interim Government” of Abdullah Al-Thinni based in the eastern city of Al-Bayda.<sup>14</sup> The Tobruk and Al-Bayda-based authorities are reportedly aligned with and dominated by General Khalifa Haftar, who leads the Libyan National Army (LNA), a coalition of former army units and tribal or regional-based armed groups that controls a large section of central and eastern Libya.<sup>15</sup> The former Islamist-dominated Government of National Salvation, which was formed in 2014 and led by Khalifa Al-Ghwell, reportedly no longer controls any relevant institutions after Ghwell’s forces were expelled from Tripoli in early 2017.<sup>16</sup> The two rival governments are reported to compete over political legitimacy, control of territory, resources and infrastructure (e.g. oil facilities, ports).<sup>17</sup>

<sup>6</sup> Around 1.62 million people; United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *2018 Humanitarian Needs Overview - Libya*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html> (hereafter: OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>), pp. 4, 5, 7.

<sup>7</sup> According to Transparency International’s 2017 Corruption Perceptions Index, Libya ranks 171<sup>st</sup> of 180 countries globally; Transparency International, *Corruption Perceptions Index 2017*, 21 February 2018, <https://bit.ly/2wsdg7H>. See also, The Independent, *Libya Sinks into Poverty as the Oil Money Disappears into Foreign Bank Accounts*, 17 July 2018, <https://ind.pn/2MBIzrU>; UNSMIL, *Remarks of SRSG Ghassan Salamé to the United Nations Security Council on the Situation in Libya*, 21 May 2018, <https://bit.ly/2IEdvR8>.

<sup>8</sup> “Migrant smuggling and trafficking in persons is integrated with other smuggling activities, such as smuggling of arms, drugs and gold. (...) Smuggling occurs virtually uncontested because of the lack of reliable security forces”; United Nations Security Council, *Letter Dated 1 June 2017 from the Panel of Experts on Libya Established Pursuant to Resolution 1973 (2011) Addressed to the President of the Security Council*, 1 June 2017, S/2017/466, <http://www.refworld.org/docid/5b641bee4.html> (hereafter: UN Security Council, *Letter Dated 1 June 2017 from the Panel of Experts on Libya*, June 2017, <http://www.refworld.org/docid/5b641bee4.html>), para. 255. See also, Reuters, *Africa’s Trafficking Gangs Flourish as Nations Fail to Work Together*, 31 July 2018, <https://tmsnr.rs/2LE1IHT>; Jamestown Foundation, *Libya’s Rogue Militias Keep the Country from Tackling Human Trafficking*, Terrorism Monitor Volume: 16 Issue: 4, 26 February 2018, <https://bit.ly/2LTQgeu> and below “*Situation of Third-Country Nationals (Including Asylum-Seekers, Refugees and Migrants)*”.

<sup>9</sup> CFR, *Rushing Libya’s Elections Will Lead to Disaster*, 28 June 2018, <https://on.cfr.org/2IZaUkh>.

<sup>10</sup> *Libyan Political Agreement*, 17 December 2015, <http://www.refworld.org/docid/5b641eae4.html>.

<sup>11</sup> European Council on Foreign Relations (ECFR), *A Quick Guide to Libya’s Main Players*, January 2018, <https://bit.ly/1sBE01s>; BBC, *Libya Country Profile*, 29 May 2018, <https://bbc.in/2uhEEDD>; Bertelsmann Foundation, *BTI 2018 | Libya Country Report*, 2018, <https://bit.ly/2IV1yNa>.

<sup>12</sup> ECFR, *A Quick Guide to Libya’s Main Players*, January 2018, <https://bit.ly/1sBE01s>.

<sup>13</sup> Ibid.

<sup>14</sup> The “Interim Government” was, until late 2015, the internationally recognized government of Libya; ECFR, *A Quick Guide to Libya’s Main Players*, January 2018, <https://bit.ly/1sBE01s>; International Crisis Group (ICG), *Libya’s Unhealthy Focus on Personalities*, 8 May 2018, <https://bit.ly/2sX6o0d>.

<sup>15</sup> Atlantic Council, *Can Libya Survive Without Haftar?*, 16 April 2018, <https://bit.ly/2KA030P>; Carnegie Endowment for International Peace (CEIP), *Libya after ISIS*, 22 February 2017, <http://ceip.org/2JPeC4j>. In eastern Libya, Haftar has reportedly replaced elected officials with military figures; ECFR, *A Quick Guide to Libya’s Main Players*, January 2018, <https://bit.ly/1sBE01s>; Aspen Institute Italia, *The Haftar Factor in Libya’s Puzzle*, 26 June 2017, <https://bit.ly/2KA2oc7>.

<sup>16</sup> OHCHR, *Abuse Behind Bars: Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html> (hereafter: OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>), p. 9; ECFR, *A Quick Guide to Libya’s Main Players*, January 2018, <https://bit.ly/1sBE01s>.

<sup>17</sup> Libya Observer, *Libya’s Oil Crescent Region Is Bracing for New Armed Conflict*, 29 August 2018, <http://lyo.ly/9gp>; UN Security Council, *Security Council Press Statement on Libya*, 19 July 2018, SC/13429, <https://bit.ly/2LYYP3O>; Agence France-Presse, *Major Offensive Launched in Libya’s Oil Crescent*, 17 June 2018, <https://bit.ly/2vARTQ6>; UNHCR, *Libya Protection Sector Strategy 2018-2019*, 1 December 2017, <http://www.refworld.org/docid/5b641f854.html>, p. 1; Heidelberg Institute for International Conflict Research, *Conflict Barometer 2017*, 28 February 2018, <https://bit.ly/2KFBHYi>, p. 187.

4. In September 2017, a UN-sponsored “Action Plan for Libya” was launched, which aims at reinvigorating the political process by amending and implementing the LPA, convening an inclusive national conference, passing a constitution by popular referendum, and holding elections based on a new electoral law.<sup>18</sup> On 29 May 2018 in Paris, four key Libyan political figures reportedly reached a tentative agreement to issue new election laws by September 2018 and hold presidential and legislative elections on a “constitutional basis” in December 2018.<sup>19</sup> However, concerns have been raised that Libya currently lacks conditions conducive to a free and fair vote and that elections may risk further political fragmentation and conflict.<sup>20</sup>
5. The Presidency Council reportedly struggles to assert full control over territory and institutions in accordance with the LPA,<sup>21</sup> and has been beset by internal divisions.<sup>22</sup> In this continued political vacuum, a myriad of armed groups, divided across ideological, regional, ethnic and tribal lines and with their own changing interests and loyalties,<sup>23</sup> are reported to remain the most powerful actors on the ground.<sup>24</sup> Conflict dynamics are often shaped by regional and local interests with local conflicts partly overlapping with divisions at the national level.<sup>25</sup> GNA-aligned armed groups reportedly control Tripoli, Misrata and other towns in western Libya, and most of the western coastal region.<sup>26</sup> Many of these groups reportedly receive central State funds and assume law enforcement functions such as arrests and detention; however, there is reportedly no effective government command and oversight.<sup>27</sup> Groups

<sup>18</sup> UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 5; CFR, *Rushing Libya’s Elections Will Lead to Disaster*, 28 June 2018, <https://on.cfr.org/2IZaUkh>; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, S/2018/140, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html> (hereafter: UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>), paras 2, 3, 6; UNSMIL, *Step by Step, UN Action Plan for Successful Transition Takes Hold in Libya*, 11 January 2018, <http://www.refworld.org/docid/5b6424904.html>; Washington Institute, *The UN Action Plan for Libya: Prospects and Challenges*, 17 October 2017, <https://washinst.org/20SkqSJ>; UN Security Council, *Security Council Presidential Statement Endorses New Action Plan to Resume Inclusive, Libyan-Owned Political Process under United Nations Auspices*, 10 October 2017, SC/13020, <https://bit.ly/2vuR64z>.

<sup>19</sup> National Authorities, *Joint Statement by Fayez al-Sarraj, Aguila Saleh, Khalid Meshri, Khalifa Haftar, Paris*, 29 May 2018, <http://www.refworld.org/docid/5b6420514.html>. See also, Libya Herald, *HoR Fails again to Vote on Referendum Law. Saleh Threatens to Bypass HoR and Organize Elections for a Temporary President*, 28 August 2018, <https://bit.ly/2op5pDs>; UN, *Secretary-General Welcomes Political Declaration on Libya as ‘Significant’ Step Forward in Country’s Transition*, 29 May 2018, SG/SM/19058, <http://www.refworld.org/docid/5b64222f4.html>.

<sup>20</sup> “No free and fair elections can be held in a country that lacks election laws and a constitution. In addition to missing those critical documents, elections are made more difficult by the fact that the country is heavily divided”; The Atlantic Council, *How the West and the UN Failed Libya*, 3 July 2018, <https://bit.ly/2KDM3lj>. See also, Lawfare, *Libya’s House of Cards: Elections Without Institutions*, 19 August 2018, <https://bit.ly/2LKJSOY>; Stratfor Worldview, *Why Libyan Elections Probably Won’t Happen this Year*, 4 June 2018, <https://bit.ly/2K3ZvoI>; ECFR, *Libya Elections 2018: The Missing Ingredient*, 1 June 2018, <https://bit.ly/2Hx7vrS>; Human Rights Watch (HRW), *Libya: No Free Elections in Current Climate*, 21 March 2018, <http://www.refworld.org/docid/5b6422ba4.html>.

<sup>21</sup> By May 2017, the Presidency Council reportedly consolidated its control over the capital Tripoli, with support from powerful Tripoli-based armed groups, including the Tripoli Revolutionaries Brigade (TRB), the Central Security/Abu Salim armed group (CS/AS) and the Special Deterrence Force (SDF); OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 9. See also, Small Arms Survey, *Capital of Militias – Tripoli’s Armed Groups Capture the Libyan State*, June 2018, <https://bit.ly/2m0lWfQ>, p. 16. On the reported lack of authority over government structures (including the Central Bank), see Washington Institute, *The UN Action Plan for Libya: Prospects and Challenges*, PolicyWatch 2873, 17 October 2017, <https://bit.ly/2zqkCfP>.

<sup>22</sup> Reuters, *Unveiling New Libya Plan, U.N. Sees Opportunity for Peace*, 20 September 2017, <https://reut.rs/2pzKCgt>; UN Security Council, *Letter Dated 1 June 2017 from the Panel of Experts on Libya*, June 2017, <http://www.refworld.org/docid/5b641bee4.html>, paras 23, 25.

<sup>23</sup> European Institute of the Mediterranean (IEMed), *Libya: Stuck in Political Transition*, 21 March 2018, <https://bit.ly/2KT2bpA>; Geneva Academy of International Humanitarian Law and Human Rights, *Libya: A Short Guide to the Conflict*, 4 July 2017, <https://bit.ly/2u1eSCj>, p. 2. In 2014, estimates put the number of armed groups in Libya as high as 1,700. In 2016, it was estimated that around 30 militias operated in Tripoli with shifting territories and loyalties; Clingendael Institute, *CrisesAlert 3 – Entering the Lion’s Den: Local Militias and Governance in Libya*, October 2017, <https://bit.ly/2N0etcb>, pp. 4, 10, 15.

<sup>24</sup> OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, para. 4. On armed groups’ control over state institutions and resources in the capital Tripoli, see Small Arms Survey, *Capital of Militias – Tripoli’s Armed Groups Capture the Libyan State*, June 2018, <https://bit.ly/2m0lWfQ>.

<sup>25</sup> “In Libya there are very few truly national actors. The vast majority are local players, some of whom are relevant at the national level while representing the interests of their region, or in most cases, their city”; ECFR, *A Quick Guide to Libya’s Main Players*, January 2018, <https://bit.ly/1sBE01s>. See also, Clingendael Institute, *CrisesAlert 3 – Entering the Lion’s Den: Local Militias and Governance in Libya*, October 2017, <https://bit.ly/2N0etcb>, pp. 3, 4; Geneva Academy of International Humanitarian Law and Human Rights, *Libya: A Short Guide to the Conflict*, 4 July 2017, <https://bit.ly/2u1eSCj>, p. 2.

<sup>26</sup> See Libya control maps: Political Geography Now, *Libyan Civil War Map & Timeline - July 2018*, 20 July 2018, <https://bit.ly/2N4y7Y4>; Petroleum Economist, *Map: Libya’s Conflict*, 19 June 2018, <https://bit.ly/2on66gF>. For a map depicting armed groups’ territorial control in Tripoli, see Small Arms Survey, *Capital of Militias – Tripoli’s Armed Groups Capture the Libyan State*, June 2018, <https://bit.ly/2m0lWfQ>, p. 10.

<sup>27</sup> “Hundreds of armed groups continue to operate throughout Libya, many nominally affiliated with the Ministries of Defence, Interior and Justice. They receive salaries from central State funds, but are not under the command and control of the State. They exercise effective

affiliated with the LNA reportedly control large parts of eastern Libya as well as parts of the southern region.<sup>28</sup>

6. The Islamic State of Iraq and Al-Sham (ISIS) reportedly no longer controls any territory after it was ousted from the city of Sirte in December 2016 by joint US forces and forces loyal to the GNA.<sup>29</sup> However, it reportedly still maintains a presence around Sirte as well as in other areas of Libya and continues to carry out attacks against civilian and military targets.<sup>30</sup> Al-Qaeda in the Islamic Maghreb (AQIM) reportedly maintains a presence around the southern town of Ubari, where it exploits the lack of governance for logistics, recruitment and training, as well as smuggling activities.<sup>31</sup>
7. The overall security situation reportedly remains poor and volatile.<sup>32</sup> The situation is characterized by persistent lawlessness,<sup>33</sup> intermittent but increasing fighting between rival armed groups (including between GNA-aligned forces, forces under the control of General Haftar, local militias, tribes, as well as affiliates of ISIS and AQIM), and widespread kidnappings for criminal and political reasons.<sup>34</sup> The South continues to see intermittent intercommunal conflict primarily between tribal and ethnic groups, some of which are aligned with either the GNA or the LNA, including over control of smuggling routes

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control in localized areas, including over detention centres where thousands of people are detained. Action to remove law enforcement powers from armed groups, as foreseen in the Libyan Political Agreement, and demobilization, disarmament and reintegration have not yet begun”; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, para. 10. “Libya is afflicted by a culture of entitlement and predation by Libya’s armed groups, many of whom claim affiliation with the internationally recognized Government of National Accord. Acting as quasi-police, the funds diverted to these armed groups go well beyond salaries to members, including letters of credit from the Central Bank. Their extortion of the Central Bank adds to the income these groups already derive from illicit activities like fuel smuggling and human trafficking”; CEIP, *Libya Fractured: The Struggle for Unity*, 18 April 2018, <http://ceip.org/2GnvCsG>. See also, UNSMIL, *UNSMIL Statement on Militias Attacking Libyan Sovereign Institutions*, 19 August 2018, <https://bit.ly/2C2OQqG>.

<sup>28</sup> See sources included above in footnote 26.

<sup>29</sup> CFR, *Civil War in Libya*, updated 30 August 2018, <https://on.cfr.org/2xoLOG7>.

<sup>30</sup> “Though the Islamic State was pushed out of its Libyan stronghold in Sirte in December 2016, it has resurfaced in a big way in 2018. It made its first terrorist attack in Tripoli since 2015 when it assaulted the election commission’s headquarters on May 2 [2018]. It has also conducted a string of bombings at checkpoints in the Oil Crescent region”; Stratfor Worldview, *Why Libyan Elections Probably Won’t Happen this Year*, 4 June 2018, <https://bit.ly/2K3ZvoI>. See also, The New Arab, *IS Claims Responsibility for Deadly Libya Checkpoint Attack*, 25 August 2018, <https://bit.ly/2LGBP5w>; UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, paras 16-17; Middle East Eye, *Islamic State in Libya: Fighters Are Regrouping in the Lawless Desert*, 2 August 2018, <https://bit.ly/2vyMORC>; Reuters, *At least Five Killed in Clashes near Libyan Oilfield – Local Official*, 3 February 2018, <https://reut.rs/2NGWAR1>.

<sup>31</sup> The Libya Observer, *U.S. Airstrike Kills Al-Qaeda Militant in Libya*, 17 June 2018, <https://bit.ly/2MAgg8s>; CEIP, *Libya Fractured: The Struggle for Unity*, 18 April 2018, <http://ceip.org/2MkldIF>; CNN, *US Conducts First Airstrike Against al Qaeda in Libya*, 28 March 2018, <https://cnn.it/2GXc77u>.

<sup>32</sup> UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, paras 4, 10-17. See also, ACCORD, *Libya, Year 2017: Update on Incidents According to the Armed Conflict Location & Event Data Project (ACLED)*, 18 June 2018, <https://bit.ly/2tteMvB>. For an overview of the security situation in the different parts of the country, see successive reports by the UN Secretary-General, available at: <https://bit.ly/2AyUDDG>.

<sup>33</sup> BBC, *Libya Rivals Agree ‘Historic’ Election Plan*, 29 May 2018, <https://bbc.in/2LSlBjE>; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, para. 38.

<sup>34</sup> In late August 2018, the Greater Tripoli area saw an escalation in fighting in densely populated residential areas between rival GNA-affiliated armed groups; Deutsche Welle, *Libya Imposes State of Emergency in Tripoli*, 2 September 2018, <https://p.dw.com/p/34BxU>; HRW, *Libya: Civilians Killed in Tripoli Clashes*, 1 September 2018, <https://bit.ly/2wCOFGg>; Al Jazeera, *Clashes Shatter Illusion of Security in Libyan Capital*, 30 August 2018, <http://aje.io/wxh8m>; UNSMIL, *UNSMIL Statement on Ongoing Tripoli Violence*, 29 August 2018, <https://bit.ly/2LDPeep>. In June 2018, following a prolonged siege, the LNA reportedly drove out the Derna Protection Force (formerly Derna Mujahedeen Shura Council) from the eastern city of Derna. The LNA’s use of heavy artillery and airstrikes in densely populated civilian areas reportedly resulted in extensive civilian casualties and retaliatory attacks have reportedly occurred on both sides; UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, paras 12, 28, 63; Reuters, *Haftar’s Forces Say They Have Captured Libyan City of Derna*, 28 June 2018, <https://reut.rs/2ySdW9Z>; UNSMIL, *UNSMIL Statement on the Situation in Derna*, 1 June 2018, <http://www.refworld.org/docid/5b64257e4.html>; HRW, *Libya: Battle for City Endangers Civilians*, 14 May 2018, <http://www.refworld.org/docid/5b55bf314.html>. On kidnappings for criminal and political reasons, see below “Violations of International Human Rights and Humanitarian Law”.

and resources.<sup>35</sup> The reported presence of foreign mercenaries,<sup>36</sup> transnational jihadist groups<sup>37</sup> and criminal networks further destabilizes the situation.<sup>38</sup>

### ***Violations of International Human Rights and Humanitarian Law***

8. Violations and abuses of international human rights and humanitarian law continue to be perpetrated by all parties to the conflict with impunity for even the most serious of crimes.<sup>39</sup> The most common violations and abuses reportedly include: arbitrary detention, abductions, enforced disappearances, torture and other forms of ill-treatment, rape and other forms of sexual violence against both women and men,<sup>40</sup> unlawful killings, including summary executions, forced displacement, as well as both targeted and indiscriminate attacks against civilians and civilian objects, including medical facilities, schools, mosques, etc.<sup>41</sup> Men, women and children are reportedly at risk of being targeted for arbitrary arrest and kidnapping by armed groups and security forces affiliated with rival governments “*for financial or political gain, on the basis of their tribal origin or family identity, or for their perceived political affiliations and opinions*”.<sup>42</sup> According to reports, those singled out for attacks include: fighters and civilians opposing or perceived to be opposing a party to the conflict;<sup>43</sup> former Gaddafi loyalists,<sup>44</sup>

<sup>35</sup> UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 14; CEIP, *Libya's Foreign Militias*, 10 April 2018, <http://ceip.org/2JMYC2I>.

<sup>36</sup> Foreign mercenaries from Sudan (Darfur) and Chad are reportedly fighting alongside various Libyan factions; CEIP, *Libya's Foreign Militias*, 10 April 2018, <http://ceip.org/2JMYC2I>; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, para. 23; UN Security Council, *Letter Dated 1 June 2017 from the Panel of Experts on Libya*, 1 June 2017, <http://www.refworld.org/docid/5b641bee4.html>, para. 83 and Annex 23.

<sup>37</sup> See above para. 6.

<sup>38</sup> Jamestown Foundation, *Salafists, Mercenaries and Body Snatchers: The War for Libya's South*, 6 April 2018, <https://bit.ly/2Ko1eB6>; Jamestown Foundation, *Libya's Rogue Militias Keep the Country From Tackling Human Trafficking*, Terrorism Monitor Volume: 16 Issue: 4, 26 February 2018, <https://bit.ly/2LTQque>.

<sup>39</sup> “Despite regular announcements of investigations into allegations of war crimes and other violations by the Presidency Council and the Libyan National Army, no member of an armed group was brought to justice for committing crimes under international law, to the best of the Mission's knowledge”; UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, para. 54. See also, OHCHR, *Oral Update of the United Nations High Commissioner for Human Rights on Libya Pursuant to Human Rights Council Resolution 34/38*, 20 March 2018, <http://www.refworld.org/docid/5b55b92c4.html> (hereafter: OHCHR, *Oral Update of the United Nations High Commissioner for Human Rights on Libya*, 20 March 2018, <http://www.refworld.org/docid/5b55b92c4.html>).

<sup>40</sup> According to reports, male rape is systematically used against perceived political opponents, e.g. men from Tawergha accused of having supported the former Gaddafi government; The Guardian, *Revealed: Male Rape Used Systematically in Libya as Instrument of War*, 3 November 2017, <https://bit.ly/2h0n3d0>; Euro-Mediterranean Human Rights Monitor (Euro-Med Monitor), *Libya: Testimonies of Rape and Brutal Torture Are Horrific*, 3 November 2017, <https://bit.ly/2y6gGvD>.

<sup>41</sup> Amnesty International, *The Disappeared in the MENA – Neither Dead Nor Alive*, 30 August 2018, <http://www.refworld.org/docid/5b87fb8c4.html>; OHCHR, *Libya: Health-Care under Attack*, 22 May 2018, <http://www.refworld.org/docid/5b559c944.html>; OHCHR, *Oral Update of the United Nations High Commissioner for Human Rights on Libya*, 20 March 2018, <http://www.refworld.org/docid/5b55b92c4.html>; Amnesty International, *Human Rights Council Should Establish an International Investigative Mechanism into Human Rights Violations in Libya*, 20 February 2018, <http://www.refworld.org/docid/5b55c0fb4.html>; HRW, *Libya: Deadly Mosque Attack a Violation of Laws of War*, 25 January 2018, <http://www.refworld.org/docid/5a8eb0e4a.html>; Global Coalition to Protect Education from Attack (GCPEA), *Education under Attack 2018*, January 2018, <https://bit.ly/2tF4GQO>, pp. 162, 164-165.

<sup>42</sup> UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 29. “Armed groups and militias abducted and unlawfully detained hundreds of people because of their opinions, origin, perceived political affiliations or perceived wealth. Those abducted included political activists, lawyers, human rights activists and other civilians. Militias carried out abductions with the aim of extracting ransoms from families, to negotiate an exchange of detainees, or to silence criticism. Since 2014, militias have abducted and unlawfully detained hundreds of people based on opinions, origin, perceived political affiliations or perceived wealth”; Amnesty International, *Human Rights Council Should Establish an International Investigative Mechanism into Human Rights Violations in Libya*, 20 February 2018, <http://www.refworld.org/docid/5b55c0fb4.html>, pp. 2-3. See also, OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, para. 35.

<sup>43</sup> “Armed groups across Libya regularly seize and hold suspected opponents or critics (...)”; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 16. For example, “(...) in eastern Libya, the LNA and its allies regularly seize fighters, their supporters, family members of rival armed groups, and individuals deemed to be critical or insufficiently supportive of the LNA”; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 19. See also, UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 30; Reuters, *Benghazi's Displaced: A Litmus Test for Libya*, 17 May 2018, <https://reut.rs/2wQCdwg>.

<sup>44</sup> Including inhabitants of the town of Tawergha, who are reportedly perceived as having supported the former Gaddafi government and having been involved in human rights abuses in 2011; see below para. 13. See also, Al-Monitor, *Gadhafi Supporters Arrested During Peace Talks in Tripoli*, 25 May 2018, <https://bit.ly/2LnlWVv>.

government officials and politicians;<sup>45</sup> members of the judiciary and law enforcement;<sup>46</sup> members of certain minority religious, ethnic or tribal groups;<sup>47</sup> persons perceived to be violating “public morals”;<sup>48</sup> media professionals;<sup>49</sup> human rights defenders and civil society activists;<sup>50</sup> medical professionals;<sup>51</sup> and humanitarian workers.<sup>52</sup>

9. There are consistent reports of the widespread use of prolonged arbitrary and unlawful detention and endemic human rights abuses in prisons and detention facilities nominally under the control of state institutions but partially or fully under the control of armed groups,<sup>53</sup> as well as in facilities run by armed

<sup>45</sup> Libya Herald, *Updated: Tripoli Municipality Head Kidnapped by Unknown Militias*, 29 March 2018, <https://bit.ly/2n57gN0>; UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, paras 12, 36; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, paras 16, 18.

<sup>46</sup> “Prosecutors, judges, Judicial Police officers and other employees of the justice sector have frequently been subjected to attacks in the form of court bombings, assassinations, other physical assaults, abductions and threats directed against them and/or their relatives”; OHCHR, *Report on the Trial of 37 Former Members of the Qadhafi Regime (Case 630/2012)*, 21 February 2017, <http://www.refworld.org/docid/5b642ab44.html>. See also, Freedom House, *Freedom in the World 2018 – Libya*, 28 May 2018, <http://www.refworld.org/docid/5b6ab9957.html>; UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, paras 36, 52; Amnesty International, *Human Rights Council Should Establish an International Investigative Mechanism into Human Rights Violations in Libya*, 20 February 2018, <http://www.refworld.org/docid/5b55c0fb4.html>, p. 2. See also below para. 14.

<sup>47</sup> “Individuals from certain geographic or tribal origins or perceived to have certain political affiliations are also vulnerable to arbitrary arrest and detention. For instance, in western Libya, internally displaced persons (IDPs) from eastern Libya are often rounded up following ‘terrorist’ incidents.” And further: “Detention based on actual or perceived religious belief also appears to be on the rise in eastern Libya, perpetrated by Salafi armed groups”; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, pp. 17, 19. Sufis are considered by some Muslims as “heretics” because of their less literal interpretations of the faith of Islam; Carnegie Middle East Center, *The Sufi-Salafi Rift*, 23 January 2018, <http://ceip.org/2ITvYgB>; HRW, *Libya: New Wave of Attacks Against Sufi Sites*, 7 December 2017, <http://www.refworld.org/docid/5a2907e44.html>. See also, Freedom House, *Freedom in the World 2018 – Libya*, 28 May 2018, <http://www.refworld.org/docid/5b6ab9957.html>; UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, para. 35; Middle East Eye, *Anger after Amazigh Activist Abducted in Libya by Forces Loyal to Khalifa Haftar*, 5 January 2018, <https://bit.ly/2ONp1fe>; HRW, *Libya: Incitement Against Religious Minority*, 20 July 2017, <http://www.refworld.org/docid/5970a7de4.html>.

<sup>48</sup> “Arrests on grounds of violating ‘public morals’ were documented in both western and eastern Libya”; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, para. 41. See also, BBC News, *Libya: Armed Group Shuts Down Comic Book Convention*, 4 November 2017, <https://bbc.in/2zv5ihX>; IFEX, *Libyan Writers, Editors Fear for Their Lives over Newly Published Literary Collection*, 4 September 2017, <https://bit.ly/2ACQJtb>.

<sup>49</sup> Media workers are reportedly at risk of physical attacks, abductions, arbitrary detention, torture, intimidation and threats, particularly if seen critical to one of the conflict parties. For example, “[T]he LNA and allied armed groups also target and apprehend media workers, activists and others perceived as critical of, or not sufficiently loyal to the LNA.” And further: “In the eastern city of Derna, the DMSC [Derna Mujahedeen Shura Council] has also shown little tolerance for dissent, detaining perceived critics and holding them in unofficial facilities outside the framework of the law”; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 19. See also, UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, paras 41, 42; Committee to Protect Journalists (CPJ), *Journalist Abducted in Libya Found Bound and Shot Dead*, 1 August 2018, <https://cpj.org/x/73ba>; Freedom House, *Freedom in the World 2018 – Libya*, 28 May 2018, <http://www.refworld.org/docid/5b6ab9957.html>; HRW, *Libya: Armed Group Detains Media Figures*, 7 May 2018, <http://www.refworld.org/docid/5b39f31aa.html>; Reporters Sans Frontières, *Seven Years after Its Revolution, Libya Is Losing Its Journalists*, 16 February 2018, <http://www.refworld.org/docid/5b55c4b64.html>.

<sup>50</sup> “Militias with varying political, tribal, and geographic affiliations have attacked civil society activists with impunity. Many NGO workers have fled abroad or ceased their activism in the wake of grave threats to themselves or their families”; Freedom House, *Freedom in the World 2018 – Libya*, 28 May 2018, <http://www.refworld.org/docid/5b6ab9957.html>. See also, UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, paras 41, 43; Libya Prospect, *Enforced Disappearance of Qashout and Yaacoubi Is Continued*, 14 May 2018, <https://bit.ly/2vEW65r>; OHCHR, *Statement by UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein at the End of Visit to Libya*, 12 October 2017, <http://www.refworld.org/docid/5b6414484.html>; The New Arab, *Attacks, Threats and Harassment: How Activists Are Being Silenced in Libya*, 28 July 2017, <https://bit.ly/2JhWE6l>; HRW, *Libya: Activists Being Silenced*, 27 July 2017, <http://www.refworld.org/docid/5979ea694.html>. On women’s rights defenders, see below para. 10.

<sup>51</sup> “Armed groups, including those formally integrated into Ministries, have subjected health care providers to physical and verbal assaults, threats, intimidation, and unlawful deprivation of liberty, contributing to the exodus of health care professionals”; OHCHR, *Libya: Health-Care under Attack*, 22 May 2018, <http://www.refworld.org/docid/5b559c944.html>, p. 1. See also, UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, para. 40; World Health Organization (WHO), *Rising Health Worker Abductions in Libya Threaten Fragile Health System*, 21 December 2017, <http://www.refworld.org/docid/5b642d024.html>; UN Secretary-General, *Children and Armed Conflict: Report of the Secretary-General*, 24 August 2017, A/72/361–S/2017/821, <http://www.refworld.org/docid/5a95820e4.html> (hereafter: UN Secretary-General, *Children and Armed Conflict*, 24 August 2017, <http://www.refworld.org/docid/5a95820e4.html>), para. 107.

<sup>52</sup> Alkarama, *Libya: Human Rights and Humanitarian Activist Abducted by Forces Affiliated with UN-Backed Government*, 19 July 2018, <https://bit.ly/2JDZHPe>; The Libya Observer, *IOM Personnel Abducted in Southern Libya*, 13 January 2018, <https://bit.ly/2EJUwa8>; Reuters, *Gunmen Fire on U.N. Convoy West of Libyan Capital*, 28 June 2017, <https://reut.rs/2ubY39I>; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, para. 21.

<sup>53</sup> These reportedly include: Prisons under the Judicial Police of the Ministry of Justice; facilities under the Ministry of Interior; prisons under the Ministry of Defence; and facilities run by intelligence agencies affiliated to State institutions, such as the General Intelligence Service

groups with no formal connection to state institutions or with affiliation to the unrecognized “Interim Government” and affiliated institutions in eastern Libya.<sup>54</sup> The vast majority of detainees in official facilities are reportedly held in pre-trial detention.<sup>55</sup> According to reports, detainees are routinely held *incommunicado*, are frequently not informed of the charges against them, have not appeared before courts and lack legal representation.<sup>56</sup> Torture and other forms of ill-treatment are reported to be “systematic”, particularly at the outset of detention and during interrogations, and has resulted in deaths.<sup>57</sup> There are also credible reports of summary executions of captured or detained persons at the hands of armed groups.<sup>58</sup> Detention conditions are reported to be inhumane both in official and non-official detention centres.<sup>59</sup> The LPA recognizes the urgent need to address the situation of thousands of “conflict-related” detainees held without legal basis;<sup>60</sup> however, little progress has reportedly been made in this respect.<sup>61</sup> The UN and human rights observers have also expressed concern over the continued imposition of the death penalty.<sup>62</sup>

10. **Women and girls** reportedly continue to be subjected to severe discrimination in law and practice, as well as to various forms of violence and ill-treatment at the hands of both state and non-state actors, including in particular gender-based violence. There is a reported lack of state protection for women in these situations.<sup>63</sup> Armed groups reportedly subject women to widespread harassment and intimidation, unlawful killings, enforced disappearances, and sexual abuse, targeting in particular women accused of not complying with strict interpretations of religious and societal gender norms,<sup>64</sup> women’s rights

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(GIS) under the oversight of the Presidency Council; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 11.

<sup>54</sup> “Some 6,400 individuals were held in 26 official prisons under the Ministry of Justice, an estimated 75 to 80 per cent of them in pretrial detention. Thousands of others were held in facilities nominally under the control of the Ministry of the Interior or the Ministry of Defence, as well as facilities directly run by armed groups”; UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 31. See also, OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 11; HRW, *World Report 2018 – Libya*, 18 January 2018, <http://www.refworld.org/docid/5a61ee53a.html>.

<sup>55</sup> UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, para. 38; HRW, *World Report 2018 – Libya*, 18 January 2018, <http://www.refworld.org/docid/5a61ee53a.html>. See also, OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 9.

<sup>56</sup> UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 32; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, pp. 4, 21.

<sup>57</sup> OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, pp. 5, 28-30, 32-33.

<sup>58</sup> “There are serious risks for those forcibly disappeared by armed groups. The bodies of hundreds of individuals taken by armed groups have been uncovered in streets, hospitals, and rubbish dumps, many with bound limbs, marks of torture and gunshot wounds. OHCHR/UNSMIL found that armed groups across the country have summarily executed or otherwise unlawfully killed individuals deprived of their liberty”; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 5. See also p. 32 of the same report and UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 34.

<sup>59</sup> OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, pp. 4, 30-31; UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, paras 38, 40.

<sup>60</sup> The LPA requires armed groups to release persons held without legal basis or hand them over to the judicial authorities within 30 days and requires judicial authorities to bring detainees before courts or release them within another 60 days, and to provide effective protection and safeguards against abuse; *Libyan Political Agreement*, 17 December 2015, <http://www.refworld.org/docid/5b641eae4.html>, Article 26; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 9.

<sup>61</sup> OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 9; Amnesty International, *Amnesty International Report 2017/18 – Libya*, 22 February 2018, <http://www.refworld.org/docid/5a9938c64.html>.

<sup>62</sup> On 15 August 2018, 45 alleged supporters of the former Gaddafi government were sentenced to death in a mass trial relating to the killing of protesters during the 2011 uprising. The trial was described as falling short of international fair trial standards. No death sentences have reportedly been implemented since 2010; HRW, *Libya: 45 Sentenced to Death for 2011 Killings*, 22 August 2018, <http://www.refworld.org/docid/5b87f9a94.html>; UNSMIL, *UNSMIL Statement on 45 Death Penalties Issued by Tripoli Court of Appeal*, 16 August 2018, <https://bit.ly/2wpxDOV>.

<sup>63</sup> “The prevalence of GBV is underreported as a result of weak reporting structures, cultural attributes and practices that link to shame, stigma, and fear of retaliation, a general lack of trust among service providers, and the lack of a multi-sectorial GBV referral system and coordination mechanism. (...) Furthermore, the notion of domestic violence is regarded as a private matter, which explains family and community non-intervention and a culture of impunity”; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 10. See also, Freedom House, *Freedom in the World 2018 – Libya*, 28 May 2018, <http://www.refworld.org/docid/5b6ab9957.html>; OCHA, *Middle East, North Africa: Protection of Women and Children Snapshot (January - December 2017)*, 28 March 2018, <http://www.refworld.org/docid/5b6449314.html> (hereafter: OCHA, *Protection of Women and Children Snapshot*, 28 March 2018, <http://www.refworld.org/docid/5b6449314.html>); OHCHR, *Situation of Human Rights in Libya, and the Effectiveness of Technical Assistance and Capacity-Building Measures Received by the Government of Libya*, 21 February 2018, <http://www.refworld.org/docid/5b4c64fd4.html> (hereafter: OHCHR, *Situation of Human Rights in Libya*, 21 February 2018, <http://www.refworld.org/docid/5b4c64fd4.html>), paras 33, 36.

<sup>64</sup> US Department of State, *2016 Report on International Religious Freedom – Libya*, 15 August 2017, <http://www.refworld.org/docid/59b7d885a.html>.

defenders<sup>65</sup> and women active in public life.<sup>66</sup> Women are reportedly also at risk of being detained on account of family affiliations, for reason of “moral crimes”, or for the purpose of prisoner exchanges; they are regularly held in facilities without female guards and have reportedly been subjected to torture and other forms of ill-treatment, including sexual violence.<sup>67</sup> Women’s freedom of movement is reportedly restricted as a result of the security situation, and, in some instances, only permitted with a male guardian.<sup>68</sup>

11. **Children** are reportedly disproportionately affected by the ongoing conflict and violence in Libya.<sup>69</sup> They are reportedly at risk of sexual and gender-based violence;<sup>70</sup> domestic violence;<sup>71</sup> recruitment by armed groups;<sup>72</sup> abduction, unlawful detention, as well as torture and other forms of ill-treatment, including on account of their own or their family members’ alleged or actual association with other parties to the conflict;<sup>73</sup> and killing as a result of the indiscriminate use of weapons in residential areas, in crossfire and from explosive remnants of war.<sup>74</sup> Access to education has reportedly been impaired by

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<sup>65</sup> “Libyan women activists, bloggers and journalists are increasingly being silenced as they face gender-based violence in the form of physical assault, abductions and sexual violence, as well as smear campaigns, gender-related slurs and attempts at intimidation”; Amnesty International, *Libya: Silenced Voices: Libyan Women Human Rights Defenders under Attack*, 17 July 2018, <http://www.refworld.org/docid/5b6abc764.html>. See also, UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence*, 23 March 2018, S/2018/250, <http://www.refworld.org/docid/5b29148d7.html>, paras 48-49; OHCHR, *Situation of Human Rights in Libya*, 21 February 2018, <http://www.refworld.org/docid/5b4c64fd4.html>, para. 33.

<sup>66</sup> “In the face of intimidation and targeting, high-profile women activists continued to be forced to retreat from public and political engagement”; Amnesty International, *Amnesty International Report 2017/18 – Libya*, 22 February 2018, <http://www.refworld.org/docid/5a9938c64.html>. See also, Libya Herald, *Assault on Female Blogger and Activist Maryam Tayeb in Tripoli*, 27 July 2018, <https://bit.ly/2LTM6QN>; UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence*, 23 March 2018, S/2018/250, <http://www.refworld.org/docid/5b29148d7.html>, para. 49.

<sup>67</sup> For example, women and girls accused of engaging in sexual relations outside of marriage, which is criminalized in Libya, have reportedly been subjected to invasive “virginity tests” pursuant to judicial orders; UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence*, 23 March 2018, S/2018/250, <http://www.refworld.org/docid/5b29148d7.html>, para. 49. See also, UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 39; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, pp. 3, 5, 35-37; OCHA, *Protection of Women and Children Snapshot*, 28 March 2018, <http://www.refworld.org/docid/5b6449314.html>; UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence*, 23 March 2018, S/2018/250, <http://www.refworld.org/docid/5b29148d7.html>, paras 19, 47, 48; OHCHR, *Oral Update of the United Nations High Commissioner for Human Rights on Libya*, 20 March 2018, <http://www.refworld.org/docid/5b55b92c4.html>; OHCHR, *Situation of Human Rights in Libya*, 21 February 2018, <http://www.refworld.org/docid/5b4c64fd4.html>, para. 34.

<sup>68</sup> “In February [2017] the military in eastern Libya issued Decree No. 6 of 2017, restricting Libyan women under the age of 60 from travelling abroad without a legal male guardian. Following a public outcry and calls from civil society for its removal, Decree No. 6 was replaced on 23 February with Decree No. 7, which stipulated that no Libyan male or female between the ages of 18 and 45 could travel abroad without prior ‘security approval’. The Decree failed to specify the procedure required to obtain such approval or the criteria that would be used to grant or deny it”; Amnesty International, *Amnesty International Report 2017/18 – Libya*, 22 February 2018, <http://www.refworld.org/docid/5a9938c64.html>. See also, OHCHR, *Situation of Human Rights in Libya*, 21 February 2018, <http://www.refworld.org/docid/5b4c64fd4.html>, para. 33.

<sup>69</sup> UNHCR, *Libya Protection Sector Strategy 2018-2019*, 1 December 2017, <http://www.refworld.org/docid/5b641f854.html>, p. 6; Roméo Dallaire Child Soldiers Initiative, *Libya Country Report: Children & Security*, 31 January 2017, <https://bit.ly/2OE9Q9p>, p. 4.

<sup>70</sup> United Nations Children’s Fund (UNICEF), *Libya: Humanitarian Situation Report 2017*, 22 January 2018, <https://uni.cf/2n1Aoo7>, p. 3; Roméo Dallaire Child Soldiers Initiative, *Libya Country Report: Children & Security*, 31 January 2017, <https://bit.ly/2OE9Q9p>, p. 17.

<sup>71</sup> A study by the National Center for Disease Control on Violence against Children in 2017 among middle school students in Libya, showed a high prevalence of violence against children at home and in school with 92 per cent of male and 88 per cent female students having experienced at least some form of violence; UNICEF, *Libya: Humanitarian Situation Report 2017*, 22 January 2018, <https://uni.cf/2n1Aoo7>, p. 3.

<sup>72</sup> UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, para. 51; US Department of State, *2018 Trafficking in Persons Report – Libya*, 28 June 2018, <http://www.refworld.org/docid/5b3e0af04.html>; UN Secretary-General, *Children and Armed Conflict*, 24 August 2017, <http://www.refworld.org/docid/5a95820e4.html>, para. 105; Roméo Dallaire Child Soldiers Initiative, *Libya Country Report: Children & Security*, 31 January 2017, <https://bit.ly/2OE9Q9p>, p. 16.

<sup>73</sup> UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, para. 35; OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, pp. 3, 16, 19; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, para. 51; OHCHR, *Situation of Human Rights in Libya*, 21 February 2018, <http://www.refworld.org/docid/5b4c64fd4.html>, paras 38-39.

<sup>74</sup> OHCHR, *Situation of Human Rights in Libya*, 21 February 2018, <http://www.refworld.org/docid/5b4c64fd4.html>, para. 37; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, para. 51; UN Secretary-General, *Children and Armed Conflict*, 24 August 2017, <http://www.refworld.org/docid/5a95820e4.html>, para. 106.

conflict and instability,<sup>75</sup> and schools have been the target for attacks.<sup>76</sup> Many children are reportedly in need of mental health support given the conflict's devastating impact.<sup>77</sup>

12. **Persons of Diverse Sexual Orientation and/or Gender Identities** are reportedly subjected to state and societal discrimination.<sup>78</sup> Moreover, same-sex relations are proscribed under the Penal Code of 1953 (as amended by Law 70 of 1976).<sup>79</sup> Reports suggest that other provisions that criminalize “acts of indecency” and the distribution of “articles of an indecent nature” may also be used to prosecute persons of diverse sexual orientations and/or gender identities.<sup>80</sup> Persons of diverse sexual orientations and/or gender identities reportedly face physical violence, harassment, threats, arbitrary arrest and death at the hands of non-state actors operating with impunity.<sup>81</sup>

13. **Internally Displaced Persons (IDPs)** are reportedly targeted for forced eviction,<sup>82</sup> arbitrary detention, abduction, and torture by different armed groups on account of their perceived affiliation with rival armed groups.<sup>83</sup> Many IDPs are reportedly barred from returning to their areas of origin due to their perceived support of “terrorism” or the former Gaddafi government.<sup>84</sup> IDP women and girls are particularly vulnerable to sexual and gender-based violence, which is said to be “widely underreported”

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<sup>75</sup> See below para. 32.

<sup>76</sup> See above para. 8.

<sup>77</sup> Middle East Eye, *Libya's Children Scarred and Haunted by War: 'It's all They Know'*, 4 September 2017, <https://bit.ly/2O8schw>; Roméo Dallaire Child Soldiers Initiative, *Libya Country Report: Children & Security*, 31 January 2017, <https://bit.ly/2OE9Q9p>, p. 19.

<sup>78</sup> Freedom House, *Freedom in the World 2018 – Libya*, 28 May 2018, <http://www.refworld.org/docid/5b6ab9957.html>; Quzah Libya, *Taking Baby Steps in Defending LGBTI Rights in a Highly Homophobic Nation*, 30 August 2016, <https://bit.ly/2O8ykX1>; Australian Government Department of Foreign Affairs and Trade (DFAT), *Country Information Report – Libya*, 4 April 2016, <https://bit.ly/2HL4SD0>, paras 3.86, 3.88; Canada: Immigration and Refugee Board of Canada, *Libya: Situation of Sexual Minorities, Including Legislation; Treatment by Society and Authorities; State Protection and Available Services (2011 - July 2014)*, 17 July 2014, LBY104913.E, <http://www.refworld.org/docid/54ca12544.html>.

<sup>79</sup> “The penal code prohibits all sexual acts outside marriage, including same-sex relations, and punishes them with up to five years in prison”; HRW, *World Report 2018 – Libya*, 18 January 2018, <http://www.refworld.org/docid/5a61ee53a.html>. See also, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *State Sponsored Homophobia. A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition*, May 2017, <http://www.refworld.org/docid/59e615f64.html>, pp. 37, 92.

<sup>80</sup> HRW, *Audacity in Adversity: LGBT Activism in the Middle East and North Africa*, 16 April 2018, <http://www.refworld.org/docid/5b34f0827.html>, p. 69; ILGA, *State Sponsored Homophobia. A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition*, May 2017, <http://www.refworld.org/docid/59e615f64.html>, pp. 41, 92, 176-177.

<sup>81</sup> HRW, *Audacity in Adversity: LGBT Activism in the Middle East and North Africa*, 16 April 2018, <http://www.refworld.org/docid/5b34f0827.html>, pp. 13, 16-17, 19; ICG, *How the Islamic State Rose, Fell and Could Rise again in the Maghreb*, 24 July 2017, <http://www.refworld.org/docid/5975eef84.html>, p. 14.

<sup>82</sup> In mid-August 2018, following days of raids, threats and arbitrary arrests, 1,900 IDPs from Tawergha were forcibly evicted by a local militia from Triq Al Matar settlement in Tripoli where they had been living since 2011. The majority of households were displaced to other areas in Tripoli. Some families from Tawergha living in other settlements in Tripoli fled in anticipation of being attacked; UNHCR, *Militias Evict and Disperse 1,900 Displaced People in Libya*, 14 August 2018, <https://bit.ly/2MOV5JS>; OHCHR, *Press Briefing Notes on Cambodia Elections, Bosnia and Herzegovina and Libya Attacks*, 17 August 2018, <https://bit.ly/2Mm9syD>; UNHCR, *Flash Update on the Forced Eviction and Mass Arrest in Tarik Al-Matar Internally Displaced Settlement*, 10 August 2018, <https://bit.ly/2wpcT7K>; Amnesty International, *Libya: Tawergha IDP Camp Attacked by Militia in Danger of Further Attack and Demolition*, 10 August 2018, <http://www.refworld.org/docid/5b87edb54.html>.

<sup>83</sup> UNHCR, *Internally Displaced Persons from Benghazi*, March 2018, <http://www.refworld.org/docid/5b6abebf4.html>, p. 1. For example, in western Libya, IDPs from the east reportedly face discrimination and have been subjected to arbitrary arrest following “terrorist” incidents: “Many internally displaced persons from Benghazi have been targeted on suspicion of supporting terrorist groups, and many of those displaced whom the Special Rapporteur spoke with reported that male family members had been detained since 2014 (...)”; UN General Assembly, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons on Her Visit to Libya*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html> (hereafter: UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>), para. 43. See also paras 38 and 39 of the same report and OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 17.

<sup>84</sup> IDPs particularly affected reportedly include those from Tawergha, Benghazi, Mashashya, Sirte, Warshafana, Tripoli and Kikkla; UNHCR, *Libya: Protection – Situation Overview, January-February 2018*, 29 March 2018, <https://bit.ly/2Hzfaeb>, p. 2. For example, the return of around 40,000 displaced members of the Tawergha community continues to be blocked by armed groups from Misrata, reportedly on account of the community being accused of having supported Ghaddafi's forces in 2011; UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 47; UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, paras 51-56; OHCHR, *Libya: Residents of Tawergha 'Dying in Desert' in Attempt to Return Home after Seven Years*, 20 February 2018, <http://www.refworld.org/docid/5b6abfa34.html>; HRW, *Libya: Residents Barred from Returning Home*, 16 February 2018, <http://www.refworld.org/docid/5a8eb1fca.html>. Armed groups affiliated with the LNA are reportedly blocking the return of thousands of IDP families to Benghazi on the basis that they “support terrorism”; HRW, *Libya: Displaced Benghazi Families Prevented from Return*, 1 February 2018, <http://www.refworld.org/docid/5a8eb100a.html>. See also below para. 25.

and reported to occur with impunity.<sup>85</sup> Judges and lawyers reportedly face pressure not to take on cases involving abuses committed against IDPs.<sup>86</sup>

14. The administration of justice is reported to be “*dysfunctional in most of the country*”.<sup>87</sup> The judiciary reportedly delay deciding cases with political or security related aspects.<sup>88</sup> Prosecutors, judges and other judicial staff are reportedly targeted for threats and attacks.<sup>89</sup>

### ***Situation of Third-Country Nationals (Including Asylum-Seekers, Refugees and Migrants)***

15. Libya is not party to the 1951 Convention relating to the Status of Refugees or its Protocol.<sup>90</sup> It has ratified the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention)<sup>91</sup> and is also party to the African Charter on Human and Peoples' Rights (“Banjul Charter”).<sup>92</sup> While the right to asylum is provided for in Article 10 of Libya’s 2011 interim Constitutional Declaration,<sup>93</sup> there is no asylum legislation or any established asylum procedures.<sup>94</sup> As a result, all non-Libyans regardless of their status fall under national immigration laws, including asylum-seekers and refugees. Applicable Libyan laws criminalize all irregular entry, stay, or exit, for example without the appropriate documentation or through unofficial border posts, without distinguishing between asylum-seekers/refugees, migrants, or victims of trafficking. Violations are penalized with an undefined prison sentence with “hard labour” or a fine of approximately 1,000 Libyan Dinars (USD 723) and eventually deportation once the sentence is completed.<sup>95</sup> Third-country nationals who have been deported from Libya are not permitted to return without a decision from the Director of the General Directorate of Passports and Nationality.<sup>96</sup>

<sup>85</sup> “According to several reports submitted to the Special Rapporteur, violence against internally displaced women and girls ranges from psychological and verbal abuse to kidnapping, rape and other forms of sexual assault. Due to stigma, fear of retaliation, weak reporting structures, lack of specialized staff and a lack of trust in the formal judicial system, these cases of sexual and gender-based violence are widely underreported in Libya”; UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, para. 47.

<sup>86</sup> *Ibid.*, para. 40.

<sup>87</sup> HRW, *Libya: Displaced Benghazi Families Prevented from Return*, 1 February 2018, <http://www.refworld.org/docid/5a8eb100a.html>. See also, HRW, *World Report 2018 – Libya*, 18 January 2018, <http://www.refworld.org/docid/5a61ee53a.html>; Amnesty International, *Human Rights Council Should Establish an International Investigative Mechanism into Human Rights Violations in Libya*, 20 February 2018, <http://www.refworld.org/docid/5b55c0fb4.html>, pp. 1, 2.

<sup>88</sup> OHCHR, *Arbitrary and Unlawful Detention in Libya*, April 2018, <http://www.refworld.org/docid/5b5590154.html>, p. 10. “The weakness of judicial institutions and the general climate of lawlessness and insecurity hampered victims’ ability to seek protection, justice and redress”; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 12 February 2018, <http://www.refworld.org/docid/5b4c678f4.html>, para. 38.

<sup>89</sup> See above para. 8.

<sup>90</sup> UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, Vol. 189, <http://www.refworld.org/docid/3be01b964.html>, p. 137; *Protocol Relating to the Status of Refugees*, 31 January 1967, UN Treaty Series, Vol. 606, <http://www.refworld.org/docid/3ae6b3ae4.html>, p. 267.

<sup>91</sup> Although Libya is a party to the OAU Convention, it has not enacted domestic legislation to implement the convention; Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa (“OAU Convention”)*, 10 September 1969, 1001 UN Treaty Series 45, <http://www.refworld.org/docid/3ae6b36018.html>.

<sup>92</sup> See Art. 12(3) with regards to the right to seek and enjoy asylum in accordance with member states’ laws and international conventions; OAU, *African Charter on Human and Peoples' Rights (“Banjul Charter”)*, 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), <http://www.refworld.org/docid/3ae6b3630.html>. In 2004, Libya also ratified core international protocols relating to human trafficking and smuggling of migrants, including: UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, 15 November 2000, <http://www.refworld.org/docid/4720706c0.html>; UN General Assembly, *Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime*, 15 November 2000, <http://www.refworld.org/docid/479dee062.html>.

<sup>93</sup> Article 10 of the 2011 Constitutional Declaration stipulates: “The State shall guarantee the right of asylum in accordance with an Act of Parliament. The extradition of political refugees shall be prohibited”; *Constitutional Declaration [Libya]*, 3 August 2011, <http://www.refworld.org/docid/5b645f5d4.html>.

<sup>94</sup> Amnesty International, *Libya’s Dark Web of Collusion: Abuses Against Europe-bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html> (hereafter: Amnesty International, *Abuses Against Europe-Bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html>), p. 7.

<sup>95</sup> Provisions for the detention of non-citizens for immigration-related violations are contained in two laws: Law No. 6 (1987) Regulating Entry, Residence and Exit of Foreign Nationals to/from Libya as amended by Law No. 2 (2004), available at: <https://bit.ly/2M3D96V> and <https://bit.ly/2nnd98C>; and Law No. 19 of 2010 on Combating Irregular Migration, available at: <https://bit.ly/2KBzjil>. See also, Global Detention Project (GDP), *Country Report Immigration Detention in Libya: “A Human Rights Crisis”*, August 2018, <http://www.refworld.org/docid/5b8802614.html>, pp. 12-13, 30.

<sup>96</sup> Article 18 of Law No. 6 (1987) Regulating Entry, Residence and Exit of Foreign Nationals to/from Libya as amended by Law No. 2 (2004).

16. As of 31 August 2018, UNHCR in Libya had registered 55,008 asylum-seekers and refugees.<sup>97</sup> In addition to asylum-seekers and refugees registered with UNHCR, there are third-country nationals or stateless persons with international protection needs who have not been registered with UNHCR.<sup>98</sup> Furthermore, as of June 2018, over 679,000 migrants from over 40 nationalities were recorded to be living in Libya, although the actual number is estimated to be up to one million.<sup>99</sup> A January 2015 entry ban for Syrians, Palestinians, Bangladeshis and Sudanese, which was expanded in September 2015 to also include Yemenis, Iranians and Pakistanis, reportedly remains in place in areas under control of the Tobruk/Al-Bayda-based authorities, although no information as to the actual implementation is available.<sup>100</sup>
17. Asylum-seekers, refugees and migrants transiting through or remaining in Libya are reportedly particularly vulnerable in the context of the volatile security situation and deteriorating socio-economic conditions.<sup>101</sup> The majority of asylum-seekers, refugees and migrants do not have access to residence permits, putting them at acute risk of arrest and detention for irregular stay.<sup>102</sup> As a result of their irregular status and lack of legal documents,<sup>103</sup> as well as widespread discriminatory practices (particularly, but not exclusively, against persons from sub-Saharan countries),<sup>104</sup> they are reportedly often excluded from social security mechanisms and denied access to basic services, including emergency health care, resulting in poor living conditions.<sup>105</sup> Many are therefore compelled to resort to negative coping strategies.<sup>106</sup> According to a December 2017 study, no significant differences were

<sup>97</sup> Of these, 43 per cent are Syrian, followed by Sudanese (18 per cent), Palestinians (13 per cent) and Eritreans (12 per cent). Others, including from Iraq, Somalia and Ethiopia, account for 13.5 per cent; UNHCR, *Libya: Registration – Fact Sheet August 2018*, 1 September 2018, <https://bit.ly/2NKVpIL>; UNHCR, *Operational Portal – Refugee Situations: Libya*, last updated 31 August 2018, <https://data2.unhcr.org/en/country/liby>. Between January and August 2018, UNHCR registered 10,499 individuals, mostly Sudanese, Eritreans, Syrians and Somalis; UNHCR, *UNHCR Flash Update Libya (23 - 31 August 2018)*, 31 August 2018, <https://bit.ly/2LRVhfR>.

<sup>98</sup> In practice, the Libyan authorities only recognize that individuals of nine designated nationalities may have a claim for international protection. Accordingly, UNHCR can register as persons of concern only individuals from these nine countries, namely Ethiopia, Eritrea, Iraq, Palestine, Somalia, Sudan, South Sudan, Syria and Yemen. UNHCR continues to advocate for the registration of all persons seeking international protection, regardless of nationality; UNHCR information, August 2018.

<sup>99</sup> The top five countries of origin identified are Niger, Egypt, Chad, Sudan and Ghana, which together account for up to 65 per cent of Libya's migrant population. Women represent approximately 10 per cent and children eight per cent. 26,000 children were reported to be unaccompanied; International Organization for Migration (IOM), *Displacement Tracking Matrix (DTM) – Libya's Migrant Report – Round 20 (May - June 2018)*, 31 July 2018, <https://bit.ly/2OFaa06>, pp. 2, 14. See also, Refugees International, "Death Would Have Been Better": *Europe Continues to Fail Refugees and Migrants in Libya*, 15 April 2018, <http://www.refworld.org/docid/5b55c5ce4.html> (hereafter: Refugees International, *Europe Continues to Fail Refugees and Migrants in Libya*, 15 April 2018, <http://www.refworld.org/docid/5b55c5ce4.html>), pp. 6, 14.

<sup>100</sup> Information available to UNHCR based on media and government communications, August 2018. See also, Reuters, *Libya's Official Government Bans Yemenis, Iranians, Pakistanis from Entry*, 1 September 2015, <http://reut.rs/1EwwRnl>.

<sup>101</sup> "The deterioration of socio-economic conditions in the country affected respondents from all region of origin, including respondents from the MENA region, who are generally assumed to enjoy better living conditions than refugees and migrants from other regions. As much as refugees and migrants from East and West Africa, respondents from the MENA region reported being employed in daily jobs, characterised by unstable income and precarious working conditions"; REACH/Start Network, *Refugees Mixed Migration Routes and Migrants' Access to Resources, Healthcare and Housing Dynamics in Libya: Key Challenges and Coping Mechanisms*, December 2017, <https://bit.ly/2KfgC6K> (hereafter: REACH, *Key Challenges and Coping Mechanisms*, December 2017, <https://bit.ly/2KfgC6K>), p. 25.

<sup>102</sup> "Migrants with irregular status are technically in Libya illegally, and can be arbitrarily detained and deported at any time. This makes seeking services risky, leaves them no legal recourse for crimes perpetrated against them, and ultimately makes them a prime target for exploitation and abuse"; International Rescue Committee (IRC), *Pushing the Boundaries: Insights into the EU's Response to Mixed Migration on the Central Mediterranean Route*, 11 July 2018, <https://bit.ly/2vrmPY1> (hereafter: IRC, *Pushing the Boundaries*, 11 July 2018, <https://bit.ly/2vrmPY1>), p. 24. See also above para. 15.

<sup>103</sup> "In order to live, work, and have access to basic services, migrants must have necessary documentation. Whilst the majority of migrants and refugees enter Libya irregularly, some migrants enter Libya in possession of appropriate travel documents, but they are unable to renew these documents when they expire"; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 8.

<sup>104</sup> "As the country's security situation has deteriorated, xenophobic sentiments and abuse against migrants have increased, especially targeting those from Sub-Saharan Africa. Those without legal papers are particularly vulnerable to exploitation"; IRC, *Pushing the Boundaries*, 11 July 2018, <https://bit.ly/2vrmPY1>, p. 12. See also, REACH, *Key Challenges and Coping Mechanisms*, December 2017, <https://bit.ly/2KfgC6K>, pp. 1, 2, 16, 17, 21, 22-23, 26.

<sup>105</sup> OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, pp. 13, 14, 32, 43, 44. "(...) many refugees and migrants encounter discrimination and exploitation by the local population. There are instances of people being denied treatment in hospitals and private clinics or being forced to wait longer than other patients because of their background and appearance. Yet irregular migrants cannot denounce to the authorities these abuses nor access key services (including formal employment, health care and education) for fear of being arrested"; Mixed Migration Centre, *Fraught with Risk – Protection Concerns of People on the Move Across West Africa and Libya*, 11 May 2018, <https://bit.ly/2uAmZYz> (hereafter: Mixed Migration Centre, *Fraught with Risk*, 11 May 2018, <https://bit.ly/2uAmZYz>), p. 16. See also below "Humanitarian Situation".

<sup>106</sup> REACH, *Key Challenges and Coping Mechanisms*, December 2017, <https://bit.ly/2KfgC6K>, pp. 2, 15, 22, 23-24, 26.

found in terms of access to resources and services between refugees and migrants who were long-term residents compared to those who had arrived in the country more recently.<sup>107</sup>

18. Asylum-seekers and refugees with a valid UNHCR certificate are in principle granted access to free education and medical assistance in public schools and hospitals; however, in practice this is not always the case. Syrians, Palestinians and Iraqis normally have access, while those from sub-Saharan countries would need the intervention by UNHCR and its partner International Medical Corps (IMC) on a case-by-case basis to access services.<sup>108</sup> Since 2017, UNHCR has observed a remarkable increase in the number of refugees and asylum-seekers who are wholly dependent on UNHCR's direct financial and medical assistance.<sup>109</sup>
19. Following interception or rescue of individuals at sea, the Libyan Coast Guard (LCG) hands the persons over to the authorities of the Directorate to Combat Illegal Migration (DCIM),<sup>110</sup> which transfers them directly to government-run detention centres where they are held for indefinite periods.<sup>111</sup> Presently, there is no possibility of release, except in the context of repatriation, evacuation or resettlement to third countries.<sup>112</sup> At the time of writing, UNHCR estimates that over 8,000 persons, including more than 4,500 persons of the nine nationalities that UNHCR is able to register in Libya,<sup>113</sup> are held in detention centres run by the DCIM after having been rescued or intercepted at sea, or after having been arrested on land during house raids or identity checks including near land borders.<sup>114</sup> There are no available figures for those held by various armed factions or criminal networks in unofficial detention centres, including in warehouses and farms.<sup>115</sup> In all facilities, detention conditions reportedly fail to meet international standards<sup>116</sup> and have been described as “*appalling*”,<sup>117</sup> “*nightmarish*”,<sup>118</sup> “*cruel, inhuman and degrading*.”<sup>119</sup> Both male and female asylum-seekers, refugees, and migrants, including children, are reportedly systematically subjected to or are at very high risk of torture and other forms of ill-

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<sup>107</sup> Ibid., p. 2.

<sup>108</sup> UNHCR information, August 2018. See also below “*Humanitarian Situation*”.

<sup>109</sup> UNHCR information, August 2018.

<sup>110</sup> The DCIM was established as a division of the GNA's Ministry of Interior in 2012 to tackle irregular migration flows into the country. It is responsible for arresting anyone who has entered the country irregularly, organizing the deportation of irregular migrants and managing the detention centres.

<sup>111</sup> “*Since there is no registration system in place for those disembarked and subsequently detained, it is impossible to know with any degree of accuracy how many people are being held in official detention at any given time, the length of their detention and, ultimately, their fate*”; IRC, *Pushing the Boundaries*, 11 July 2018, <https://bit.ly/2vrmPY1>, p. 15.

<sup>112</sup> UNHCR, *Desperate Journeys January 2017 - March 2018*, April 2018, <https://bit.ly/2EEqIX9>, p. 9. See also below para. 23.

<sup>113</sup> See above footnote 98.

<sup>114</sup> UNHCR, *UNHCR Flash Update Libya (17 - 24 August 2018)*, 24 August 2018, <https://bit.ly/2NxY9A9>.

<sup>115</sup> “*Armed groups or criminal gangs operating without affiliation to the DCIM or any other state institution have over the past three years increasingly detained refugees and migrants as a means of generating cash by extorting ransom payments*”; Amnesty International, *Abuses Against Europe-Bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html>, p. 27. See also, HRW, *EU/Italy/Libya: Disputes Over Rescues Put Lives at Risk*, 25 July 2018, <http://www.refworld.org/docid/5b646a9f4.html>; IRC, *Pushing the Boundaries*, 11 July 2018, <https://bit.ly/2vrmPY1>, p. 13.

<sup>116</sup> Reports describe conditions of extreme overcrowding, poor lighting and ventilation, as well as lack of access to medical care, psychosocial support and adequate nutrition. (Then) UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, said that “[T]he *detention system for migrants in Libya is broken beyond repair*.” He further described the conditions as encountered by UN monitors visiting four DCIM detention facilities in Tripoli: “*Monitors were shocked by what they witnessed: thousands of emaciated and traumatized men, women and children piled on top of each other, locked up in hangars with no access to the most basic necessities, and stripped of their human dignity*”; OHCHR, *UN Human Rights Chief: Suffering of Migrants in Libya Outrage to Conscience of Humanity*, 14 November 2017, <http://www.refworld.org/docid/5b6461354.html>. See also, Médecins Sans Frontières (MSF), *Stop Arbitrary Detention of Refugees and Migrants Disembarked in Libya*, 24 July 2018, <https://bit.ly/2LmjbVr>; UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, para. 44; Refugees International, *Europe Continues to Fail Refugees and Migrants in Libya*, 15 April 2018, <http://www.refworld.org/docid/5b55c5ce4.html>.

<sup>117</sup> OHCHR, *Oral Update of the United Nations High Commissioner for Human Rights on Libya*, 20 March 2018, <http://www.refworld.org/docid/5b55b92c4.html>.

<sup>118</sup> MSF, *An Open Letter from MSF International President Dr Joanne Liu to European Government Leaders*, 6 September 2017, <https://bit.ly/2KSy55e>.

<sup>119</sup> Amnesty International, *Abuses Against Europe-Bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html>, pp. 9, 53.

treatment, including rape and other forms of sexual violence,<sup>120</sup> forced labour as well as extortion,<sup>121</sup> both in official and unofficial detention facilities.<sup>122</sup> Racial and religious discrimination in detention is also reported.<sup>123</sup> Those detained have no possibility to challenge the legality of their detention or treatment.<sup>124</sup> Third-country nationals in detention are also impacted by the general security situation in the country as demonstrated during the late August 2018 escalation in fighting between rival armed groups in Tripoli.<sup>125</sup>

20. Insecurity and the absence of a central state authority with effective control has allowed Libya to become a main country of transit and departure for refugees and migrants seeking to reach Europe in their flight from persecution, conflict and violence or hardship, often in unseaworthy, overcrowded boats.<sup>126</sup> Smuggling networks operating across East and West Africa reportedly bring the refugees and migrants by road via Libya's southern border in the Fezzan region, which borders Niger, Chad and Algeria. From there, they make their way to the country's north-west from where they attempt to move onwards to European destinations, mainly to or via Italy.<sup>127</sup>
21. *En route* and during their stay in Libya, migrants, refugees and asylum-seekers, including children, are reportedly at risk of being subjected to widespread and systematic human rights violations and abuses at the hands of smugglers, traffickers, armed groups, militias, criminal gangs and state officials acting with impunity. These violations and abuses reportedly include unlawful deprivation of liberty and arbitrary detention; torture and other forms of ill-treatment, including rape and other forms of sexual

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<sup>120</sup> “Migrant women and girls were raped and otherwise sexually abused during their journeys through Libya, in both official and unofficial migrant detention centres. Survivors described being taken away from cells shared with others by armed men, including guards of the Department for Combating Illegal Migration, and being raped repeatedly by multiple perpetrators. Those who tried to resist were beaten, threatened at gunpoint, and denied food and water”; OHCHR, *Situation of Human Rights in Libya*, 21 February 2018, <http://www.refworld.org/docid/5b4c64fd4.html>, para. 35. See also, UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 39; OHCHR, *Returned Migrants Are Being Robbed, Raped and Murdered in Libya*, 8 September 2017, <http://www.refworld.org/docid/5b5598dd4.html>.

<sup>121</sup> “In a lawless country, refugees and migrants have become a resource to be exploited – a commodity around which an entire industry has grown, as the shocking footage of a migrants [sic] being sold, aired in November 2017 highlighted”; Amnesty International, *Abuses Against Europe-Bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html>, p. 6. See also, Jamestown Foundation, *Libya's Rogue Militias Keep the Country from Tackling Human Trafficking*, Terrorism Monitor Volume: 16 Issue: 4, 26 February 2018, <https://bit.ly/2LTOqeu>; Euro-Med Monitor, *Libya: Dozens of Refugees Kidnapped by Armed Gangs*, 22 February 2018, <https://bit.ly/2CfpC7t>; OHCHR, *Libya Must End “Outrageous” Auctions of Enslaved People*, UN Experts Insist, 30 November 2017, <http://www.refworld.org/docid/5b5593324.html>; CNN, *People for Sale*, 15 November 2017, <https://cnn.it/2FX902f>.

<sup>122</sup> Amnesty International, *Abuses Against Europe-Bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html>, p. 22. “In recent weeks, UNHCR has witnessed a critical worsening in conditions in detention centres, due to the increasing overcrowding and lack of basic living standards. As a consequence, riots and hunger strikes by refugees inside detention centres are taking place, demanding a resolution to their bleak living conditions”; UNHCR, *UNHCR Flash Update Libya (17 - 24 August 2018)*, 24 August 2018, <https://bit.ly/2NxY9A9>.

<sup>123</sup> Refugees International, *Europe Continues to Fail Refugees and Migrants in Libya*, 15 April 2018, <http://www.refworld.org/docid/5b55c5ce4.html>, p. 10.

<sup>124</sup> MSF, *Stop Arbitrary Detention of Refugees and Migrants Disembarked in Libya*, 24 July 2018, <https://bit.ly/2LmjbVr>; Refugees International, *Europe Continues to Fail Refugees and Migrants in Libya*, 15 April 2018, <http://www.refworld.org/docid/5b55c5ce4.html>, p. 14; Amnesty International, *Abuses Against Europe-Bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html>, p. 24.

<sup>125</sup> In the end of August 2018, clashes between rival armed groups in Tripoli put hundreds of refugees and migrants held in government-run detention centres in grave danger; UNHCR, *UNHCR Moves Detained Refugees Out of Harm's Way in Volatile Libyan Capital*, 30 August 2018, <https://bit.ly/2MFp2pl>; MSF, *Conflict in Tripoli Puts Lives in Danger, Demonstrating that Libya Is not a Place of Safety*, 31 August 2018, <https://bit.ly/2wA66NV>; Irish Times, *Migrants in Libya Detention Centre Say Their Lives Are in Peril*, 28 August 2018, <https://bit.ly/2Lzrb0r>. See also above footnote 34.

<sup>126</sup> UNHCR, *Libya: Activities at Disembarkation – Monthly Update, August 2018*, 2 September 2018, <https://bit.ly/2PZbkvB>; Amnesty International, *Abuses Against Europe-Bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html>, p. 15; UNHCR, *Refugee and Migrant Flows Through Libya on the Rise – Report*, 3 July 2017, <https://bit.ly/2tMxb0D>.

<sup>127</sup> UNHCR/REACH, *Mixed Migration Routes and Dynamics in Libya: The Impact of EU Migration Measures on Mixed Migration in Libya*, April 2018, <https://bit.ly/2NtVmaD>, p. 2. “According to one analyst, trafficking gangs with links to Libyan militias in the south can demand between 1,000 to 1,500 Libyan dinars (\$800 to \$1,100) to take migrants as far as Tripoli. If migrants are unable to pay, they are handed over directly to rogue militias who place them in safe houses owned by armed gangs. There the migrants will usually try to call home, requesting money to pay for their release. If their families are unable to pay, the militias sell them to wealthy Libyans who need cheap labor on their farms or on construction sites. These African migrants in effect become independent laborers for Libyans who provide them little in the way of pay or maintenance for the work they do. Some may be passed as slaves among the different militias, while the more fortunate ones are sold to wealthy Libyans and become employees who can eventually earn enough money to pay to escape the country. Others will end up in the hands of government-aligned militias who then place them in detention centers awaiting deportation”; Jamestown Monitor, *Libya's Rogue Militias Keep the Country from Tackling Human Trafficking*, 26 February 2018, <https://bit.ly/2LTOqeu>. See also, ICG, *How Libya's Fezzan Became Europe's New Border*, 31 July 2017, <http://www.refworld.org/docid/59831c6b4.html>, p. 21.

violence; abduction for ransom and other forms of extortion; forced labour; and unlawful killing.<sup>128</sup> Persons from sub-Saharan countries are reportedly particularly (but not exclusively) targeted.<sup>129</sup> Women and girls are reported to be particularly vulnerable to being subjected to rape, forced prostitution and other forms of sexual violence.<sup>130</sup>

22. Since 2017, Italy and the EU provide assistance to the LCG to increase its capacity to carry out search and rescue operations and prevent irregular departures on the Central Mediterranean route.<sup>131</sup> As a result of increased LGC operations, the number of people crossing from Libya to Italy has reduced significantly,<sup>132</sup> while out of the total number of people who do still attempt the crossing, the proportion of persons intercepted or rescued at sea by the LCG has increased.<sup>133</sup> The increase in interceptions and rescue operations conducted by the LCG resulted in greater numbers of persons disembarked (and detained) in Libya.<sup>134</sup> During rescues / interception operations at sea, the LCG have reportedly been involved in human rights violations against refugees, asylum-seekers and migrants,<sup>135</sup> including the

<sup>128</sup> UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 36; IOM/UNHCR, *Flash Update – Zwara Incident*, 16 July 2018, <https://bit.ly/2KmAqAF>; Mixed Migration Centre, *Fraught with Risk*, 11 May 2018, <https://bit.ly/2uAmZYz>, pp. 6, 8, 13-14; Refugees International, *Europe Continues to Fail Refugees and Migrants in Libya*, 15 April 2018, <http://www.refworld.org/docid/5b55c5ce4.html>, p. 3; OHCHR, *Libya Must End “Outrageous” Auctions of Enslaved People, UN Experts Insist*, 30 November 2017, <http://www.refworld.org/docid/5b5593324.html>; IOM, *IOM Learns of ‘Slave Market’ Conditions Endangering Migrants in North Africa*, 4 November 2017, <https://bit.ly/2ov79w1>.

<sup>129</sup> Mixed Migration Centre, *Fraught with Risk*, 11 May 2018, <https://bit.ly/2uAmZYz>, p. 11; Lawyers for Justice in Libya, *Eliminate Racial Discrimination in Libya*, 21 March 2018, <https://bit.ly/2MtFVPn>.

<sup>130</sup> “Patterns of sexual violence against migrants, refugees and asylum seekers, perpetrated not only by smugglers, traffickers and criminal networks, but also by police and guards associated with the Ministry of the Interior in some cases, have been documented. The Department of Combating Illegal Migration and the coastguard have also been implicated in violations”; UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence*, 23 March 2018, S/2018/250, <http://www.refworld.org/docid/5b29148d7.html>, para. 47. “Migrant women held in detention centres are at particular risk, as they are often held in cells guarded by male guards, who have full access to the cells. In addition, several reports indicate that guards ‘organise’ rapes in the cells, and are involved in sexual exploitation and trafficking, using detention centres as brothels for forced prostitution. Other cases involve selling detained women as ‘sex slaves’ and sexual violence, including rape, perpetrated by individual members of the Coastguard in the context of search and rescue”; International Centre for Migration Policy Development (ICMPD), *What Are the Protection Concerns for Migrants and Refugees in Libya?*, November 2017, <https://bit.ly/2MwD0pv>, pp. 5-6. See also, IRC, *Pushing the Boundaries*, 11 July 2018, <https://bit.ly/2vrnPY1>, p. 13; UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, para. 46; Mixed Migration Centre, *Fraught with Risk*, 11 May 2018, <https://bit.ly/2uAmZYz>, p. 8. Sexual violence has reportedly also been used as a form of torture against men in unofficial detention centres; UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence*, 23 March 2018, S/2018/250, <http://www.refworld.org/docid/5b29148d7.html>, para. 47; Oxfam, *You Aren’t Human Anymore – Migrants Expose the Harrowing Situation in Libya and the Impact of European Policies*, 9 August 2017, <https://bit.ly/2AWWzG0>, pp. 1, 3.

<sup>131</sup> European Commission, *Central Mediterranean Route: Commission Proposes Action Plan to Support Italy, Reduce Pressure and Increase Solidarity*, 4 July 2017, <https://bit.ly/2mTE1T>; *Memorandum of Understanding on Cooperation in the Fields of Development, the Fight Against Illegal Immigration, Human Trafficking and Fuel Smuggling and on Reinforcing the Security of Borders Between the State of Libya and the Italian Republic*, 2 February 2017, <https://bit.ly/2NrW15G>.

<sup>132</sup> The Central Mediterranean Route saw its largest arrival numbers in 2016, with 181,436 migrants, refugees and asylum-seekers arriving to Italy by sea. 2017 saw the arrival of 119,369 persons, which marked a 34 per cent decrease from the previous year. Between 1 January and 31 August 2018, 20,000 persons arrived in Italy by sea. For updated arrival figures, see: <https://data2.unhcr.org/en/situations/mediterranean/location/5205>.

<sup>133</sup> IRC, *Pushing the Boundaries*, 11 July 2018, <https://bit.ly/2vrnPY1>, p. 15; UNHCR, *Desperate Journeys January 2017 - March 2018*, April 2018, <https://bit.ly/2EEqIX9>, pp. 4, 9; Refugees International, *Europe Continues to Fail Refugees and Migrants in Libya*, 15 April 2018, <http://www.refworld.org/docid/5b55c5ce4.html>, p. 8. See also, UN News, *UNHCR Sounds Alarm as Mediterranean Sea Deaths Pass 1,500 Mark*, 3 August 2018, <https://bit.ly/2Oa0ctS>.

<sup>134</sup> Between 1 January and 31 August 2018, the Libyan Coast Guard rescued/intercepted a total of 13,185 people in different locations along the Libyan coast and transferred them to detention centres (an increase of 24.4 per cent compared to the same period in 2017). 552 individuals were rescued/intercepted in August 2018, 2,167 in July and 3,453 in June. Among those disembarked between January and August 2018, UNHCR identified over 3,200 persons of nationalities that can register with UNHCR in Libya, including from Eritrea, Sudan, Somalia, Ethiopia, Palestine and Syria. UNHCR and its partners are present at disembarkation points along the Libyan coast and provide life-saving assistance and undertake protection monitoring to identify persons of concern; UNHCR, *Libya: Activities at Disembarkation, Monthly Update*, August 2018, <https://bit.ly/2PZbkbB>; UNHCR, *Activities at Disembarkation*, accessed 2 September 2018, <https://bit.ly/2D6xmXm>. As a result of increased interceptions at sea since June 2018, there has reportedly been a sharp increase in the number of refugees, asylum-seekers and migrants held in already overcrowded Libyan detention centres; UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 36; Amnesty International, *Between the Devil and the Deep Blue Sea – Europe Fails Refugees and Migrants in the Central Mediterranean*, 8 August 2018, <http://www.refworld.org/docid/5b6c22694.html>, pp. 6, 18; MSF, *Stop Arbitrary Detention of Refugees and Migrants Disembarked in Libya*, 24 July 2018, <https://bit.ly/2LmjbVr>.

<sup>135</sup> “LCG officials are also responsible for human rights violations and are known to operate in collusion with smuggling networks. LCG officials conducting interception operations have used threats and violence against refugees and migrants on board boats in distress that is the very people they are supposed to rescue, sometimes in order to rob them of their few possessions. They have also caused deaths and put lives at risk by operating with blatant disregard for basic security protocols and standards”; Amnesty International, *Abuses Against Europe-Bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html>, p. 8. In June 2018, Abd Al Rahman Al-Milad, the head of the regional coastguard unit in Zawiyah was added to the UN Security Council’s sanctions list, as the unit “is

deliberate sinking of boats using firearms.<sup>136</sup> The LCG have also been accused of colluding with smuggling networks.<sup>137</sup> In parallel, critical activities of non-governmental organization (NGO) rescue boats have been increasingly restricted.<sup>138</sup> These developments have led to a higher percentage of people dying at sea than before.<sup>139</sup> In the end of June 2018, the Libyan Search-and-Rescue Region (SRR) has been formalized, indicating that Libya has assumed primary responsibility for search and rescue coordination in an area extending to around 100 miles from some of the primary departure sites.<sup>140</sup> The capacity of the Libyan authorities to effectively and safely conduct and coordinate search and rescue operations over such a wide area is reportedly limited, including because of limited vessel and rescue coordination capacity and the lack of reliable communication systems.<sup>141</sup>

23. The international community has scaled up efforts to repatriate or evacuate people out of detention since the end of 2017. However, these activities can only reach a limited number of the total refugee and migrant population in Libya.<sup>142</sup> Since January 2017, over 30,000 individuals returned to their countries of origin through the Voluntary Humanitarian Returns (VHR) programme run by the International Organization for Migration (IOM).<sup>143</sup> The voluntary nature of these returns has been questioned given that the practice of detention often leaves no alternative.<sup>144</sup> However, the critical role of IOM's ability to support returns to their country of origin for stranded migrants is not in question. In November 2017, UNHCR initiated an Emergency Transit Mechanism (ETM) to evacuate the most vulnerable persons of concern from Libya.<sup>145</sup> UNHCR and the Libyan Ministry of Interior are committed to opening a new

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consistently linked with violence against migrants"; UN News Service, *As Security Council Imposes Sanctions on Six Human Traffickers in Libya, UN Chief Calls for more Accountability*, 8 June 2018, <http://www.refworld.org/docid/5b64659e4.html>. See also, UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence*, 23 March 2018, S/2018/250, <http://www.refworld.org/docid/5b29148d7.html>, para. 47; HRW, *Libya: Impunity Drives Violence*, 18 January 2018, <https://bit.ly/2ufgSbf>; OHCHR, *Returned Migrants Are Being Robbed, Raped and Murdered in Libya*, 8 September 2017, <http://www.refworld.org/docid/5b5598dd4.html>. See also above footnote 130.

<sup>136</sup> UN Security Council, *Letter Dated 1 June 2017 from the Panel of Experts on Libya*, June 2017, <http://www.refworld.org/docid/5b641bee4.html>, paras 104-105.

<sup>137</sup> "It consists primarily in the LCG allowing boats to depart in exchange for a fee"; Amnesty International, *Abuses Against Europe-Bound Refugees and Migrants*, 11 December 2017, <http://www.refworld.org/docid/5a2fa1cb4.html>, p. 8. See also, Jamestown Monitor, *Libya's Rogue Militias Keep the Country from Tackling Human Trafficking*, 26 February 2018, <https://bit.ly/2LTQqeu>; The Independent, *UK-Supported Libyan Forces 'Taking Bribes to Free Detained Migrants' after Pushing Boats Back to Shore*, 25 October 2017, <https://ind.pn/2un8fve>.

<sup>138</sup> Amnesty International, *Between the Devil and the Deep Blue Sea – Europe Fails Refugees and Migrants in the Central Mediterranean*, 8 August 2018, <http://www.refworld.org/docid/5b6c22694.html>, pp. 7-16; MSF, *Drownings Skyrocket as European Governments Block Humanitarian Assistance*, 12 July 2018, <https://bit.ly/2NEMJuV>.

<sup>139</sup> "Already this year, more than 1,500 people have drowned or gone missing on the Mediterranean. On the Central Mediterranean route in particular, the rate of lives being lost has increased threefold, and now stands at one death for every 17 people who attempt to cross compared to one in 43 during the same period last year"; UNHCR, *UNHCR Welcomes Aquarius Resolution, but Stresses Need for more Predictable Approach to Disembarkation*, 15 August 2018, <https://bit.ly/2Oychth>. "UNHCR is especially concerned about the impact of a more limited search and rescue capacity if boats are discouraged from responding to distress calls through fear of being denied permission to disembark people rescued. NGOs in particular have voiced their concerns at restrictions being placed on their abilities to conduct search and rescue as a result of limitations on their movements and the threat of potential legal actions"; UNHCR, *As Mediterranean Sea Arrivals Decline and Death Rates Rise, UNHCR Calls for Strengthening of Search and Rescue*, 6 July 2018, <http://unhcr.org/5b3f270a4>. See also, IOM, *Missing Migrants*, accessed 3 September 2018, <http://missingmigrants.iom.int/region/mediterranean>.

<sup>140</sup> Euronews, *Prompted by EU, Libya Quietly Claims Right to Order Rescuers to Return Fleeing Migrants*, 6 July 2018, <https://bit.ly/2ukI5dr>; Vita (in Italian), *La Libia Ha Dichiarato la Sua Zona SAR: Lo Conferma l'IMO*, 28 June 2018, <https://bit.ly/2KQQijT>.

<sup>141</sup> Libya is yet to set up a maritime rescue coordination centre (MRCC), which is expected to be operational in 2020; HRW, *EU/Italy/Libya: Disputes Over Rescues Put Lives at Risk*, 25 July 2018, <http://www.refworld.org/docid/5b646a9f4.html>. See also, The Independent, *Libya's Coastguard Says It Has Intercepted more than 570 Refugees Bound for Europe*, 2 August 2018, <https://ind.pn/2OD25jS>; European Council on Refugees and Exiles (ECRE), *Italy Pushes ahead with "Salvini Plan" to Bolster Libyan Coast Guard in Fight Against "Illegal Migration"*, 6 July 2018, <https://bit.ly/2NMWpTD>; Deutsche Welle, *Italy Gives Libya Ships, Equipment as more Migrants Reported Lost*, 3 July 2018, <https://p.dw.com/p/30i96>.

<sup>142</sup> Tensions inside detention centres are increasing as refugees and migrants are frustrated with the lack of solutions; UNHCR information, August 2018. See also above footnote 122.

<sup>143</sup> Including 19,370 in 2017 and 10,950 between January and July 2018; IOM, *IOM Voluntary Humanitarian Returns Continue in Libya as Number of Detained Migrants Soars*, 10 August 2018, <https://bit.ly/2KikUyT>; IOM, *Voluntary Humanitarian Return Flights Resume January 1 as UN Migration Agency Continues Efforts to Assist Migrants in Libya*, 3 January 2018, <https://bit.ly/2FcZdpl>.

<sup>144</sup> MSF, *Stop Arbitrary Detention of Refugees and Migrants Disembarked in Libya*, 24 July 2018, <https://bit.ly/2LmjbVr>; Refugees International, *Europe Continues to Fail Refugees and Migrants in Libya*, 15 April 2018, <http://www.refworld.org/docid/5b55c5ce4.html>, pp. 16-17.

<sup>145</sup> Between November 2017 and 31 August 2018, UNHCR evacuated 1,858 individuals from Libya (1,536 to Niger, 312 to Italy and 10 to Romania). These evacuations allow for the transfer of vulnerable individuals from detention centres in Libya to a safe and dignified environment while their cases are processed for solutions such as resettlement or family reunification. In September 2017, UNHCR called for 40,000 resettlement places to be made available for refugees located in 15 countries along the Central Mediterranean route. As of 13 August 2018, 12 States (Belgium, Canada, Finland, France, Germany, Italy, Malta, Netherlands, Norway, Sweden, Switzerland and the United Kingdom) have committed 3,886 resettlement places for the Libya-Niger situation. Out of these pledges, 1,090 will be used for

Gathering and Departure Facility (GDF), which would speed up the process of securing solutions in third countries and provide a critical alternative to detention for persons of concern to UNHCR while their cases are processed.<sup>146</sup> UNHCR has observed an increase in the number of asylum-seekers registered with UNHCR in Libya who are trying to cross the Mediterranean Sea, reportedly due to the lack of solutions in the country.<sup>147</sup>

### **Internal and External Displacement**

24. Libya reportedly has one of the highest per capita displacement levels in Africa<sup>148</sup> and internal displacement has reportedly become “a permanent feature of life for many in Libya”.<sup>149</sup> In mid-2014, as violence in Libya escalated, an estimated 400,000 people became internally displaced.<sup>150</sup> Although many have returned since,<sup>151</sup> others have become newly displaced due to periodic escalations of armed conflict.<sup>152</sup> As of June 2018, over 192,500 persons remained displaced,<sup>153</sup> over 50 per cent of whom are children.<sup>154</sup> The main drivers for displacement are reported to be armed conflict, human rights violations, and persecution based on perceived political affiliation.<sup>155</sup>
25. The provision of assistance and protection to IDPs is reported to be inadequate as a result of gaps in state capacity, lack of sustained and regular humanitarian access, limited coordination mechanisms and a lack of international support.<sup>156</sup> Many IDPs currently have no prospect of returning home as a result of ongoing conflict or insecurity, destruction or damage to homes and basic infrastructure, contamination with explosive remnants of war, as well as due to fear of being subjected to human rights

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resettlement processing directly out of Libya, while the remainder will be allocated to evacuees from Libya and refugees registered in Niger. Since 1 September 2017, 797 individuals were submitted for resettlement to eight States (Canada, France, Germany, Italy, Netherlands, Norway, Sweden and Switzerland). A total of 70 individuals departed on resettlement directly from Libya to Canada, France, Sweden and the Netherlands; UNHCR, *UNHCR Flash Update Libya (17 - 24 August 2018)*, 24 August 2018, <https://bit.ly/2NxY9A9>; UNHCR, *Central Mediterranean Situation: UNHCR Calls for an Additional 40,000 Resettlement Places*, 11 September 2017, <http://www.refworld.org/docid/59b7ee104.html>.

<sup>146</sup> UNHCR, *UNHCR Flash Update Libya (17 - 24 August 2018)*, 24 August 2018, <https://bit.ly/2NxY9A9>. At the time of writing, no opening date has yet been set.

<sup>147</sup> UNHCR, *UNHCR Flash Update Libya (28 June – 6 July 2018)*, 6 July 2018, <https://bit.ly/2J3tUxX>.

<sup>148</sup> Internal Displacement Monitoring Centre (IDMC), *2017 Africa Report on Internal Displacement*, 6 December 2017, <https://bit.ly/2HSgplf>, p. 21. An estimated two to three per cent of the population are internally displaced; UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, p. 1.

<sup>149</sup> UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, p. 1. Many IDPs have reportedly been displaced multiple times since 2011; IOM, *DTM Libya | IDP & Returnee Report, Round 20 | May - June 2018*, 30 June 2018, <https://bit.ly/2vm58Vx> (hereafter: IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>), p. 10.

<sup>150</sup> Equivalent to 6 to 7 per cent of the country’s population; UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, para. 6.

<sup>151</sup> Between early 2016 and June 2018, over 372,000 IDPs returned to their home communities; IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, p. 3. See also, OCHA, *Libya HNO 2018*, 1 March 2018, <https://bit.ly/2ugDPux>, pp. 5, 13.

<sup>152</sup> “Periodic, but increasingly frequent, escalation of armed conflict resulted in displacement (...)”; UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, para. 63. In late August 2018, at least 9,200 individuals have been displaced due to escalating fighting from affected neighbourhoods in Southern Tripoli; IOM, *DTM Libya - Tripoli Flash Update (01 September 2018)*, 1 September 2018, <https://bit.ly/2Q1zOnV>. In May-June 2018, fighting between tribal armed groups in the South reportedly resulted in the displacement of over 3,000 persons; IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, p. 4. In the same period, over 19,000 persons were displaced as a result of clashes in Derna; IOM, *Derna Flash Update #4*, 14 June 2018, <https://bit.ly/2KKHyvE>. In 2017, more than 20,000 people were newly displaced; OCHA, *Libya HNO 2018*, 1 March 2018, <https://bit.ly/2ugDPux>, pp. 5, 13.

<sup>153</sup> The highest reported presence of IDPs is in Benghazi (29,790 individuals) and Sebha (22,955 individuals); IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, pp. 3, 6. “(...) the actual total number of those affected by internal displacement is difficult to estimate, as many internally displaced persons seek anonymity due to fears for their safety and security, and some leave the country to find safety and protection elsewhere”; UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, para. 26.

<sup>154</sup> *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, p. 11.

<sup>155</sup> The majority of IDPs, 84 per cent, were displaced due to threat/fear from general conflict and armed group presence; 14 per cent were mainly displaced due to other security-related issues, and the remaining 2 per cent were displaced due to economic factors; IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, pp. 3, 9. “Internal displacement in Libya is characterized by a combination of major displacement movements due to armed conflict as well as urban-to-urban and multiple displacement of individuals and families from different localities due to human rights violations and persecution based on perceived political and ideological affiliations”; UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, para. 26. See also, UNHCR, *Libya: Protection – Situation Overview January - February 2018*, 15 March 2018, <https://bit.ly/2Hzfaeb>.

<sup>156</sup> OHCHR, *End of Mission Statement by the United Nations Special Rapporteur on the Human Rights of IDPs, Ms. Cecilia Jimenez-Damary, upon Conclusion of Her Official Visit to Libya – 25 to 31 January 2018*, 2 February 2018, <http://www.refworld.org/docid/5b55ba1bd.html>. On the humanitarian conditions for IDPs, see “Humanitarian Situation”.

violations by armed groups present in their areas of origin.<sup>157</sup> Return communities, armed groups and local authorities are reportedly also preventing IDPs from returning on account of their (perceived) political opinion or affiliation with “terrorist” groups or the former Gaddafi government.<sup>158</sup>

26. An increasing number of Libyans, including IDPs, are reportedly seeking to leave the country.<sup>159</sup>

### **Humanitarian Situation**

27. The ongoing conflict and political impasse have reportedly led to a further deterioration of the humanitarian conditions across all sectors in Libya.<sup>160</sup> As of March 2018, 1.1 million people were estimated to be in need of life-saving humanitarian assistance and protection, including 378,000 children and 307,000 women of reproductive age.<sup>161</sup> The humanitarian response remains poorly funded, further undermining critical access to and availability of basic services to people in need.<sup>162</sup> Areas of ongoing conflict<sup>163</sup> as well as areas with disrupted and poor economic and livelihoods opportunities with large numbers of returnees, IDPs, migrants, refugees and asylum-seekers are reported to be among those with the most severe needs across multiple sectors.<sup>164</sup> The highly volatile security and political situation hampers sustained humanitarian access,<sup>165</sup> leaving the most vulnerable communities,<sup>166</sup> in particular IDPs, asylum-seekers, refugees and migrants, with unmet urgent needs.<sup>167</sup>

<sup>157</sup> According to IOM’s DTM, in 69 per cent of municipalities, IDPs were reported to be unable to return due to fear of ongoing conflict and armed group presence; IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, p. 9. See also, UNHCR, *Internally Displaced Persons from Benghazi*, March 2018, <http://www.refworld.org/docid/5b6abebf4.html>, p. 2; UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, paras 38, 50, 53.

See above para. 13.

<sup>159</sup> Reasons for leaving reportedly include growing insecurity, including terrorist threats and kidnappings; lack of basic services and job opportunities; medical reasons and impossibility to receive treatment in Libya; and family reunification in Europe; UNHCR, *Libya: Protection – Situation Overview January - February 2018*, 15 March 2018, <https://bit.ly/2Hzfaeb>. See also, Refugees Deeply, *Why Libyans Are Turning to Smugglers to Escape*, 5 July 2018, <https://bit.ly/2KSfMJy>; UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, p. 1 and para. 41.

<sup>160</sup> According to the UN Humanitarian Coordinator in Libya, Maria Ribeiro, “*Libya continues to suffer from the impact of a protracted political crisis, which leads to outbreaks of violence, displacement and a general worsening of people’s living conditions. Availability and affordability of food, fuel, water and sanitation, electricity and medical supplies have decreased and the provision of health care and public services continues to decline, thus exacerbating the humanitarian situation over the past year*”; OCHA, *2018 Libya Humanitarian Response Plan (January - December 2018)*, 1 March 2018, <http://www.refworld.org/docid/5b644a484.html>, p. 4. See also, UN Security Council, *United Nations Support Mission in Libya*, 24 August 2018, <http://www.refworld.org/docid/5b8d31bc4.html>, paras 63, 84; World Food Programme (WFP), *WFP Libya Country Brief, June 2018*, 30 June 2018, <https://bit.ly/2McvTT0>, p. 1.

<sup>161</sup> UNICEF, *Libya Humanitarian Situation Report Mid-Year 2018*, 27 July 2018, <http://www.refworld.org/docid/5b6ac2124.html>, pp. 1, 2; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 5.

<sup>162</sup> As at 31 August 2018, according to the UN Financial Tracking Service (FTS), the Libya 2018 Humanitarian Response Plan faces a funding gap of 77.5 per cent (US\$ 242.4 million) of unmet requirements; FTS, *Response Plan/Appeal Snapshot for 2018*, accessed 3 September 2018, <https://bit.ly/2uhhVZd>.

<sup>163</sup> For example, in May 2018, the escalation of fighting amid siege-like conditions in Derna reportedly led to drastically deterioration of the humanitarian situation, with reports of critical shortages of food, water and medicine: Amnesty International, *Libya Protect Civilians under Siege in Derna*, 11 June 2018, <http://www.refworld.org/docid/5b6428ad4.html>; OCHA, *Libya | Derna Flash Update #7*, 11 June 2018, <https://bit.ly/2zDqEtR>; OHCHR, *Press Briefing Note on Libya – Escalating Risks*, 8 June 2018, <http://www.refworld.org/docid/5b559f0d4.html>.

<sup>164</sup> Six “*manikas*” (regions) were identified as being most severely affected: Sirte, Ghat, Derna, Benghazi, Aljgara and Zwara; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, pp. 28-30. See also, REACH, *Key Challenges and Coping Mechanisms*, December 2017, <https://bit.ly/2KfgC6K>, p. 25.

<sup>165</sup> OCHA, *Middle East and North Africa: Annual Access Snapshot, January - December 2017*, 28 March 2018, <http://www.refworld.org/docid/5b6ac3e04.html>; OCHA, *2018 Libya Humanitarian Response Plan (January - December 2018)*, 1 March 2018, <http://www.refworld.org/docid/5b644a484.html>, p. 19; OHCHR, *End of Mission Statement by the United Nations Special Rapporteur on the Human Rights of IDPs, Ms. Cecilia Jimenez-Damary, upon Conclusion of Her Official Visit to Libya – 25 to 31 January 2018*, 2 February 2018, <http://www.refworld.org/docid/5b55ba1bd.html>.

<sup>166</sup> Humanitarian partners have identified the following population groups as being most in need of humanitarian assistance: people living in conflict-affected areas, or in areas contaminated with explosive hazards, or in hard-to-reach areas; migrants, refugees and asylum-seekers, including those in detention centres; persons with chronic diseases, disabilities, or mental health issues; IDPs living in rented accommodation and collective centres; returnees (during first three months of return); over-burdened host communities; pregnant women; female-headed households; children, youth; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, pp. 31-34.

<sup>167</sup> “*Internally displaced people, refugees and migrants, as well as returnees and non-displaced Libyans in the worst affected areas are assessed as in most need of humanitarian assistance*”; OCHA, *Libya*, accessed 3 September 2018, <https://bit.ly/2mcK3rQ>. See also, UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, paras 18-24; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, pp. 13-14. Many IDPs have reportedly lost or left behind their personal documentation needed in order to access services, assistance and employment. However, for security and other reasons, they may not be able to return to their place of origin in order to re-issue identity documents; UN General Assembly, *Report of the Special Rapporteur on the Human Rights*

28. **Food security:** As of March 2018, 175,000 people were reported to be in need of food assistance.<sup>168</sup> Negative coping strategies such as cutting the number of daily meals and reducing non-food related expenses such as health and education are reported to be prevalent.<sup>169</sup> Due to limited port access and road blockages, food imports into Libya have reportedly diminished, causing food prices to rise steeply.<sup>170</sup>
29. **Livelihoods:** Despite relative improvements in Libya's Gross Domestic Product since early 2018,<sup>171</sup> the overall economic situation reportedly continues to deteriorate with people reported to have less income while the cost of living has increased substantially.<sup>172</sup> Living conditions are reported to be worsening due to the weak provision of basic services and rising commodity prices.<sup>173</sup> According to reports, vulnerable persons are increasingly compelled to reduce expenditures on food, education and healthcare.<sup>174</sup>
30. **Health:** The health care system is reported to have deteriorated to the point of collapse.<sup>175</sup> A number of health care facilities have reportedly been closed, particularly in conflict-affected areas.<sup>176</sup> Armed groups are reported to attack medical personnel and facilities, and to interfere with and disrupt their work.<sup>177</sup> While medical needs, particularly conflict-related injuries, reportedly continue to rise, there is a shortage of medicines, medical supplies and equipment along with a critical shortage of specialized and skilled staff.<sup>178</sup> Pregnant women and persons with chronic diseases, disabilities and mental health

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of IDPs, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, para. 29. See also, Reuters, *Benghazi's Displaced: A Litmus Test for Libya*, 17 May 2018, <https://reut.rs/2wQCdwg>; UNHCR, *Internally Displaced Persons from Benghazi*, March 2018, <http://www.refworld.org/docid/5b64abef4.html>, p. 1.

<sup>168</sup> Those considered to be most vulnerable to food insecurity include IDPs, returnees and refugees, and in particular unemployed female-headed households; WFP, *WFP Libya Country Brief, June 2018*, 30 June 2018, <https://bit.ly/2McvTTO>, p. 1.

<sup>169</sup> WFP, *WFP Libya Country Brief, June 2018*, 30 June 2018, <https://bit.ly/2McvTTO>, p. 1; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 22; REACH, *Key Challenges and Coping Mechanisms*, December 2017, <https://bit.ly/2KfgC6K>, pp. 2, 15.

<sup>170</sup> The prices of many staple food items (e.g. rice and wheat flour) have reportedly increased by as much as 200 per cent when compared to pre-conflict levels; WFP, *WFP Libya Country Brief, June 2018*, 30 June 2018, <https://bit.ly/2McvTTO>, p. 1. In May-June 2018, in 95 out of 100 municipalities, food was assessed to be too expensive for IDPs; IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, p. 20.

<sup>171</sup> There has reportedly been a relative improvement in macroeconomic stability due to higher international oil prices, but this has been offset by reports of gross mismanagement of public funds; UN Security Council, *United Nations Support Mission in Libya*, 7 May 2018, <http://www.refworld.org/docid/5b4c65d64.html>, paras 20-24. See also, WFP, *Libya: Safety Nets Alert Platform (SNAP) Country Dashboard – May 2018*, 31 May 2018, <https://bit.ly/2uoumKW>; REACH, *Key Challenges and Coping Mechanisms*, December 2017, <https://bit.ly/2KfgC6K>, p. 3.

<sup>172</sup> “The economic situation continues to deteriorate: inflation, the devaluation of the Libyan dinar on the black market, and cash shortages have all led to reduced purchasing power of the Libyan population – especially those already affected by the conflict, further deepening vulnerabilities”; OCHA, *2018 Libya Humanitarian Response Plan (January - December 2018)*, 1 March 2018, <http://www.refworld.org/docid/5b644a484.html>, p. 6.

<sup>173</sup> OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, pp. 19-21; Atlantic Council, *Libya's Constitution is the Minimum Requirement for Elections*, 1 February 2018, <https://bit.ly/2EAuOg1>; REACH, *Key Challenges and Coping Mechanisms*, December 2017, <https://bit.ly/2KfgC6K>, pp. 1, 13, 14.

<sup>174</sup> WFP, *WFP Libya: Country Brief*, April 2018, <https://bit.ly/2yO4rsh>, p. 1; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 21; REACH, *Refugees and Migrants' Access to Resources, Healthcare and Housing*, December 2017, <https://bit.ly/2KfgC6K>, pp. 2, 15.

<sup>175</sup> “The public health system has deteriorated – almost 75% of health facilities are closed or are only partially functioning”; Safeguarding, *Violence on the Front Line: Attacks on Health Care in 2017*, 21 May 2018, <https://bit.ly/2KEfp4Y>, p. 31. See also, OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 15-16; HRW, *Libya: Displaced Benghazi Families Prevented From Return*, 1 February 2018, <http://www.refworld.org/docid/5a8eb100a.html>; UNICEF, *Libya: Humanitarian Situation Report 2017*, 22 January 2018, <https://uni.cf/2n1Aoo7>.

<sup>176</sup> According to a survey conducted by WHO and the Libyan Ministry of Health, 17 out of 97 hospitals are closed and only four hospitals are functional between 75-80 per cent of their capacity. In addition, over 20 per cent of primary health care facilities are closed and the remainder are not suitable to provide services; WHO, *2017 Review of Health Sector in Libya*, 31 December 2017, <http://www.refworld.org/docid/5b644bd84.html>, p. 1. See also, OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 15.

<sup>177</sup> IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>. See also, OHCHR, *Libya: Health-Care under Attack*, 22 May 2018, <http://www.refworld.org/docid/5b559c944.html>; Safeguarding, *Violence on the Front Line: Attacks on Health Care in 2017*, 21 May 2018, <https://bit.ly/2KEfp4Y>, p. 31; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 7. See also above para. 8.

<sup>178</sup> In May-June 2018, 94 per cent of the municipalities, access to medicines was reported to be irregular; IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, p. 18. See also, Reuters, *Libyan Cancer Clinic Relies on Donors to Treat Patients*, 6 August 2018, <https://reut.rs/2vCxrhY>; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, pp. 16, 43; UNICEF, *Libya: Humanitarian Situation Report 2017*, 22 January 2018, <https://uni.cf/2n1Aoo7>.

issues are reported to be particularly vulnerable in light of the limited capacity of health services.<sup>179</sup> Access to health care by IDPs, returnees, refugees and migrants<sup>180</sup> reportedly remains limited.<sup>181</sup> Drug and alcohol abuse has reportedly been on the rise since the beginning of the conflict.<sup>182</sup>

31. **Shelter:** Housing and infrastructure, particularly in coastal areas, have reportedly seen high levels of destruction as a result of waves of conflict since 2011.<sup>183</sup> As a result, thousands of people, mostly IDPs, are reported to live in substandard conditions in damaged and/or unfinished buildings.<sup>184</sup> Asylum-seekers, refugees and migrants are reported to have particular difficulty in accessing adequate shelter due to their irregular situation in Libya.<sup>185</sup>
32. **Education:** Although overall school attendance is reported to be on the rise, problems persist including as a result of damage to and/or destruction of schools.<sup>186</sup> Instances of kidnappings and other attacks by armed groups against children, teaching personnel and schools have been reported.<sup>187</sup> In light of the economic situation, unaffordability of educational services is reported to be a barrier to education, particularly for IDPs.<sup>188</sup>
33. **Water, Sanitation, Fuel and Electricity:** Public services have reportedly been disrupted and infrastructure has deteriorated, severely impacting access to health services, electricity, fuel, sanitation and clean water.<sup>189</sup> The UN has expressed concern over the potential collapse of the water system in

<sup>179</sup> For example, mental health and family planning services are reported to be entirely unavailable in the South and available in only one per cent of all health facilities in other parts of Libya; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, pp. 7, 33, 34.

<sup>180</sup> “Without legal documents validating their status migrants and refugees are often excluded from social security mechanisms and denied access to basic services. Migrants and refugees in Libya suffer from very limited access to primary medical care, mental health care and emergency medical intervention, including clinical management of Sexual and Gender Based Violence (SGBV) survivors”; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 43. “Migrants found to have a communicable disease (e.g. tuberculosis) are detained. This means most migrants are reluctant to use public health services for fear of being sent to detention centres”; IRC, *Pushing the Boundaries*, 11 July 2018, <https://bit.ly/2vrnPY1>, p. 12. See also, UNHCR, *UNHCR Libya Fact Sheet (April 2018)*, 13 April 2018, <https://bit.ly/2Kg8SBP>, p. 3; REACH, *Refugees and Migrants’ Access to Resources, Healthcare and Housing*, December 2017, <https://bit.ly/2KfgC6K>, pp. 1, 21-24.

<sup>181</sup> OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 43; WHO, *2017 Review of Health Sector in Libya*, 31 December 2017, <http://www.refworld.org/docid/5b644bd84.html>, p. 1.

<sup>182</sup> WHO, *Who Is where, when, Doing what (4WS) in Mental Health and Psychosocial Support*, 2017, <https://bit.ly/2AE2Iqs>, p. 19.

<sup>183</sup> For example in the city of Sirte, over 2,500 houses remain reportedly destroyed as a result of conflict in 2016; UNHCR, *UNHCR Flash Update Libya (3 - 9 August 2018)*, 9 August 2018, <https://bit.ly/2NAhHnA>. Three central districts of Sirte (Campo, Giza, and Sirte 3) reportedly remain empty of inhabitants as a result of large-scale destruction; IRIN, *In Libya, a City once Run by Islamic State Struggles to Start again*, 21 August 2018, <http://www.refworld.org/docid/5b87f0154.html>.

<sup>184</sup> While the majority of IDPs live in private accommodation, 16 per cent live in public or informal shelter settings; IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, p. 12. See also, UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, para. 36; REACH, *Refugees and Migrants’ Access to Resources, Healthcare and Housing*, December 2017, <https://bit.ly/2KfgC6K>, p. 2.

<sup>185</sup> UN General Assembly, *Report of the Special Rapporteur on the Human Rights of IDPs*, 10 May 2018, <http://www.refworld.org/docid/5b4c60664.html>, paras 35-36; UNHCR, *Libya: Protection – Situation Overview, January-February 2018*, 29 March 2018, <https://bit.ly/2Hzfaeb>; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 44; REACH, *Refugees and Migrants’ Access to Resources, Healthcare and Housing*, December 2017, <https://bit.ly/2KfgC6K>, pp. 1, 18-21.

<sup>186</sup> A total of 489 schools have reportedly been affected by the crisis, of which 40 had been fully destroyed while 26 were accommodating IDPs. This affects an estimated 244,500 Libyan students in addition to 160,178 refugee and migrant students; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 41. According to IOM’s Displacement Tracking Matrix (DTM), 97 per cent of municipalities reported that the majority of students were attending schools. The remaining three per cent reported irregular attendance in Derna, Ubari, Janzour and Hrawa; IOM, *DTM Libya – IDP & Returnee Report*, 30 June 2018, <https://bit.ly/2vm58Vx>, pp. 4, 17.

<sup>187</sup> According to Libyan Education Minister, Osman Abdel Jalil, “[S]ome schools have stopped operating altogether and others are in a very bad condition. A rising pitch of violence in those areas makes continuing the educational process impossible. Going to work for the teachers and attending classes for the students is a heroic mission”; Their World, *Libyans Shocked as Bodies of Children Kidnapped on Their Way to School are Found*, 9 April 2018, <https://bit.ly/2K03T80>. See also, OCHA, *Protection of Women and Children Snapshot*, 28 March 2018, <http://www.refworld.org/docid/5b6449314.html>. See also above paras 8 and 11.

<sup>188</sup> OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 41; Agency for Technical Cooperation and Development (ACTED), *Multi-Sector Needs Assessment in Selected IDP Camps and Informal Settlements, Benghazi Libya*, January 2018, <https://bit.ly/2tFt70m>, pp. 4, 5.

<sup>189</sup> “Six years after the crisis erupted, assessments show that only 64 per cent of the affected population have access to adequate drinking water sources. The frequent electricity cuts [...] continue to affect water and sanitation facilities, and lack of maintenance and spare parts are the main drivers for inadequate access to water and sanitation services”; OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 45. See also pp. 5, 8, 14 and 15 of the same report. See also, ICRC, *Libya: Hospitals Suffering from Shortages; Public Infrastructure Collapsing*, 24 August 2017, <https://bit.ly/2w3j87G>.

case essential maintenance is not performed.<sup>190</sup> Frequent electricity cuts on most days reportedly remain a challenge for many households.<sup>191</sup>

### ***Access to Territory and International Protection***

34. As the situation in Libya remains fluid and uncertain, UNHCR calls on all countries to allow civilians (Libyan nationals, former habitual residents of Libya and third-country nationals) fleeing Libya access to their territories.
35. All claims of nationals and habitual residents of Libya seeking international protection should be processed in fair and efficient procedures in accordance with international and regional refugee law.<sup>192</sup> For individuals whose claim had been rejected previous to recent events, the current situation may, depending on the individual circumstances of the claim, give rise to changed circumstances, which need to be considered if a new asylum claim is submitted. UNHCR considers that persons having been directly affected by developments since 2011 may be at a particular risk of persecution or other forms of serious harm, including, *inter alia*, individuals opposing or perceived to be opposing a party to the conflict; government officials and politicians; members of the judiciary and law enforcement; members of certain minority religious, ethnic or tribal groups; individuals perceived to be violating “public morals”; media professionals; human rights defenders and civil society activists; medical professionals; humanitarian workers; women engaged in the public sphere; individuals of (real or perceived) diverse sexual orientations and/or gender identities; and members of tribes/families or individuals perceived to be in support of the former Gaddafi regime.<sup>193</sup> Persons with these and other profiles may be in need of international refugee protection in accordance with the 1951 Convention, for reason of real or imputed political opinion, or for reasons related to other 1951 Convention grounds. Claims need to be considered on an individual basis, carefully taking into account the particular circumstances of each case. Furthermore, UNHCR considers that persons fleeing Libya may be in need of international refugee protection in accordance with Article 1(2) of the 1969 OAU Convention, or, in countries of asylum outside the African Union and in cases where the 1951 Convention criteria are found not to apply in the individual case, may meet the criteria for complementary forms of protection.<sup>194</sup>
36. There may be individuals who have been associated with acts that bring them within the scope of the exclusion clauses contained in Article 1F of the 1951 Convention.<sup>195</sup> In such cases, it will be necessary to examine carefully any issues of individual responsibility for crimes which may give rise to exclusion from international refugee protection. In addition, to preserve the civilian character of asylum, States would need to assess the situation of arrivals carefully so as to identify armed elements and separate them from the civilian refugee population.<sup>196</sup>

### ***UNHCR Position on Returns***

37. UNHCR commends any measure taken by States to suspend forcible returns of nationals or habitual residents of Libya, including those who have had their asylum claim rejected. UNHCR urges all States to suspend forcible returns to Libya until the security and human rights situation has improved considerably. Given the volatility of the situation, the fragmentation of control and the plethora of armed groups, UNHCR considers that in the current circumstances the relevance and reasonableness criteria

<sup>190</sup> OCHA, *Libya HNO 2018*, 1 March 2018, <http://www.refworld.org/docid/5b6429ad4.html>, p. 45.

<sup>191</sup> *Ibid.*, pp. 17, 45. See also, Reuters, *Rolling Summer Blackouts Weigh on Libya's Struggling Traders*, 17 August 2018, <https://reut.rs/2wbelGq>; Al Jazeera, *Power Outages Short-Circuit Libya's Economy*, 11 August 2018, <https://bit.ly/2PlsJh0>; REACH, *Libya; 2017 Multi-Sector Needs Assessment*, September 2017, <https://bit.ly/2Klh2Vm>, p. 2.

<sup>192</sup> Applicable frameworks include that of the 1951 Refugee Convention and its 1967 Protocol; the EU Qualification Directive [European Union, *Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)* (“Qualification Directive”), 13 December 2011, <http://www.refworld.org/docid/4f06fa5e2.html>]; or other applicable regional frameworks, including the 1969 OAU Convention and the Cartagena Declaration [Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984, <http://www.refworld.org/docid/3ae6b36ec.html>].

<sup>193</sup> See above “Violations of International Human Rights and Humanitarian Law”.

<sup>194</sup> In the context of human rights obligations, or of applicable regional frameworks, such as the EU Qualification Directive.

<sup>195</sup> UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees*, 4 September 2003, CR/GIP/03/05, <http://www.unhcr.org/refworld/docid/3f5857684.html>.

<sup>196</sup> See UNHCR, *Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum*, September 2006, <http://www.refworld.org/docid/452b9bca2.html>.

for an internal flight or relocation alternative are unlikely to be met.<sup>197</sup> Suspension of forcible returns of nationals and habitual residents to Libya serves as a minimum standard and should not replace international refugee protection for persons found to meet the criteria for refugee status under the 1951 Convention and the 1969 OAU Convention. This advice is valid until such time as the security and human rights situation in Libya has improved sufficiently to permit a safe and dignified return.

### ***International Protection Needs of Third-Country Nationals Departing from/through Libya***

38. Among those who have found themselves compelled to leave Libya, including by sea, are third-country nationals, including persons who were recognized as refugees or registered as asylum-seekers in Libya by UNHCR, or persons transiting through Libya who have been registered with or recognized as refugees in other countries where they resided before reaching Libya (by UNHCR or in state asylum procedures), as well as other persons in need of international protection.
39. The situation in which a state exercises jurisdiction over people as a result of interception or rescue at sea requires respect for the principle of non-refoulement. UNHCR urges states to refrain from returning to Libya any third-country nationals intercepted or rescued at sea and to ensure that those in need of international protection are able to access fair and effective asylum procedures upon disembarkation.<sup>198</sup>
40. Upon arrival in a country of asylum, third-country nationals seeking or otherwise indicating a possible need for international protection should be referred to national asylum procedures, for consideration of their applications for international refugee protection.<sup>199</sup>

### ***Designation of Libya as Safe Third Country***

41. UNHCR does not consider it appropriate for States to designate or apply in practice a designation of Libya as a so-called “safe third country”. The designation of a country as a “safe third country” may result in a request for international protection not being considered on its merits but declared inadmissible, or processed in an accelerated procedure with reduced procedural safeguards. Even before the current unrest and insecurity, UNHCR considered that Libya should not be regarded as a safe third country in light of the absence of a functioning asylum system, the widely reported difficulties and abuses faced by asylum-seekers and refugees in Libya, the absence of protection from such abuses and the lack of durable solutions.<sup>200</sup> UNHCR calls on States not to channel applications for international protection from third-country nationals into an accelerated procedure or declare them inadmissible, merely on the basis of the fact that they previously resided in or transited through Libya.

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<sup>197</sup> The decision-maker bears the burden of proof of establishing that an analysis of relocation is relevant to the particular case. If considered relevant, it is up to the party asserting this to identify the proposed area of relocation and provide evidence establishing that it is a reasonable alternative for the individual concerned. See: UNHCR, *Guidelines on International Protection No. 4: Internal Flight or Relocation Alternative* Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees, HCR/GIP/03/04, 23 July 2003, <http://www.refworld.org/pdfid/3f2791a44.pdf>, and paras 33-35. For an IFA/IRA to be relevant, the proposed area of relocation must be practically, safely and legally accessible. Further, where the claimant has a well-founded fear of persecution at the hands of the State and its agents, there is a presumption that consideration of an IFA/IRA is not “relevant” for areas under the control of the State. If the applicant fears persecution by a non-state agent of persecution, the ability to pursue the claimant in the proposed area and the State’s ability to provide protection there must be considered, see paras 9-21. UNHCR considers that a similar analysis would apply when the applicability of IFA is considered in the context of determining eligibility for subsidiary protection.

<sup>198</sup> See UN Security Council Resolution 2240 (2015), which authorizes Member States to inspect vessels on the high seas off the Libyan coast if they are suspected of migrant smuggling or human trafficking from Libya, and to seize vessels which are confirmed as being used for these purposes. The resolution recognizes that “*that among these migrants may be persons who meet the definition of a refugee under the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto*” and urges states to respect the rights of migrants and “*to comply with their obligations under international law, including international human rights law and international refugee law, as applicable*”; UN Security Council, *Resolution 2240 (2015), Adopted by the Security Council at its 7531st Meeting, on 9 October 2015*, 9 October 2015, S/RES/2240 (2015), <http://www.refworld.org/docid/5b64698c4.html>. See also UNHCR, *UNHCR Intervention Before the European Court of Human Rights in the Case of Hirsi and Others v. Italy*, March 2010, Application No. 27765/09, <http://www.refworld.org/docid/4b97778d2.html>.

<sup>199</sup> People on the move to and through the Mediterranean Sea have different migratory status, with the majority of them not qualifying for refugee or subsidiary protection. However, according to EUROSTAT, approximately 30 per cent of those arriving on the European shores were in need of international protection. Moreover, some have faced extreme hardship and abuse at the hands of unscrupulous traffickers during the journey; UNHCR/IOM, *Proposal for a Regional Cooperative Arrangement Ensuring Predictable Disembarkation and Subsequent Processing of Persons Rescued-at-Sea*, 27 June 2018, <https://bit.ly/2Oi1UJX>, p. 1.

<sup>200</sup> UNHCR, *UNHCR Intervention before the European Court of Human Rights in the Case of Hirsi and Others v. Italy*, March 2010, Application No. 27765/09, <http://www.refworld.org/docid/4b97778d2.html>. See also above “*Situation of Third-Country Nationals (Including Asylum-Seekers, Refugees and Migrants)*”.

### ***Designation of Libya as a Place of Safety for the Purpose of Disembarkation following Rescue at Sea***

42. In the context of rescue at sea and in line with international maritime law, disembarkation is to occur in a predictable manner in a place of safety and in conditions that uphold respect for the human rights of those who are rescued, including adherence to the principle of non-refoulement.<sup>201</sup> When asylum-seekers, refugees and migrants are rescued at sea, including by military and commercial vessels, “*the need to avoid disembarkation in territories where [their] lives and freedoms (...) would be threatened*” is relevant in determining what constitutes a place of safety.<sup>202</sup> In light of the volatile security situation in general and the particular protection risks for third-country nationals (including detention in substandard conditions, and reports of serious abuses against asylum-seekers, refugees and migrants),<sup>203</sup> UNHCR does not consider that Libya meets the criteria for being designated as a place of safety for the purpose of disembarkation following rescue at sea.<sup>204</sup> The proposed establishment of a Gathering and Departure Facility as an alternative to detention does not change UNHCR’s position that Libya cannot be designated as a place of safety for the purpose of disembarkation, noting also that all individuals transferring through this facility would have to be evacuated from Libya for protection-related reasons, although this may not be an option for all.

### ***Updating and Review***

43. UNHCR’s position will be reviewed as the situation evolves and will be updated as necessary.

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<sup>201</sup> UNHCR/IOM, *Proposal for a Regional Cooperative Arrangement Ensuring Predictable Disembarkation and Subsequent Processing of Persons Rescued-at-Sea*, 27 June 2018, <https://bit.ly/2Oi1UJX>, p. 2; International Maritime Organization (IMO), *Resolution MSC.155(78), Adoption of Amendments to the International Convention on Maritime Search and Rescue, 1979*, 20 May 2004, Annex 5, <http://www.refworld.org/docid/432acad44.html>; IMO, *Resolution MSC.167(78), Guidelines on the Treatment of Persons Rescued At Sea*, 20 May 2004, <http://www.refworld.org/docid/432acb464.html>; IMO, *International Convention on Maritime Search and Rescue, 27 April 1979*, 1403 UNTS, Annex, para. 1.3.2, <http://www.refworld.org/docid/469224c82.html>.

<sup>202</sup> IMO, *Resolution MSC.167(78), Guidelines on the Treatment of Persons Rescued at Sea*, 20 May 2004, para. 6.17, <http://www.refworld.org/docid/432acb464.html>. See also, UNHCR, *As Mediterranean Sea Arrivals Decline and Death Rates Rise, UNHCR Calls for Strengthening of Search and Rescue*, 6 July 2018, <http://unhcr.org/5b3f270a4>.

<sup>203</sup> See above paras 19 and 21.

<sup>204</sup> Non-refoulement obligations also apply in relation to Libyan nationals and former habitual residents of Libya intercepted / rescued at sea.