



**Upper Tribunal  
(Immigration and Asylum Chamber)**

AT and Others (Article 15c; risk categories) Libya CG [2014] UKUT 00318 (IAC)

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 18-22 November 2013**

**Determination Promulgated**

Before

**UPPER TRIBUNAL JUDGE CHALKLEY  
UPPER TRIBUNAL JUDGE KOPIECZEK**

Between

**AT  
AMH  
HKA  
AE-S  
(ANONYMITY ORDER MADE)**

Appellants

and

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

First Appellant: Mr J. Ficklin, Counsel, instructed by Jackson Canter Solicitors

Second Appellant: Ms G. Patel, Counsel, instructed by Jackson Canter Solicitors

Third and fourth Appellants: Ms. S. Harrison, Solicitor, Halliday Reeves Law

For the Respondent: Mr R. Palmer, Counsel and Mr R. Harland, Counsel, instructed by Treasury Solicitors

## **DETERMINATION AND REASONS**

### **Country guidance**

- (1) *In the aftermath of the armed revolution that brought about the fall of the dictatorial and repressive regime of Colonel Qadhafi, the central government in Libya has relied on various militias to undertake security and policing functions. Those militias and the many others that operate within Libya, often have their own interests, loyalties and priorities which may or may not coincide with the interests of the central government.*

### **Article 15(c)**

- (2) *There is not such a high level of indiscriminate violence in Libya, within the meaning of Article 15(c) of Council Directive 2004/83/EC ("the Qualification Directive") so as to mean that substantial grounds exist for believing that an individual would, solely by being present there, face a real risk which threatens his or her life or person.*

### **Former regime members and associates**

- (3) *Having regard to the generally hostile attitude of society to the former regime, the following are, in general, at real risk of persecution or Article 3 ill-treatment on return to Libya: -*
  - (a) *former high ranking officials within the intelligence services of that regime;*
  - (b) *others with an association at senior level with that regime.*
- (4) *As a general matter, the closer an individual was to the centre of power within the former regime, the more likely that the individual will be able to establish a risk of persecution or Article 3 ill-treatment on return.*
- (5) *The majority of the population of Libya either worked for, had some association with, or has a member of the family who worked for or had an association with the Qadhafi regime. Such employment or association alone is not sufficient to establish a risk of persecution or Article 3 ill-treatment on return.*
- (6) *In general, family members of those described in (3) and (4) above are not at risk of persecution or a breach of their protected rights on return. It is possible, however, that an individual will be able to establish such a risk but this will need to be demonstrated by specific evidence relating to the individual's circumstances. Mere assertion of risk by association as a family member would not be sufficient without fact-specific evidence of the risk to that particular family member.*

### **Black Libyans etc**

- (7) *A 'Black Libyan' is a Libyan of black African appearance, and includes a person who may not actually possess Libyan nationality but for whom Libya is their country of former habitual residence. There is endemic racism within Libyan society towards Black Libyans. However, Black Libyans who are not Tawurga or Tuareg are not per se at risk of*

*persecution or Article 3 ill-treatment on return, and will only be able to establish the need for international protection with reference to some additional factor particular to that individual.*

- (8) The Tawurga are Black Libyans who are perceived by Libyans to have been mercenaries on the side of the Qadhafi regime and to have committed human rights abuses during the revolution. The Tuareg are also Black Libyans and are also perceived to have been supporters of the former regime.*
- (9) Whilst there remains a need for an individual assessment of each individual's circumstances, a person who is Tawurga or Tuareg will in general be able to establish the need for international protection. The same is true of persons from the Mashashiya ethnic or tribal group. The Mashashiya are not Black Libyans but are similarly perceived as a group to have been supporters of the Qadhafi regime.*

### **Women**

- (10) Whilst Libya is a male-dominated society and there is evidence of discrimination and violence against women and poor recognition of women's rights, being female does not per se establish a risk on return. However, taking into account all the circumstances, including a woman's age, health, level of education and economic status, one or more of the following characteristics or factors are likely, depending on the circumstances, to be significant in relation to the assessment of risk on return for a woman:*
  - a) African ethnicity;*
  - b) Being a victim of sexual violence, including having been raped by soldiers loyal to the Qadhafi regime or by other combatants;*
  - c) Being a woman accused or suspected of sexual misdemeanours or offences against family honour.*

### **Failed asylum seekers**

- (11) Failed asylum seekers are not, for that reason alone, at real risk on return.*

### **Risk at point of return**

- (12) There is no real risk of harm to the ordinary traveller arriving either at Tripoli international airport or Benghazi airport.*
- (13) However, a person who has established that they come within one of the risk categories set out at (3), (4), (9) and (10) above, will be at risk from government security forces or from militias, on arrival at Tripoli International Airport, on account of information that is required to be given by passengers on arrival.*

### **Risk following return**

- (14) *Even if a person described in (13) above is able to pass through the airport without being detained, because of the presence of militias at various checkpoints such a person is reasonably likely to be detained at a checkpoint en route to his or her home area.*
- (15) *Notwithstanding the prevalence of checkpoints manned by militias, it is possible to travel overland from Tripoli airport to other destinations without a real risk of persecution, serious harm or Article 3 ill-treatment. Land travel in general is possible and can be undertaken without giving rise to a risk of harm that requires recognition in terms of international protection. The evidence does not reveal such a level of arbitrary or irrational conduct on the part of militias at checkpoints such as to put the ordinary traveller at real risk. A claim to international protection is unlikely to succeed simply on the basis of a claimed risk of travel to any particular area of Libya. Area specific evidence would have to be adduced which establishes such a risk.*
- (16) *The 'family book' is the main proof of citizenship, listing family members and being required, for example, to obtain employment or a bank loan. However, the fact that a person does not possess a 'family book' would not prevent travel within Libya and the lack of a family book would not itself give rise to a risk of harm.*

### **Sufficiency of protection**

- (17) *In general, an individual who succeeds in establishing a real risk of harm by reference to the risk categories set out at (3), (4), (9) and (10) above, will not be afforded a sufficiency of protection from that harm.*

### **Internal relocation**

- (18) *Likewise, such individuals would not, in general, have available to them the option of internal relocation.*
- (19) *For persons who have established a real risk of proscribed ill-treatment in their home area for a reason other than by reference to one of the categories set out above, for example because of a family or tribal feud, or because of hostility from a particular militia, it is possible to be able safely to travel from one part of Libya to another, depending on whether the reason for the risk is one that would give rise to further risk for that same reason, on encountering a checkpoint.*
- (20) *A male seeking to avoid a local risk of harm such as described in (19) above, would be able in practical terms to relocate to another area of Libya, be it for example Tripoli or Benghazi, particularly if the person has tribal or family connections there. The absence of such connections would not prevent the person from establishing himself, in the sense of being able to live in the new community and find accommodation. It would not be unduly harsh for such a person to relocate internally.*
- (21) *However, such a person may not be able to avoid a risk of harm in a new area where the person has no connections in terms of tribal or family links, but the person or group that is feared does have such links. A fact-specific enquiry is essential. An appellant's assertion*

*that the individual or group that is feared has links to say, Tripoli or Benghazi, or another prospective place of relocation, will need to be assessed in the light of the findings in relation to overall credibility.*

- (22) *In relation to the possibility for a woman to relocate internally, taking into account the position of women in society in Libya, the difficulty for women of accessing accommodation if alone, and the rarity of a woman arriving in a community without knowing any person there, internal relocation would not be reasonable and would be unduly harsh unless in the prospective area of relocation the woman has a close family or significant other connection, aside from merely a tribal connection.*
- (23) *In addition, bearing in mind the above factors, a woman is likely to be more conspicuous with the result that her presence may more easily be discovered by the prospective persecutor.*
- (24) *The following cases are superseded by this decision and are no longer to be treated as providing country guidance:*

ME (Risk - Failed Asylum Seekers - Hassan) Libya CG [2003] UKIAT 00200

HH (Risk – Failed Asylum Seekers) Libya CG [2003] UKIAT 00202

KK (Failed Asylum Seeker) Libya CG [2004] UKIAT 00151

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## *Introduction*

1. The so-called 'Arab Spring' brought about momentous changes in the Middle East and North Africa. The durability of those changes has yet to be determined but it is evident that the process of change continues. In Libya the regime of Colonel Qadhafi<sup>1</sup> was swept away by armed revolution in 2011, with many being killed or injured, serious human rights abuses having been committed, and individuals and groups forced from their homes or displaced.
2. In the aftermath of the revolution, the central government has struggled to maintain authority and has had to rely, to a greater or lesser extent, on various militias to undertake certain security functions that traditionally fall within a government's sole remit. There are a plethora of militias with local, tribal and other loyalties. Divisions along ethnic and tribal lines that had been more muted during the Qadhafi years have become more evident. This determination considers the viability of return to Libya, particularly in relation to certain categories of people who may be returned there from the UK and whether on return there is a risk that persons would face a breach of their protected rights.
3. We had the benefit of hearing evidence from three experts: Dr Alan George, Dr Geoff Porter and Professor Emile Joffé. Their written and oral evidence was invaluable in assisting us in our determination of the issues and we are grateful to them.
4. We should also like to record our appreciation of the efforts of all counsel and solicitors who represented the appellants and counsel and the Treasury Solicitors team on behalf of the Secretary of State. The evidence relied on by the parties has evidently been carefully prepared and assembled, with clear written and oral arguments which have similarly assisted us greatly.
5. Mindful of the potential for events in Libya post-hearing to affect our assessment of the issues, we indicated to the parties that if any party considered that relevant events needed to be brought to our attention, the parties may write to the Tribunal setting out the details of the events and inviting the Tribunal to reconvene. We are aware that the situation in Libya has not been static since the hearing of the appeal, and the country's troubles continue to make the news. However, none of the parties has contacted the Tribunal to draw our attention to any specific events that have taken place since the hearing, asked for the hearing to be reconvened or asked to be permitted to make further submissions.
6. Some comment on nomenclature and language is necessary. Most, if not all, of the names of people and places vary in transliteration from the Arabic. We have attempted to adopt a consistent spelling. For example, rather than use what may be the more usual spelling of Colonel Qadhafi as 'Gadaffi', we have opted for the

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<sup>1</sup> See paragraph 6 for comment on nomenclature



transliteration 'Qadhafi', as used by each of the experts in their reports. When quoting from reports we have retained the transliteration used in those reports.

7. The expert evidence of the three witnesses was contained in several written reports and in lengthy oral evidence. In the circumstances we have considered it appropriate to set out a comprehensive summary of the written and oral evidence of the expert witnesses at Appendix D, rather than incorporating it into the body of the determination. Nevertheless, we have referred in detail to the expert evidence within the various sub-headings which we have used as part of our analysis of the issues.
8. We found all three experts to have given well informed and objective evidence. That is not to say that in every respect their evidence has been accepted without qualification. Where we take the view that any difference in emphasis or interpretation of background evidence is called for we have said so in what follows, and have explained our reasons for our views.
9. The agreed issues are as set out below. However, we think it useful on occasion to refine the description of certain categories, better to reflect the evidence and the utility of the guidance in this determination.
10. We have at various points referred to the Home Office Operational Guidance Note ("OGN") for Libya. The OGN's purpose is expressly stated to be to provide guidance to Home Office caseworkers on the nature and handling of most types of claims for international protection from people from Libya. It is a document that contains policy guidance as well as purely country background information. In considering the OGN we bear in mind the distinction between the two.

## **THE APPELLANTS**

11. The following are the circumstances in which the appeals come before the Upper Tribunal. Further elaboration of the basis of their claims is given in paragraphs 217-262, with our assessment of their claims to international protection.

### **AT**

12. AT was born on 24 March 1990 in Tripoli, where he lived in Souq Al-Juma'a<sup>2</sup> which was his last address in Libya. He came to the UK on 11 March 2011, claiming asylum on arrival. His appeal against the respondent's decision of 30 March 2011 to refuse leave to enter was dismissed by a judge of the First-tier Tribunal in a determination promulgated on 26 May 2011.
13. Permission to appeal was granted by a Senior Immigration Judge (as then was) on the basis of the First-tier judge's treatment of Article 15(c) of Directive 2004/83/EC ("the Qualification Directive") in the light of the conflict in Libya at that time. A 'rule 24' response from the Secretary of State was to the effect that the

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<sup>2</sup> Spelling as in the report of Dr George

appeal to the Upper Tribunal was not opposed in the sense that Article 15(c) would have to be considered afresh.

14. It does not appear that any formal decision finding an error of law in the decision of the First-tier Tribunal has hitherto been made. The Directions of the Senior Immigration Judge merely acknowledged what was conceded by the Secretary of State. Nevertheless, before us it was agreed by the parties that there was an error of law in the First-tier judge's decision in that respect and we so find. The decision is set aside.

### **AMH**

15. AMH was born on 12 December 1970 and is from Zawiyeh which is said to be about 45 minutes drive from Tripoli. He arrived in the UK on 17 October 2010 with a valid student visa. He claimed asylum on 18 May 2011. His appeal against the decision dated 10 June 2011 to remove him to Libya was dismissed by a judge of the First-tier Tribunal in a decision promulgated on 27 September 2011. Senior Immigration Judge Storey set aside the First-tier judge's decision, having found that the First-tier judge erred in law in terms of the assessment of risk to the appellant as a "Black Libyan" and in terms of Article 15(c). The error of law decision is set out at Appendix A.

### **HKA**

16. This appellant was born on 6 November 1979, is female and comes from Benghazi. She is the sister of AE-S. She arrived in the UK on 5 January 2011 as a business visitor. She claimed asylum on 25 February 2011. Her appeal against the decision to refuse further leave to remain was dismissed in a decision of a First-tier Tribunal Judge promulgated on 12 May 2011. Senior Immigration Judge Storey also found an error of law in the First-tier judge's determination of her appeal, in terms of the potential risk to her in Tripoli on account of being from Benghazi and of the Ashwihdi tribe. He also concluded that the First-tier judge had erred in relation to his conclusion that the appellant would be able to avoid the risk of persecution because of an apparent entitlement to Egyptian nationality. The error of law decision is set out at Appendix B.

### **AE-S**

17. AE-S was born on 21 August 1989. He came to the UK at the same time as his sister. He too had a valid visa and also claimed asylum on 25 February 2011. A decision was made to refuse further leave to remain. His appeal against that decision was heard at the same time as that of HKA and was similarly dismissed. That decision of the First-tier Tribunal was set aside largely for the same reasons as in relation to HKA but including in relation to Article 15(c).

## THE ISSUES

18. Following the fall of the regime of Colonel Qadhafi there is the need for a fresh assessment of the country situation in terms of the potential risk for those returned there from the UK. This decision does not purport to cover every category of potential risk, but considers what appear to be the main categories at the time of the hearing of the appeals before us. The agreed issues to be determined in these appeals are as follows:
1. Is a Libyan national at risk of persecution and/or Article 3 ill treatment on return to Libya by virtue of all or some of the following characteristics:
    - a. Those perceived as having been Qadhafi supporters;
    - b. Black Libyans (on the basis of ethnicity alone, and/or as perceived Qadhafi supporters);
    - c. Women
    - d. Failed asylum seekers.
  2. In particular, is there a risk on return arising at the airport and/or on the route of return to Benghazi, Zawiye or any other part of Libya from Tripoli airport?
  3. Is there a sufficiency of protection in respect of any such risks?
  4. Is internal relocation available to those at risk?
  5. Is a Black Libyan from Zawiye at risk on return and can he seek protection from the current regime or internally relocate to Tripoli or any other part of Libya and how does he internally relocate to/from Tripoli to another safe area if it exists?
  6. Is there a high level of indiscriminate violence in Libya or parts of Libya under article 15(c) such that the Appellants will be at risk on return?

## SUB-HEADINGS AND CONTEXT

19. In order to put into context the guidance in this decision and our conclusions in relation to the appeals of these appellants, we have identified a number of features of the evidence which we have included as sub-headings. That is not to say that other sub-headings could not have been included or substituted, but those we have selected seem to us to be useful signposts on the route to our conclusions.

### Home Office practice/policy on returns

20. A response to written questions from the appellants in relation to returns to Libya was provided by the respondent. From these written answers it is apparent that *escorted enforced* removals to Libya were suspended in January 2011 in response to the unrest there, and resumed in June 2013. The Home Office's "contractor" is said to have undertaken its own risk assessment which was concluded in May

2013. There were 11 *unescorted* returns between January 2011 and May 2013 whereby the travel arrangements were made by the Home Office and the individuals taking flights to Tripoli without escorts. All returns are said to have been effected to Tripoli International Airport.

21. There were 11 enforced returns between June and August 2013 by flight to Tripoli using scheduled airlines. The ethnic background of returnees was not monitored; the Secretary of State's view was expressed as being that ethnicity would have been considered as part of the asylum application and appeal process. The final destination of the returnees was not monitored. Of the seven enforced returns to Libya in August 2013, one person originated from Benghazi. As at the date of the written responses, there have been three enforced escorted returns since August 2013; one in September 2013 and two in October 2013.
22. Following submissions from Mr Ficklin on behalf of AT, the position in relation to returns for the periods referred to above was clarified and the written information amended to reflect the situation as we have recorded it above. We were informed by Mr Palmer that between 17 March 2011 and 31 October 2011, when there was a no-fly zone in operation, returns to Libya were not affected directly. In that period two individuals were the subject of enforced return to Italy and four by Tunis Air to Egypt.
23. Further information was provided in the form of a table of returns by quarter from the first quarter of 2011 to the first quarter of 2013 which Mr Palmer suggested meant that previous figures actually underestimated the number of returns. They did not all, however, relate to failed asylum claimants.
24. We understood that Mr Ficklin's concern was to establish the extent of returns, the basis on which it was decided that returns should no longer be suspended, and when the change in policy took effect. Whilst we accept that these are legitimate avenues of enquiry, in the event it was ultimately accepted on behalf of AT that nothing now turns on this issue. No submissions on the point were made on behalf of the other appellants.

## **Militias**

25. There was considerable background and expert evidence before us in relation to militias in Libya. Indeed, no assessment of risk to any particular group or individual could be undertaken without consideration of the role of militias in present day Libya.
26. In summary, there are various militias of various sizes. Estimates for the number of militias vary. A report of October 2013 from Voice of America News refers to "thousands" of militias "roaming" the country, estimated to number about 200,000. We interpret the "thousands" of militias as an estimate of the number of individuals, rather than the number of groups, given the context.

27. Professor Joffé said that the conventional answer is that there are about 350 militias but it depended on how “militia” is defined. Dr George said that he had seen a figure of 1,700 given recently. No doubt this variation reflects Professor Joffé’s comment in relation to the definition of militia and the evidence that checkpoints can suddenly emerge to deal with a local and instant issue. The evidence suggests that some militias plainly have an established or continued presence, whilst others arise from time to time in response to local events. Dr Porter’s written evidence was that local militias have clearly demarcated territories.
28. The militias, to varying degrees, work on behalf of the government or various government departments, with Libya Shield<sup>3</sup> being an organisation set up by the government to co-opt militias to act on its behalf and which has links to the Defence Ministry, and the Supreme Security Committee (“SSC”)<sup>4</sup> having links with the Interior Ministry. The UN Support Mission in Libya (“UNSMIL”) report also refers to armed brigades not affiliated to any ministry. The report refers on page 4 to a range of detention facilities some of which are fully or partly under the “authority” of armed brigades that have been brought within various government ministries, and those that are run entirely by armed brigades with no formal connection to any State institution and no control by the government.
29. Dr Porter’s written evidence was that some of the larger militias such as those from Zintan and Misrata have been enlisted by the government to function as proxies for a national security force. Each has aircraft at their disposal as well as military vehicles, including tanks, and each has several thousand members. Some militias are in the pay of different ministries and are involved, for example, in oilfield or airport security.
30. The evidence is to the effect that the militias have varied (self) interests, loyalties and priorities which may, and sometimes may not, coincide with the interests of the government. Some militias provide law enforcement services on behalf of the government, protect airports or other installations. The extent to which they are disciplined internally also varies. Dr George described the militias as ill-disciplined. He also said, however, that not all militias are out of control and have quite sophisticated command and control structures and organised hierarchies. It does not mean that they are highly disciplined but they are not totally out of control. Dr Porter said that whilst the militias operate outside or above the law they do not behave in an undisciplined manner and exhibit sophisticated command and control. The leadership is known to the public and there are clear hierarchies.

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<sup>3</sup> The COI at 10.6 describes Libya Shield as a coalition of militias from the east, Misrata, and Zintan that acts in parallel with Libya’s national army.

<sup>4</sup> At 10.06 the COI in relation to the SSC states “The force is estimated to consist of 90,000 to 100,000 fighters. These men, ostensibly revolutionaries, act as a sort of national gendarmerie, providing transitional security at the local level, particularly during the election period. But ominously, the SCC has not managed to break down the fighters’ old allegiances: entire brigades have joined en masse and their commanders have simply switched hats.”

## Checkpoints

31. We found the evidence from all three experts in relation to checkpoints extremely informative and helpful. Professor Joffé in his latest report referred to militias often having more than one objective, often becoming involved in crime and increasingly charging protection money as a tax at checkpoints, especially going south to Sepah. Whether there are checkpoints on the way to Zawiyeh varies depending on the activities of the local militia. He stated that there are checkpoints outside the airport on the approach to Tripoli and there could be checkpoints inside the town of Zawiyeh itself. Both Professor Joffé and Dr George stated that checkpoints can suddenly pop up, with Dr George having experienced that phenomenon first hand.
32. Dr Porter's written evidence was to the effect that checkpoints exist on all major roads out of Tripoli, as well as between cities and at the entry points to towns and cities. His evidence of his latest visit in August 2013 revealed that there is a lot of traffic on Libyan roads, going through the checkpoints, and that traffic was in fact a problem. He and his colleague passed through five checkpoints and his colleague told him that he did not know who was manning the checkpoints as they were never stopped.
33. Whether a person is stopped at a checkpoint can be based on arbitrary or non-arbitrary factors but which may be unknown to those attempting to pass through. Dr Porter cited examples of stops and searches for drugs, alcohol or merely a bribe, with procedures at checkpoints often being *ad hoc*. Dr George said that to answer the question why someone such as AT would be stopped at a checkpoint he would have to be highly speculative: someone looking nervous may be enough. Earlier he said that in the case of the uneducated teenager with a Kalashnikov manning a checkpoint, it may depend on whether he is in a good mood or likes your face. We heard evidence that the militias who man the checkpoints have their own agendas and loyalties.

## Transport/travel

34. There are certain travel restrictions in place. There is a closed military zone in the south of the country and difficulties with land border crossings (Home Office Operational Guidance Note for May 2013 from 2.3.4). In his report of 14 October 2013 Dr Porter states that it was recommended that individuals fly between cities wherever possible.
35. He also states in his written evidence that Benghazi residents, who have different accents from those from Tripoli, travel freely throughout the country, including in Tripoli. Some Libyans from Benghazi live in Tripoli unmolested.

### (i) Road travel

36. Again, Dr Porter goes on to state that road travel in 2013 has improved and it is now feasible to travel by car throughout most of the country. Driving from Tripoli

to Benghazi is “prohibitively” long but feasible. He referred to the risk on the roads out of Tripoli as being related to the uncertainty of the road conditions, the possibility of harassment from militias and general banditry, albeit that the risk from any of these is not exceptionally high but is amplified by the lack of any national security agency or emergency help.

37. When dealing with the question of travel for women, Dr Porter states in his latest report that it would be recommended that HKA travel overland in the company of other women or men. She would be able to hire a taxi or take a bus from Tripoli to Benghazi. The journey could take well over 15 hours.

## **(ii) Air travel**

38. Airports have been forced to close from time to time and there have been clashes around Tripoli airport. In November 2013 Etihad Airways had temporarily suspended flights to Tripoli because of “safety and operational challenges”, with concerns being expressed about conditions at Tripoli airport. Dr George said that the real power at Tripoli airport lies with the Zintan militias, a nominally government force (although Dr Porter’s written evidence is that the Misrata militia under the guise of the Tripoli Airport Authority were, until recently, in control). Professor Joffé also said that he thought that Tripoli airport was under the control of the Zintan militia.
39. Dr Porter’s evidence was that Tripoli and Benghazi airports are for the most part safe and secure and there is little immediate danger flying into them, or transiting them. Airport security is reliable and safe well into the night, with passengers coming and going after midnight and into the dawn hours. He referred to airport security manning checkpoints on airport access roads and around the perimeter of the airfield, and screening checkpoints at the entrance to the airport, albeit that such checkpoints are rudimentary and often staffed by untrained personnel. Professor Joffé also gave evidence that there are checkpoints outside the airport on the approach to it. Dr Porter referred to unidentified militia members at the airport in some kind of official capacity.
40. Continuing with Dr Porter’s evidence, he states in his latest report that Tripoli airport is the main entry point for flights from Europe, being served by numerous international carriers, including British Airways, Alitalia, Air France and Lufthansa. Flights operate with a reasonable degree of regularity, although unexplained delays and cancellations frequently occur. There are direct flights from Heathrow three times a week. Until May 2012 security was provided by the Zintan militia at Tripoli airport. It is currently controlled by Tripoli International Airport Authority and staff are the Airport Authority employees. In reality, security has been taken over by members of the Misrata militia who are now in official uniforms and on the payroll of the Airport Authority. In further evidence he said that the Misrata militia had ostensibly withdrawn from the airport over the most recent weekend following a confrontation with demonstrators.

41. Benina (Benghazi) International airport is a secondary point of entry to the country, largely serving as a domestic airport. There are no direct flights from the UK but direct transfer from Tripoli airport is possible. For the most part it is free of security concerns according to Dr Porter's written evidence. In oral evidence he said that he did not know who controlled Benghazi airport although it could be Ansar Sharia<sup>5</sup> or Libya Shield (see footnote 3 on page 13). He went on to say that few westerners have travelled to Benghazi in the last several months because the security situation is precarious. He was not aware of any incidents at Benghazi airport since 2012, and local newspapers would carry any such reports.
42. Mitiga airport no longer services inbound flights from Europe apart from in exceptional circumstances. It serves regional international carriers.
43. Dr Porter's latest report states that questions posed to Libyans returning from abroad include reasons for travel, length of stay abroad and reasons for return, but generally there are no questions from the customs and border officers about political affiliation or participation in the revolution. Nevertheless, individuals are occasionally singled out for interrogation, and return without a Libyan passport would be grounds for further questioning, as would travel to sub-Saharan Africa and the Saharan states. Travel to European countries and the US does not provoke suspicion. There may be animosity to those who, in Europe or the US, 'sat out' the revolution, but this has not been a basis for persecution. Dr Porter states that there have been no reported instances of returnees being detained by airport authorities or militias on leaving the airport. In oral evidence he said that he did not know whether the Ministry of the Interior dictates to the customs and border officials what questions to ask of travellers at the airport.
44. We heard evidence from Dr Porter as to the procedures for passengers arriving at Tripoli airport, with passengers being required to complete a form with their name, date of birth, nationality and local address. He knew of those procedures because he had gone through them when he visited and as far as he knew everyone had to undergo the same process.
45. Professor Joffé said that in relation to Tripoli airport, he was not saying that it was unsafe to pass through, as people do so regularly. His view was that the issue is one of unpredictability, given that it is militarily controlled. Benghazi airport was more unsafe because of the struggle for control of it. He agreed that a number of airlines serve Tripoli airport. He referred to Air Malta having daily flights to Tripoli airport and BA four times a week.
46. Professor Joffé's latest report describes the attempt by Libyan special forces to control Tripoli airport against skirmishing by different groups. In oral evidence he said that he has not come across much information in relation to the security situation at Benghazi airport. It is controlled by Libyan special forces who are

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<sup>5</sup> Described by Professor Joffé as a generic title for "a shadowy network of salafi-jihadi militias".



under constant pressure from groups who previously controlled it and who want to get it back as it was a lucrative opportunity.

### **Family book**

47. The background evidence in relation to the family book (let) comes from the OGN at 3.12.10, describing it as the main proof of citizenship, listing family members and being required, for example, to obtain employment or take out a loan from a bank. Tuaregs who have been in the country for decades have been denied them. Professor Joffé described the family book as an essential document and duplicates are unobtainable. It is required, amongst other things, to obtain residence and registration through the municipality and the police. We also understood him to say that it is needed to obtain an identity card and/or passport, without which all Libyans risk arrest. Militias, he said, arbitrarily check identification and detain those who do not possess proper identification.
48. However, he said that many people may have lost their family book given the situation in the country. There is no greater risk for people returning from the UK in terms of lacking possession of the family book, he said.

### **SUFFICIENCY OF PROTECTION**

49. Given the circumstances currently existing in Libya, the sources of potential risk to certain categories of people, and the prospective sources of protection, it is as well to consider the issue of sufficiency of protection at this point, before consideration of specific individuals or groups.

#### **Sufficiency of protection-general principles**

50. Council Directive 2004/83/EC ("the Directive") in Article 7 states as follows in relation to "Actors of protection":

##### **Article 7**

##### **Actors of protection**

1. Protection can be provided by:

- (a) the State; or

- (b) the parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State.

2. Protection is generally provided when the actors mentioned in paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, *inter alia*, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

3. When assessing whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph 2, Member States shall take into account any guidance which may be provided in relevant Council acts.

51. We note the difference in the wording between the Directive in Article 7 and The Refugee or Person in Need of International Protection (Qualification) Regulations 2006 at Regulation 4 (“the Qualification Regulations”). Article 7 states that protection is generally provided when the actors mentioned in paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, “*inter alia*, by operating an effective legal system for the detection” etc (emphasis as in original). Regulation 4 of the Qualification Regulations is almost identical but the words “*inter alia*” are omitted. It is suggested in Macdonald’s Immigration Law & Practice Eighth Edition Vol. 1 at page 864, that the operation of an effective legal system becomes, in the Regulations, a sufficient condition for the provision of protection, whereas in the Directive it is a necessary but not necessarily sufficient condition for the provision of protection.

52. For present purposes the apparent difference between the Directive and the Qualification Regulations is not a difference that seems to us to be material to the issues we have to determine. As we observe below, however, the extent to which the circumstances in Libya reflect the provisions of Article 7 (or Regulation 4) is relevant.

53. In Horvath [2000] UKHL 37 it was decided that:

“The standard to be applied is therefore not that which would eliminate all risk and would thus amount to a guarantee of protection in the home state. Rather it is a practical standard, which takes proper account of the duty which the state owes to all its own nationals.”

(And see also Bagdanavicius [2003] EWCA Civ 1605; and [2005] UKHL 38).

54. In AW (Sufficiency of protection) Pakistan [2011] UKUT 31 (IAC), referring to the decision of the Court of Appeal in Bagdanavicius, the Tribunal emphasised the need to consider the individual circumstances of a particular appellant, notwithstanding that it may be found that there is a general sufficiency of protection in a particular country (see [24] and [25] of AW).

55. We were referred to the decision of the ECJ in Abdulla (Case C-175/08) (and other appellants), in particular [70]-[76] as follows:

“70 In order to arrive at the conclusion that the refugee’s fear of being persecuted is no longer well founded, the competent authorities, by reference to Article 7(2) of the Directive, must verify, having regard to the refugee’s individual situation, that the actor or actors of protection of the third country in question have taken reasonable steps to prevent the persecution, that they therefore operate, *inter alia*, an effective legal system for the detection, prosecution and punishment of acts constituting

persecution and that the national concerned will have access to such protection if he ceases to have refugee status.

71 That verification means that the competent authorities must assess, in particular, the conditions of operation of, on the one hand, the institutions, authorities and security forces and, on the other, all groups or bodies of the third country which may, by their action or inaction, be responsible for acts of persecution against the recipient of refugee status if he returns to that country. In accordance with Article 4(3) of the Directive, relating to the assessment of facts and circumstances, those authorities may take into account, inter alia, the laws and regulations of the country of origin and the manner in which they are applied, and the extent to which basic human rights are guaranteed in that country.

72 Furthermore, Article 11(2) of the Directive provides that the change of circumstances recorded by the competent authorities must be 'of such a significant and non-temporary nature' that the refugee's fear of persecution can no longer be regarded as well founded....

74 It must be pointed out that the actor or actors of protection with respect to which the reality of a change of circumstances in the country of origin is to be assessed are, under Article 7(1) of the Directive, either the State itself or the parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State.

76 In view of all the foregoing considerations, the answer to the first question is that Article 11(1)(e) of the Directive is to be interpreted as meaning that:

- refugee status ceases to exist when, having regard to a change of circumstances of a significant and non-temporary nature in the third country concerned, the circumstances which justified the person's fear of persecution for one of the reasons referred to in Article 2(c) of the Directive, on the basis of which refugee status was granted, no longer exist and that person has no other reason to fear being 'persecuted' within the meaning of Article 2(c) of the Directive;
- for the purposes of assessing a change of circumstances, the competent authorities of the Member State must verify, having regard to the refugee's individual situation, that the actor or actors of protection referred to in Article 7(1) of the Directive have taken reasonable steps to prevent the persecution, that they therefore operate, inter alia, an effective legal system for the detection, prosecution and punishment of acts constituting persecution and that the national concerned will have access to such protection if he ceases to have refugee status;
- the actors of protection referred to in Article 7(1)(b) of the Directive may comprise international organisations controlling the State or a substantial part of the territory of the State, including by means of the presence of a multinational force in that territory."

56. Abdulla is a decision that concerns Article 11(1)(e) of the Directive (cessation) and so is not directly relevant to the issues this Tribunal has to determine. We do

however, consider that what is said about actors of protection is a useful reminder of factors to be considered when assessing sufficiency of protection.

### **A functioning legal and judicial system?**

57. We have seen the extent to which the government in Libya relies for its functions on the various militias, to provide security and law enforcement duties. The limitations of such reliance in terms of adherence to accepted human rights norms, including due process, can be discerned from our summaries of distinct features of life in post-revolutionary Libya, viz. militias, checkpoints and travel, as well as in our review of the background evidence (see Appendix G).
58. It is uncontentionous that the (government) military and police force remain weak. That concession is made in the Secretary of State's skeleton argument, although again that blunt assessment is subject to refinements in terms of the extent to which the militias are, or are not, disciplined and organised.
59. We can turn to the US State Department Report for Libya ("USSDR") dated April 2013 for its assessment of the situation in terms of effective judicial capability. Thus, we read on page 1 that the government lacked the capacity and basic legal framework to protect civil and judicial rights fully. With regard to the courts there is a:

"lack of enforcement capability, lack of competency of the courts, and confusion over the applicability of new and old laws.... The most significant human rights problems resulted from the absence of effective justice and security institutions.... The new government fell short of establishing a consistent rule of law."

60. The USSDR continues that:

"Other important human rights abuses included: arbitrary and unlawful killings, including politically motivated killings by groups outside government control; kidnappings; torture and other cruel, inhuman, or degrading treatment or punishment; harsh and life-threatening conditions in detention and prison facilities, some of which were illegal; arbitrary arrest and detention; lengthy pretrial detention; denial of fair public trial; an ineffective judicial system staffed by intimidated judicial authorities...."

Further, in relation to accountability and the effectiveness of the judiciary it is stated that:

"Impunity was a serious problem. Although militias detained abusive Qadhafi-era officials, the scarcely functioning criminal courts struggled to try them, and when they did attempt to conduct trials, judges often faced threats of violence. In the same vein, with the judiciary not fully functioning, the government had not taken concrete steps by year's end to advance transitional justice. There were rarely investigations and still fewer prosecutions of those believed to have committed abuses."

61. In summarising the written evidence of Dr George we note that he stated, under the heading "Local protection", that he knows of no evidential basis that would support an assertion that a person in need of protection in Libya could expect effective assistance from the local authorities (*de jure* and *de facto*), there being as yet no effective national police force or army and with the judicial system being "non-functional".
62. In response to the written questions from the Secretary of State about the judicial system, whilst standing by what is in his previous reports, he states that disparate elements of the system do function in an *ad hoc* manner, with geographical variations and variations in the specific area of judicial activity. However, there is no "coherent, reliable, *nationally-effective* judicial system". Thus, he concludes that the judicial system is in that general sense "non-functional".
63. In relation to the International Criminal Court's ("ICC") decision of 11 October 2013 that Libya was not unable to carry out the prosecution of Abdullah Al-Senussi (Colonel Qadhafi's Director of Intelligence), this in Dr George's view does not constitute support for the contention that Libya has a coherent, reliable and nationally effective judicial system. His view is that there is no reason to doubt that the particular legal facilities that are the subject of the Al-Senussi case are functioning in a manner that satisfied the ICC. Equally, however, that could easily be interrupted if a sufficiently powerful local militia had cause to intervene. He cites the example of the prime minister having been abducted and detained on 10 October 2013.
64. As regards the decision that all 31 Qadhafi era officials are to be committed for trial, he states again that there is no dispute but that certain courts are functioning in Libya. However, he suggests that it is crucial to note that one of those officials is Saif al-Islam, Colonel Qadhafi's eldest son who remains in detention by the local Zintan militia. He cites a press report which indicates that Saif al-Islam was not delivered to any of the pre-trial hearings despite his captors being ordered to produce him.
65. Our summary of the written evidence of Dr Porter refers to his having said that there is no effective policing capability by uniformed officers under the authority of national or municipal institutions. Faced with the overwhelming firepower of militias and the widespread availability of weapons among the general population, the official police cannot guarantee protection for individuals, nor can they provide recourse for individuals who have encountered problems. To secure protection individuals can turn to militia leadership and declare their support for the militia.
66. Dr Porter's answers to the respondent's written questions were not materially different from those of Dr George. He states that the ICC report in relation to Al-Senussi is evidence of the vagaries of the Libyan justice system, in particular the possibility that Libya would be unable to provide Al-Senussi with legal counsel. The ICC's decision also potentially reveals the politicisation of the justice system.

His view is that Al-Senussi's circumstances are far from representative. It is unlikely that a less well-known figure would be treated in a similar manner, he suggests.

67. He also states that the fact that the Court is unable to compel the captors of the 31 Qadhafi era officials to bring them to court is evidence that there is no effective judiciary. The militias largely do as they please. The Zintan militia holding Saif al-Islam did not bring him to the pre-trial hearing although it had agreed to do so, and the Tripoli court has no power to compel the militia to do so.
68. Professor Joffé's written evidence was that the State is not able to provide adequate protection to its own nationals. He writes that even though a few army units have been deployed, their authority is challenged by Libyan Shield forces. There is no effective police force outside the SSC units which, like Libyan Shield, are militia based. Both organisations are not under proper civilian control and both engage in arbitrary arrest and detention.
69. Lastly, in terms of background evidence we refer again to the OGN which at 2.2.6 states that the authorities struggled to establish a functioning military and police force that could enforce and maintain law and order. Many of the armed groups refused to disarm and filled the security void. Some cooperated with the government and provided security services. Others operated without state sanction. At 2.2.9 the OGN states that the police force remained weak and depended largely on the SSC for ensuring law and order, although the SSC's lack of vetting criteria and scant training contributed to abuse by its members.
70. The judicial system is stated in the OGN to remain weak, with threats and attacks on prosecutors and judges further inhibiting the rule of law. There are some functioning courts in city centres trying ordinary cases. An estimate of 9,000 persons is given in relation to the number of those in government or military custody without any formal trial or sentencing, although later at 3.10.14 the estimated figure is given as 7,000.
71. The conclusion at 2.2.17 is that:

"The current limitations of Libya's legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm mean that in general claimants would not always be able to access effective protection."

### **Sufficiency of protection-conclusions**

72. We refer at various points to the evidence of the importance in Libyan society of families, extended families and ethnic groups. The situation currently in Libya is that of a highly decentralised state in which the primary sources of protection are localised, through family and tribe. In these circumstances, and given the need to take a factual approach, we are satisfied that there is a general sufficiency of protection for the ordinary citizen. However, the evidence is that for those in certain categories there will not be a sufficiency of protection.

73. We are in *partial* agreement with the proposition in the respondent's skeleton argument to the effect that there will be cases where the lack of central state control over the militia and the limitations of Libya's legal system have the result that asylum claimants would not always be able to access effective protection. However, in our view the evidence goes further. Rather than the emphasis being on individuals "not always" being able to access effective protection, we consider that the evidence establishes that an individual who succeeds in establishing a 'risk profile' will, in general, not be afforded a sufficiency of protection.
74. That view takes account of the fact that the risk to a returnee may often arise from the militias who in many cases have been given a mandate from the government to undertake law enforcement functions. There is evidence of a large number of detainees in various facilities and to a greater or lesser degree under the control of the government. There is significant evidence of ill-treatment of those detained. A person detained as a suspected former member of the Qadhafi intelligence services may provide a good example. We cannot see that the evidence supports the proposition that in general such an individual would be able to seek protection from government if detained by a militia operating independently of the government, or even one acting under the ostensible authority of the government.
75. We do not rule out the possibility that there may be cases where a person who would otherwise be at risk would be afforded sufficient protection. That however, represents a recognition of the need to assess each individual case on the basis of the circumstances relating to that individual. Again, to take a hypothetical example; a very high profile figure in the former regime could be returned with specific arrangements in place which do reach the threshold of sufficiency of protection, although taking into account that international law cannot provide a guarantee of safety.
76. In giving these examples, however, we do not suggest that the use of a phrase such as "very high profile" is to be taken as any sort of yardstick or test, or that there would need to be competing arguments as to whether a person comes within the meaning of that phrase. It is an example which, no more and no less, illustrates the need to assess each individual case on its own merits, in the context of our general conclusion that, an individual who succeeds in establishing a 'risk profile' will, in general, not be afforded a sufficiency of protection.

### **Protection by militia**

77. A question arose in terms of whether a person who is at risk from a particular militia could rely on another militia to provide protection, or whether a person who is subject to a particular risk locally could achieve such protection.
78. To some extent, the question has been answered in our general conclusions in relation to sufficiency of protection. However, even more so than already indicated, a highly individual and specific risk (beyond, say, that arising in relation to a former high ranking official within the previous regime's intelligence

services or to a person in one of the other identified risk categories described below) requires a highly fact-specific analysis which takes into account a range of factors. Evidence from Dr Porter was that some militias are allied to each other; not all are hostile to one another. He said that to secure protection individuals can turn to militia leadership and declare their support for the militia. On the other hand, he said in evidence that he does not know how someone would secure protection in Tripoli if not from that area. We note from Dr George that families, extended families, and religious and ethnic groups form the basis of Libyan society.

79. Apart from the obvious personal factors such as the person's age, status and background, it will be important to consider where the risk is said to emanate from, whether it be from an individual with no reach other than in a particular locality, or from a militia group with a more extensive reach and perhaps with a close connection to the government. In the case of a risk said to be from a particular militia, the assessment of risk takes account of the circumstances that currently exist in terms of the extent to which the government relies on militias to perform various security or law enforcement functions.
80. That is not to say that a person who alleges a risk from a particular militia that has a link to the government will be able to establish entitlement to international protection simply because of that link. The militia in question may be only loosely connected to the government or may perform a function on behalf of the government only in a particular area. This again illustrates the need in such a case for a highly fact-specific enquiry.
81. There may be cases where an individual could look to the protection of a militia where there is reason to believe that that person would be protected, for example because of a family or tribal link to a particular militia. We have considerable misgivings, however, in adopting or endorsing an approach that embraces Dr Porter's evidence of a person being able to achieve protection by turning to the militia leadership and declaring their support for that militia, in the absence of any evidence in a given case that such a declaration is feasible and would achieve the objective of securing protection.

## **INTERNAL RELOCATION**

82. Whether a person would be able to relocate to another part of Libya where they would be free from the risk of harm and where it would be reasonable to expect them to go must be answered in terms of the principles derived from the decision in AH (Sudan) v Secretary of State [2007] UKHL 49 where Lord Bingham referred to what he had said in Januzi v Secretary of State for the Home Department [2006] UKHL 5, namely that:

"The decision-maker, taking account of all relevant circumstances pertaining to the claimant and his country of origin, must decide whether it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so.... There is, as Simon Brown LJ aptly observed in Svazas v Secretary of



State for the Home Department [2001] 1 WLR 1891, para 55, a spectrum of cases. The decision-maker must do his best to decide, on such material as is available, where on the spectrum the particular case falls ... or must depend on a fair assessment of the relevant facts [5]."

83. For those in the risk categories that we have identified below we do not consider that there would be a viable alternative of internal relocation as a means of avoiding the risk of harm. Whilst, for the reasons we have given, we consider that it is possible to travel by road or air in Libya, both for men and women, the reasonable likelihood of being stopped at a checkpoint means that it could not be ruled out that a person's background will be discovered en route to the destination and at the point of being stopped a risk would arise.
84. In addition, we have regard to the evidence of Dr George that attitudes to former members of Qadhafi's security agencies do not vary from one part of Libya to another. It seems to us that the same attitude is reasonably likely to prevail in respect of others in the risk categories we have identified, for example Tawurgans, who are at risk because of their actual or perceived association with the former regime.
85. In relation to others who are able to establish a risk of persecution or Article 3 harm in a particular locality (and against which they cannot effectively be protected) it is as well to note that there was little specific evidence before us of who else, apart from the groups we have considered, this could encompass. However, there is sufficient evidence of the current situation, including the fact that Libya is in a post revolutionary phase, taking into account issues of revenge, lawlessness and criminality, to envisage that an individual may be able make out a case for fearing proscribed ill-treatment in a particular area.
86. We have already given our conclusions in terms of the possibility of travel within Libya, those conclusions being plainly relevant to the question of whether a person at risk in one area could safely travel to another. Depending on the facts, for the reasons we have given, we consider that it is in the main viable for a person to be able to travel to another area to seek safety.
87. The route to 'safety' is, however, of potential relevance, depending on the facts. This is because of the reasonable likelihood of being stopped at a checkpoint or otherwise, by a militia. Thus, a person at risk in a particular town or city may not be able to access safety in another part of the country because a militia that he has a well founded fear of controls the entry and exit routes. Of course, in that instance the issue of internal relocation would in fact be purely academic since the risk would in fact arise on the route home (see HH (Somalia) [2010] EWCA Civ 426).
88. In another case, however, an individual may be able to establish that he would not be able to reach an alternative location because the evidence establishes, for example, that a militia from whom the risk arises would be encountered by him en route from his home location. This could conceivably arise where the evidence

is to the effect that the particular militia controls, or has a presence in, a particular area.

89. There was some inconsistency in the evidence in terms of the extent to which an individual would be able, in practical terms, to establish him or herself in a locality that is not that person's home area. Dr George's written evidence was that in recent years tribalism, whilst still important, has become less significant than it had been in the past. He goes on to state that while particular tribes have traditional territories where they are the dominant element in the population, most if not all Libyan communities have a populace that is at least to some extent mixed. In the largest cities a significant proportion of the population never belonged to any tribe. On the other hand, it is stated that with the uprising against the Qadhafi regime there has been a general resurgence of primordial loyalties to family, clan, tribe and locality. He continues, that the tribe and extended family, or clan, remain the key social, economic and political units to whom loyalty lies in preference to the state.
90. Dr George also wrote that families, extended families, religious and ethnic groups form the basis of Libyan society and people in such communities display a strong tendency to live together in relatively well-defined districts, looking to their immediate communities for social, economic and political support. Against that background he states that "it is neither the general practice nor is it easy for individuals to relocate to parts of Libya remote from members of their families and communities." People tend to know their fellow residents and newcomers attract attention. Residents and local militias tend to be curious about the background of newcomers and to ask questions.
91. He concludes that by means of tribal contacts a pursuer can locate his quarry with relative ease. In this respect he refers to Libyan clans often being allied with others, forming intricate networks that can extend over large areas and will often have members in widely disparate locations. Individuals can be located relatively easily because of the nature of Libyan society and newcomers to an area cannot easily live anonymously.
92. On the other hand, in oral evidence he said that residents of the cities, including Tripoli, are migrants from particular areas. They tend to conglomerate but there is more mixing than in the villages. People do, however, know who is in their neighbourhood. He had checked last year in a suburb for the relatives of a particular asylum applicant. The local people knew exactly who they were talking about. In Tripoli the population is, however, much more fluid; not the same as in poorer parts of the country.
93. People from Benghazi do live in Tripoli. He said that he does not know, however, whether they live in discrete communities and is not aware of any studies having been undertaken in relation to this. On this issue Dr Porter also said that it is very hard to believe that an individual from Benghazi would have no point of contact in the capital given the intimacy and the small size of Libyan society.

94. It would be unusual for anyone to come to Tripoli without knowing anyone, he said. When he goes to Tripoli he makes sure that he has contacts in place. Someone going to Tripoli without going through a network would be noteworthy but this has to be put into context. If a person is in a small village and says that they come from such and such a place in Tripoli, someone in the village would know someone and be able to find out about that person. Cities are more anonymous. In the suburbs of Tripoli the curiosity would be intensified as in insecure situations this could be a matter of life and death. He is not able to answer as to whether a person's 'story' is checked through networks. As a general comment he would say sometimes, yes.
95. Dr George's view was that it is easier to move and settle in Tripoli and Benghazi than in a village. It is also true that not every Libyan has a tribal affiliation and a person may downplay it even if he does. There is a spectrum whereby at one extreme a person depends on networks or contacts and at the other a person who is more self-sufficient. The general picture is that people rely on networks and contacts. To live away from family is unusual.
96. In relation to checkpoints, Dr Porter wrote that there is an acute desire to know who is travelling, from and to where, and why, and that there is a lingering anxiety over a possible counter-revolution and a desire to protect informal economic activities from government oversight or encroachment by other groups. Checkpoints are also used to find individuals the operators have a regional, ethnic, tribal or family grievance with. This is consistent with Dr George's evidence in relation to the use of contacts, interest in individuals and their backgrounds.
97. In terms of tribal affiliation, in a written report Dr Porter stated that there are many who are not associated with tribes or who downplay their tribal affiliation, especially in Tripoli and Benghazi where it has become less important than neighbourhood ties or social class. It is entirely possible for someone to relocate to another part of Libya without negative impact in relation to tribal issues.
98. Professor Joffé's written evidence was that Libyan society is peculiarly intimate as the population is essentially compressed into a very small space of less than 5 per cent of the total land area. Personal security cannot be achieved through physical distance. He referred to the family book as being vital in order to ensure residence and registration through the municipality and the police, as well as being an identity card.
99. Drawing the threads of the background and expert evidence together, we conclude that it is possible, in practical terms for a *male* to relocate to another area of Libya, for example Tripoli or Benghazi, particularly if he has tribal or family connections there. The absence of such connections would not prevent the person from establishing himself, in the sense of being able to live in the new community and find accommodation. The evidence does not reveal that this would cause undue hardship.

100. There may be cases, however, where an individual would not be able to avoid a risk of harm in a new area, particularly where the person has no connection to that area in terms of tribal or family links, but the person or group that is feared does have such links. The desire to know the details of a person's background and from whence they came means that his presence there is reasonably likely to be discovered by the person or group who he is in fear of.
101. Needless to say, a fact-specific enquiry is essential. An appellant's assertion that the individual or group that is feared has links to say, Tripoli or Benghazi, or another prospective place of relocation, will need to be assessed in the light of the findings in relation to his overall credibility.
102. In relation to a woman who has established a risk in her home area, the possibility of internal relocation has a harder edge, at least in one respect. We take into account the evidence in terms of the position of women in society in Libya, the difficulty of accessing accommodation if alone, and the rarity of a woman arriving in a community without knowing any person there. In the light of that evidence, we conclude that unless in the prospective area of relocation the person has a close family or other connection, aside from merely a tribal connection, there would not be a viable internal relocation option.
103. This is for two reasons. First, it would be unduly harsh to expect such relocation given the position of women in society in Libya and the difficulty that a lone woman would have in establishing herself in a completely new community. Second, such a woman is reasonably likely to be more noticeable with the result that her presence may more easily be discovered by the prospective persecutor.

### **INDISCRIMINATE VIOLENCE-ARTICLE 15(C)**

104. Article 15(c) of Council Directive 2004/83/EC ("the Qualification Directive") defines serious harm within the Directive as:

"serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict."
105. There was no dispute amongst the parties in terms of how Article 15(c) is to be interpreted. We were referred to the decision in Elgafaji v Staatssecretaris van Justitie [2009] ECR I-921 in which context we bear in mind what is said at [39] namely that:

"the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection."
106. We were also referred to QD (Iraq) [2009] EWCA Civ 620 in which the Court of Appeal at [40] summarised the issue in relation to Article 15(c) as requiring determination of whether there is in [the country] or a material part of it such a

high level of indiscriminate violence that substantial grounds exist for believing that the applicant would, solely by being present there, face a real risk which threatens his life or person.

107. Subsequent to the hearing, the Court of Justice of the European Union (“CJEU”) gave judgment in Diakité (Case C-285/12) in which it was held that:

“on a proper construction of Article 15(c) of Directive 2004/83, it must be acknowledged that an internal armed conflict exists, for the purposes of applying that provision, if a State’s armed forces confront one or more armed groups or if two or more armed groups confront each other. It is not necessary for that conflict to be categorised as ‘armed conflict not of an international character’ under international humanitarian law; nor is it necessary to carry out, in addition to an appraisal of the level of violence present in the territory concerned, a separate assessment of the intensity of the armed confrontations, the level of organisation of the armed forces involved or the duration of the conflict.”

108. We have not had the benefit of submissions from the parties in relation to the decision of the CJEU, but consider that for the purposes of this appeal we do not consider such submissions necessary in order for us to resolve the issues before us.

109. In the appellants’ skeleton arguments, to a greater or lesser extent, an Article 15(c)/Article 3 risk is asserted generally, in terms of the situation in Libya. In final submissions the position of the appellants’ representatives was as follows. Mr Ficklin on behalf of AT said that he had no instructions to and did not concede the Article 15(c) point but said that he would not make submissions on it. Ms Patel on behalf of AMH stated that it was a matter for the Tribunal and she did not intend to make any (further) submissions in relation to Article 15(c). Ms Harrison for the remaining appellants adopted the same position.

110. The first question we must address is whether, in the whole of or in parts of Libya there is a general Article 15(c) risk, that is, is there a serious and individual threat to a civilian’s life or person by reason of indiscriminate violence because of a situation of armed conflict. As regards whether or not there exists a situation of armed conflict, it is clear from Diakité that to meet that requirement there is a low threshold. We consider that in broad terms significant parts of the country could be said to be in a state of armed conflict.

111. In terms of “indiscriminate violence”, in our consideration of risk for particular categories of people we have referred to various aspects of the background and expert evidence some of which relates to the general situation.

112. As to country background evidence in relation to incidents of violence in Libya and the extent to which civilians are caught up in it, a flavour of it is provided by the following reports. The report by Amnesty International (“AI”) of July 2012 refers to the reckless use by militias of machine guns, mortars and other weapons during tribal and territorial conflicts “killing and maiming bystanders”.

113. A Reuters report dated 8 November 2013 refers to fighting by rival militias in Tripoli describing it as a four hour battle with anti-aircraft guns and grenades, and as “the worst fighting for months in the Libyan capital”. At least one person was killed and 12 wounded. It is said to have been the second outbreak of street fighting within days. Again, the Human Rights Watch report dated 17 November 2013 states that militias from Misrata fired assault rifles, machine guns and heavy weapons at overwhelmingly peaceful protestors in Tripoli on 15 November, with ensuing clashes between armed groups and militias leaving 43 people dead and at least 460 wounded. State security forces present at the initial protest are said to have failed to protect protestors or to arrest and disarm the militias. The report goes on to state that the 43 people killed included people who were apparently not involved in the protest or the clashes. Two of the victims appear to have been medical personnel who were trying to retrieve wounded people.
114. In what is described as a related incident, Human Rights Watch was told that armed men from Misrata entered Tripoli’s al-Fallah camp for displaced residents of Tawurga on 16 November 2013 and fired indiscriminately at residents, leaving at least one man dead and three injured.
115. In his written evidence, commenting on the position of AT, Dr George stated that the risk to him by reason of outbreaks of violence would not be high. He said in oral evidence that he did not think that everyone in Libya was at risk of being killed just by reason of being in the country. When he visited he saw that women and children were out shopping. He referred to the fact that he was able to drive to Misrata, to tour the country, have coffee and speak to people in parts of Tripoli and the Nafusa Mountains without feeling fear or experiencing violence.
116. Although he said that he would, in effect, be more careful in Benghazi, but even there where levels of violence were higher, he did not regard there as being a risk of indiscriminate violence.
117. Dr Porter described in his most recent report “A taxonomy of violence” whereby he broadly categorised the types of violent incident experienced in Libya and which formed part of the cross-examination of Dr George on behalf of the respondent. He states in the same report that since July 2012 there has been an increase in violent crime and reports of criminally motivated murders and carjackings. Kidnapping, murder, rape and other violent crime is increasing in Tripoli and elsewhere. Security in Benghazi is worse than in Tripoli and he refers to politically motivated murders of former Qadhafi officials from the intelligence services and a dramatic increase in criminal violence.
118. Dr Porter agreed that there is no indiscriminate violence targeting individuals, for example in terms of bombs in market places or snipers. He said that there has not been the indiscriminate use of violence as a political tool. The opinion in Libya is that it is Jihadi groups that were responsible for the assassinations of former intelligence officers mentioned at para 63 of his report (assassinations of former members of the Qadhafi intelligence services).

119. His view as to the risk of indiscriminate violence on the streets of Libya for someone going back, was that the risk is relatively low. It could happen but the likelihood is about 5 per cent, certainly less than a one in ten chance.
120. In further cross-examination he said that there is a lot of violence in Libyan society and there is no formal check on the violence. Some can be described as indiscriminate but not on a wholesale terrorist scale. He was not saying that five per cent, or one in twenty Libyans, are suffering the effects of violence, which he agreed would be awfully high. This is in the realm of speculation and (an assessment) would benefit from a statistical review which he does not have.
121. Of the three experts, Professor Joffé was alone in stating that in his view there was a risk of being affected by indiscriminate violence. The bomb blast in the marketplace on 4 August 2012 in Tripoli was a consequence of a dispute in the market. He said that there is no question of it being directed against particular individuals. The three car bombs that exploded in Tripoli on 19 August were not directed towards individuals but were part of a general tendency (for that sort of action) during Ramadan. They were designed, he said, to cause public insecurity and anxiety and were quite indiscriminate. Although only two people were killed, his view was that they were designed to cause considerable loss of life to people on the streets and around the locations of the bombs.
122. In relation to indiscriminate violence he said that that issue is one of predictability which he described as a measure of the indiscriminate violence. He cited the example of the events a week prior to the hearing when the local population were peacefully demonstrating and were fired on by militias. It cannot be known from one moment to another whether there is going to be an incident, he said.
123. He said that violence in Libya tends to be extreme. The levels of violence are far higher than they would be in a well-ordered society and are reported in an active local press. One can walk in the street and find oneself in the middle of a firefight between two different groups. That happens regularly and the population objects very strongly.
124. The assassinations in Benghazi are targeted which is not always the case elsewhere. Nearly all the arrests were in the first six months to a year after the conflict. There is no effective judicial procedure and a lot have been in detention ever since. In relation to demonstrators being met with gunfire in June in Benghazi the previous weekend, those are two dramatic incidents but there have been other demonstrations that have been dispersed and people shot at at checkpoints.
125. Judging by the background and expert evidence it is undeniably the case that many civilians-men, women and children-have been injured or lost their lives in revolutionary and post-revolutionary Libya. However, we are not satisfied that the evidence demonstrates that there is such a high level of indiscriminate violence that substantial grounds exist for believing that an individual would,

solely by reason of being present there, face a real risk which threatens his life or person. We do not consider that the background evidence demonstrates this to be the case, and nor is such a proposition supported by the evidence of Drs George and Porter.

126. Further, we do not consider that a different outcome results from an assessment of risk in relation to Article 3 of the ECHR.
127. Whilst we accept that there is some foundation for Professor Joffé's assessment of the violence as being unpredictable, with respect to him we do not agree that predictability (or lack of it) is a measure of indiscriminate violence. Unpredictability may often be a *feature* of indiscriminate violence, but that does not assist in terms of an assessment of whether there is, in fact, indiscriminate violence of the necessary character which requires recognition in terms of international protection. To take two simple illustrations at opposite ends of the spectrum; it may be predictable that every day for several hours opposing factions in an internal armed conflict will bomb each other's positions which are in heavily built up civilian areas. That violence is predictable but would appear to have the character of indiscriminate violence necessary for Article 15(c). At the other extreme, there may be a bomb blast every few months in a market but the timing of it is unpredictable. We do not consider that that type of violence in a situation of internal armed conflict would amount to indiscriminate violence within Article 15(c).
128. As regards the Article 15(c) issue of specific risk based on the notion of a 'sliding scale', (see [Elgafaji](#) [39]) we consider that our conclusions in this regard can be subsumed within what we say about specific risk categories in general, to be considered both in terms of refugee eligibility, humanitarian protection and Article 3 of the ECHR.

## **SPECIFIC CATEGORIES**

### **Former/suspected Qadhafi loyalists or supporters**

129. The statement of issues describes the enquiry in relation to this category in terms of "those perceived as having been Gaddafi supporters". However, it seems to us that the way we have described this potential category of risk is more amenable to assessment, is more inclusive and more accurately reflects the evidence before us. It describes those who were or are Qadhafi loyalists or supporters, and those suspected of being such.
130. In submissions Mr Palmer did not resile from what is said in his skeleton argument to the effect that perceived Qadhafi supporters and fighters may be at real risk of persecution and ill-treatment. Indeed in submissions he accepted that the evidence amply supported that view and that events had not changed for the better in this respect since May 2013, the date of the OGN for Libya. It is useful to repeat what is said in the OGN at 3.10.8:



“Given the generalised attitude of resentment towards perceived Col. Gaddafi supporters and fighters, and the force with which the Gaddafi regime previously sought to subdue the opposition, it is likely that applicants in this category will be able to show a need for international protection. Perceived supporters of Gaddafi and his regime are at risk of extra-judicial execution, arbitrary detention, torture, ill-treatment and death in detention, both by authorities of the Interim Government or its armed affiliates, as well as by armed militias operating without government control.”

And at 3.10.19 that:

“Consideration should be given to the particular circumstances of the individual, including ethnicity, age, and the nature and degree of the perceived relationship to the Gaddafi’s regime. Where it is accepted that an individual applicant was closely involved with Gaddafi and the regime, or his particular circumstances indicate a likely risk of attracting the adverse interest of militia brigades allied to the Libyan authorities, a grant of asylum will generally be appropriate, subject to any exclusion considerations under Article 1F of the Refugee Convention.”

131. All three experts were in agreement, either expressly or by implication, that open loyalty to the former regime of Colonel Qadhafi is reasonably likely to result in detention and ill-treatment. It is clear from the evidence that such treatment would amount to persecution, serious harm and a breach of the individual’s human rights under Article 3 of the ECHR.
132. The evidence does not support a contention that any resurgence of the former regime is likely. As Dr Porter put it, “Libya’s revolution-cum-civil war is over”. Nevertheless, perceived or suspected support for the former regime is reasonably likely to attract the adverse attention to which we have referred in the preceding paragraph.
133. Former high-ranking officials within the intelligence services have been the subject of politically motivated murders, with Dr Porter referring to more than three dozen such attacks in 2013 in Benghazi. The evidence, however, does not limit the incidence of such attacks to Benghazi. Dr George emphasised that attitudes towards former members of Colonel Qadhafi’s security agencies do not vary from one part of Libya to another. The OGN does not suggest that internal relocation to avoid risk is a possibility for a person in this category.
134. We do not interpret the evidence as limiting the potential for risk only to those who were formerly members of the intelligence services. Others with a close association at a senior level with the former regime we consider equally to be at risk. It is not possible, nor indeed would it be appropriate, to suggest a list describing the type of work or association with the former regime that would potentially be in this risk category. The example most often given in the background and expert evidence is of high-ranking officials within the intelligence services, but other former high-ranking officials are also reasonably likely to be at risk.

135. Self-evidently, the closer an individual was to the centre of power within the Qadhafi regime, the more likely it is that that person would be at risk. Similarly, the further away from the centre of power the converse is true. During and in the immediate post-revolutionary period, those associated or suspected of being associated with the Qadhafi regime as fighters were subject to arbitrary arrest and ill-treatment. According to Dr George, there has been a shift in the pattern of detentions from 2011 onwards in that when there were a lot of ex-Qadhafi fighters at large, there were more people to arrest. Once all the obvious suspects were arrested the rate of arrests tapered off, with most individuals from the Qadhafi era having fled the country or having been detained, resulting in fewer arrests on grounds of sympathy for Qadhafi. Having said that, he also stated that there was still a fervour to hunt down Qadhafi loyalists.
136. We refer to this evidence from Dr George in this context because it indicates that in the revolutionary and the immediate post-revolutionary fever, the degree of association with the former regime which would attract adverse attention is likely to have been less than would now be the case, subject to our assessment in relation to specific groups.
137. We do not consider that the evidence leads to the conclusion that anyone who was associated with the former regime would be at risk of persecutory ill-treatment, serious harm or Article 3 ill-treatment on return. As Dr Porter states in his report dated 14 October 2013, seventy per cent of the Libyan labour force in the time of Qadhafi worked in the public sector so that the "gross majority" of Libyans were in some way associated with the regime, and that such association was especially high in Tripoli. He went on to state that it is not unusual for individuals to have worked for, or to have had family members who have had some relationship with, the previous government. Professor Joffé's oral evidence was that the effect of the Political Isolation Law would be that up to half the population would be excluded from holding office in the new regime.
138. All this serves to emphasise that an individual, fact-sensitive, assessment will be required in every case. That assessment will have to take into account the nature and extent of an individual's actual or suspected past association with the Qadhafi regime and taking into account that having worked for or been associated with the former regime is by no means exceptional in Libya. We consider it unlikely that simply having worked for or been associated with the regime in any capacity whatsoever will be sufficient to create a real risk of harm on return.
139. In the assessment of risk as a former or suspected Qadhafi loyalist or supporter it is, however, important to bear in mind the nature of the enquiry that an individual may experience on return. At [60] in his report of 2 October 2013, under the heading "Allegation and suspicion" Dr George states that a major factor in personal security is the tendency of the militiamen to make "snap judgements" about a person's background and/or loyalties, referring to the "strong propensity" in Libya to confuse supposition with hard fact. We have before us

evidence of what could be described as the variability of degrees of discipline within the militias, with weakest discipline most likely to be encountered at an *ad hoc* checkpoint manned by the '18 year old with a Kalashnikov' to use Dr George's expression.

140. We mention this in order to explain that it may well be that a person who was associated with the former regime in a significant way may not be able to avoid risk by relying on a nuanced or overly sophisticated explanation of his previous involvement with the former regime.

### **Family members of those associated with the former regime**

141. We have already referred to evidence that the majority of the population have had some association with the former regime and that it is not unusual for individuals to have worked for or to have had family members who have had some relationship with the previous government. The risk to a family member will again require a fact-specific assessment.
142. There was some evidence of the potential for risk to family members of those associated with the former regime but we did not find it altogether consistent. Dr George said that whether an individual would be suspected of association with the former regime or is a relative of such would depend on the circumstances. He referred to the nature of Libyan and Middle Eastern society in terms of the situation for relatives, stating that he was unable to show a particular case but on the other hand had not looked for one. Nevertheless, he cited the example of his researcher who encountered the neighbours of a particular person who said that that person's brothers were members of the security forces who had raped people, and that if the individual himself returned he would be killed.
143. In his written evidence Dr Porter said that individuals closely associated with the former regime and "individuals' family members" have been kidnapped, detained and murdered because of their past connections but went on to state that that is not always the case, citing the 'seventy per cent' figure to which we have referred. In his oral evidence, when being asked about the targeting of former members of the intelligence services, he said that the only evidence he had seen is "collateral damage" and that family members do not appear to have been intended targets although the daughter of Abdullah Al-Senussi was kidnapped in August 2013 and eventually released in September 2013 after some pressure was brought to bear by cutting off the water supply to Tripoli. Later in evidence he said that there would be an increased risk to a person who was known to be a family member of a person who worked for Qadhafi's intelligence services.
144. The UNSMIL report dated October 2013 states that those who had been arrested include the family members of those who were suspected of having fought on the side of or of having supported the Qadhafi regime.
145. It appears to us that there is limited support for a proposition that family members of those associated with the former regime, or those suspected of being

such, are now, as a matter of course, at risk on return. The background evidence to that effect is limited and the expert evidence not entirely consistent. We had one example only cited to us. If there was such a risk to family members, we consider that there would be more evidence of it in the extensive background materials to which we were referred.

146. We do not rule out the possibility that an individual will be able to demonstrate such a risk but that would have to be demonstrated by a highly specific individual assessment of that person's circumstances. Mere assertion of risk by association as a family member would not be sufficient without fact-specific evidence of the risk to that particular family member. The clear evidence is that risk arises because of actual or perceived support for the previous regime. A family member may be able to establish risk on this basis, but the *mere* fact of being a family member would not in our judgement be sufficient.

### **'Black Libyans' and Tawurga**

147. The term 'Black Libyans' is used in the Country of Origin Information report ("COI") report, and in the AI report of June 2013 entitled "Scapegoats of Fear". Elsewhere, the term is used interchangeably with "dark-skinned Libyans". All three experts from time to time used the term Black Libyans. Dr George described a Black Libyan as being of black African appearance. We therefore understand the phrase Black Libyan as meaning a Libyan of black African appearance. We would include within our understanding of that phrase, a person who for example, although not able to establish Libyan nationality, is a person for whom Libya is their country of former habitual residence.
148. The backdrop to the assessment of risk for Black Libyans is the abundance of evidence of racism in Libyan society in relation to those of black African appearance. Professor Joffé refers in his August 2011 report to the legacy of uncontrolled migration from sub-Saharan Africa as one of "bitter hatred of Black Africans". Whilst referring to intense racism that characterises Libya's coastal society, he goes on to state in the September 2013 report that the attitude to Libya's ethnically black population is generalised throughout the country.
149. Similarly, there is uncontested evidence that ethnic minority groups continue to suffer from discrimination, as they did under the previous regime.
150. There was no firm agreement amongst the experts as to the number of Black Libyans in Libya. Professor Joffé thought that they could amount to a third or a half of the population. Dr Porter was unaware of the percentage, regarding this as a difficult statistic to divine because an individual in Libya could have characteristics that are considered to be black outside Libya but not within Libya and vice versa. Dr George told us that there were no figures but that he thought they may amount to 5 or 10 per cent of the coastal population, revising that figure in stating that 10 per cent may be on the high side. In Kufra the figure may be 30 per cent and in Sabha in the south west it may be 30 per cent, although again stating that the latter figure may be on the high side.

151. The evidence before us does not show that it is possible to tell from appearance alone that a person is from Tawurga, at least not in the opinion of the three experts. We express it in that way because we were not addressed on whether a Libyan would be able to identify a Tawurgan by appearance only. Dr George said that a Tawurgan would be identified from their ID documents or the person may say that they are Tawurgan (albeit that they might not be believed if they said that they were not). Dr Porter said that it was not possible to say without talking to someone whether they are a Black Libyan or, for example, an illegal immigrant from sub-Saharan Africa. Professor Joffé agreed that physical characteristics alone would not allow a distinction to be made between a Black Libyan and a sub-Saharan African.
152. Within the group that can be described as Black Libyans or dark skinned Libyans, i.e. Libyans of African appearance, the evidence does show that a distinction in risk terms can be made as to the position of certain ethnic groups. Such a distinction has, as its foundation, twin pillars of racism towards those of black African appearance, and assumptions or perceptions of loyalties. That is not to say that we conclude that those pillars are pre-conditions of risk, only that they are features of the evidence that are recognisable in our assessment of risk.
153. The USSDR speaks of particular targets of arbitrary and unlawful killings as including possible sub-Saharan mercenaries and dark-skinned Libyans. The report refers to the detention of sub-Saharan African refugees and migrants having increased significantly after the fall of the Qadhafi government, on suspicion that they supported the former regime or were complicit in abuses during the conflict. The OGN, Amnesty International, Human Rights Watch and other reports contain similar assessments. Background reports refer to the widespread perception that Qadhafi used black African foreign mercenaries.
154. It is as well at this point to refer to the evidence of the extent of the use by the Qadhafi regime of foreign mercenaries of black ethnicity, in so far as it is possible to determine it. The OGN refers to allegations that mercenaries were recruited from Chad, Nigeria and Sudan as appearing to have been heavily exaggerated. By contrast, Dr George in his written evidence stated that Qadhafi's forces largely comprised foreign mercenaries, although in oral evidence modified that view to state that Qadhafi's forces "included" foreign mercenaries.
155. Dr Porter also referred to the perception that Black Libyans fought for Qadhafi and his view was that there was still the belief that sub-Saharan Africans in Libya may be the remains of mercenaries who fought for Qadhafi.
156. We remind ourselves that the OGN at 3.3.15 refers to reports indicating that "those perceived to have been pro-Gaddafi loyalists, and those perceived to have been working or fighting on his behalf, particularly those of African ethnicity are at particular risk of ill treatment."

157. That passage of the OGN does not, however, state that people of African ethnicity are at particular risk of ill-treatment, only that those of African ethnicity perceived to have been pro-Qadhafi are at particularly at risk.
158. The situation of Tawurgans we consider illustrates the distinction revealed by the evidence between Black Libyans/those of black African appearance, and those from a particular ethnic group or tribe. There is considerable evidence that the Tawurgans are perceived to have supported the Qadhafi regime during the conflict, and Professor Joffé states that some did. He also refers to reports of organised rapes by Tawurgans in Misrata, with the Misrata militia taking revenge and forcing all Tawurgans out of Tawurga. Background evidence is to the same effect. Dr Porter cites Tawurga as a good example of an area perceived as a whole to have been allied with Qadhafi. The population remains displaced and excluded by the militias from returning. The OGN refers to Human Rights Watch as suggesting that crimes committed against the Tawurga may amount to crimes against humanity.
159. Dr George told us that there are two categories of people who, if stopped by militia, are likely to attract more adverse attention than others: Tawurgans and Mashashiya.
160. Of significance is the AI report of 16 February 2012 which states that people from sub-Saharan Africa who were detained during and in the weeks after the conflict because of the belief that they were Qadhafi mercenaries are now being held because of their suspected illegal status "or related issues". The AI report of June 2013 ("Scapegoats of Fear"), whilst stating that foreign nationals, mainly from sub-Saharan Africa are at constant risk of exploitation, arrest and indefinite detention pending deportation, nevertheless states that Libya remains heavily reliant on foreign workers, especially in the agricultural, construction and services industries, albeit that abuses continue. Notwithstanding that assessment the report goes on to state that Libya is a magnet destination for people, particularly sub-Saharan Africans and North African and Middle Eastern nationals looking for economic opportunities or for international protection as they flee persecution, violence and armed conflicts in the region and beyond. Many thousands are said to arrive every year despite cases of detention on an almost daily basis.
161. The reports to which we have just referred concern foreign immigrants, in particular those from sub-Saharan Africa. A Black Libyan, self-evidently, is from Libya. Whilst we accept that the evidence discloses an arbitrary 'system' of enquiry at checkpoints, it is reasonably likely that a person of black African appearance who is from Libya, would be able to demonstrate their origins as being from Libya, either from ID documents or by explanation of the person's background.
162. Dr George visited Libya most recently in September 2012. He told us that it was common to see black people on the streets of Benghazi, Misrata and Tripoli going about their business in an ordinary way. Dr Porter visited Libya even more

recently, in August 2013. He said that in Tripoli, Misrata and Zawiyeh Black Libyans are moving about, with many being involved in unskilled work such as labouring.

163. Dr George accepted that it is not now correct to say that Black Libyans would be perceived as mercenaries, which he said would be an overstatement. His evidence was also that it is an overstatement to say that there is a risk of being detained and suffering serious harm simply on the basis of ethnicity, yet going on to state that it was a question of degree and that there was still a risk. He referred to the risk as not a serious, severe or real risk but a “potential risk” in the context of being confronted by the 18 year old with a Kalashnikov.
164. Dr Porter said that he was not able to say whether Black Africans are being detained on the basis of suspicion of having been mercenary fighters. Similarly, he said that he was not able to say whether there is only discrimination against Black Libyans and sub-Saharan Africans or whether their treatment extends to persecution.
165. Professor Joffé was last in Libya ten years ago although has kept abreast of developments there. Referring to AMH he said that as a Black Libyan he would face not only profound racism but also considerable discrimination “and persecution” simply because of his ethnic origins. Later in his evidence he said that Black Libyans such as AMH do not exactly suffer the same fate as the Tawurgans but because Black Libyans are thought to have been supportive of the Qadhafi regime so they would suffer as the Tawurgans do. He again referred to discrimination. His view was that the experience of Tawurgans can be generalised to include all Black Libyans, stating that they are “symbolic” of Black Libyans.
166. When it was put to him that the large scale arrests of Black Libyans and sub-Saharan Africans ceased in 2012, he said that they have either all been arrested or have been displaced.
167. We are not satisfied that the evidence does reveal a real risk of persecution or Article 3 ill-treatment in the case of Black Libyans. Professor Joffé’s assessment of that risk we think extends beyond the boundaries of what the other evidence discloses. Black Libyans are in fact seen out and about, apparently going about their daily business, witnessed by Dr George and Dr Porter. There is evidence of increasing migration to Libya of sub-Saharan Africans. The background evidence to which we have been referred does not now reveal the large scale detentions and mass arrests that characterised the revolution or its immediate aftermath. Whilst there are arrests/detentions of those of black African appearance, this is for the most part shown to be in terms of illegal immigration of sub-Saharan Africans.
168. The effect of Professor Joffé’s assessment in relation to the risk of detention at a checkpoint at least, was that up to a third of the population would be at risk of detention in those circumstances. We are not satisfied that the other evidence

reveals this to be the case. The situation 'on the ground' is clearly illustrated by Dr Porter's evidence of his relatively recent visit to Libya during which he said he saw many other Libyans driving, that there is a lot of traffic on the roads going through the checkpoints and that in fact traffic is a problem on Libyan roads.

169. There is no guarantee of safety but the UK's obligations under international refugee or human rights law do not demand such a guarantee. We acknowledge Dr George's expression of a "potential risk". Otherwise expressed this translates as a chance of adverse interest for a Black Libyan in Libya and as such does not engage the UK's international obligations.
170. However, we are satisfied that presently there is a real risk of persecution or Article 3 ill-treatment for a Tawurgan returning to Libya. The twin pillars underpinning that risk are the endemic racism in Libyan society, the evidence of which we have referred to, and assumptions or perceptions of loyalties.
171. Mr Palmer submitted that it would be going too far to say that all Tawurgans would be at risk on return, suggesting that there may be cases where a Tawurgan has very good links in Tripoli. Others, he suggested, who have further afield to travel, may encounter Misrata militia at a checkpoint and it cannot be excluded that such a person may be detained. Nevertheless, it was conceded, and we think rightly conceded, that almost all Tawurgans would be in need of international protection. Mr Palmer suggested that one could not go so far as to say that all Tawurgans are at risk but it may be difficult to find individual cases where such a person may not be at risk.
172. We consider that it would be a rare case in which it could be said that a Tawurgan would not be at risk of persecution or Article 3 ill-treatment on return. There is always the possibility that in any individual case there will be exceptions to the generality, but the mere fact of having very good links to Tripoli would not in our judgement be a basis for concluding that a person of Tawurgan ethnic background could safely return to Libya, whether to Tripoli or elsewhere. Aside from the case of a Tawurgan with very good links to Tripoli, a scenario we have excluded as a basis for the avoidance of risk, Mr Palmer did not suggest any other examples of a person of Tawurgan ethnic background who could avoid the risk of harm, and we cannot conceive of any. Whilst not obviating the need for an individual assessment, we are satisfied that a person of Tawurgan ethnicity is at real risk of persecution and/or Article 3 ill-treatment on return to Libya, whether in Tripoli, Benghazi or elsewhere.
173. The risks we have referred to in passing through checkpoints do not make internal relocation viable in the case of such an individual, who would in the great majority of cases presumably be from Tawurga to which re-entry is in any event prevented by militias. Effective protection is not available to Tawurgans, self-evidently because the risk arises from the manifestations of the State in the form of the various militias, which operate (largely) on behalf of the State.



## Tuareg

174. There was less evidence before us in relation to the Tuareg, who are another group of black African appearance. We did not hear evidence in relation to whether it is possible to identify a Tuareg by appearance alone and only Professor Joffé referred to that group in his evidence. Nevertheless, we consider that there are obvious parallels between the Tuareg and the Tawurga and sufficient other evidence such as to allow us to make an informed judgement about the potential for risk on return for those of Tuareg ethnicity.
175. The OGN refers to the Tuareg as one of the principal minority groups. Professor Joffé referred in evidence to the anger directed towards the mercenary forces who were considered to be black, including the Tuareg. The OGN refers to reports of dark-skinned Libyans, including Tuaregs, being removed from their homes in Tripoli and being held in detention centres and prisons, the source for this information being the USSDR for 2012 published in April 2013. We remind ourselves that the OGN states that “though some Libyan Tuareg have opposed Gaddafi, many others found employment in the Libyan regular army, together with volunteers from Mali and Niger. As a result, many Libyans tend to identify all Tuareg as regime supporters.” It continues that as of January 2013, 2,400 Tuareg who had fled Ghadames remained internally displaced in Libya.
176. The parallels with the Tawurga are immediately obvious. Both are of black African appearance; both were and are perceived to have supported the previous regime and both groups are internally displaced.
177. As in relation to those of Tawurgan ethnicity, we are satisfied that there is a real risk of persecutory ill-treatment and Article 3 harm for a person of Tuareg ethnicity on return to Libya. Again, we find that there would be no sufficiency of protection and there is no viable option of internal relocation.

## Mashashiya

178. Dr George told us that the Mashashiya are not Black Libyans. He did, however, say that, along with the Tawurga, the Mashashiya are the subject of adverse attention, albeit for different reasons. Professor Joffé’s written evidence in his latest reports confirms the continued ‘victimisation’ of the Mashashiya by the Zintan militia.
179. The AI report, albeit dated February 2012, refers to thousands of people having been evicted or having fled their homes in the Nafusa Mountains, mainly the Mashashiya and Qawalish tribes, as well as in Sirte and Bani Walid, and remain targeted by militias (particularly the militias from Zintan) because of their alleged support for the Qadhafi forces during the conflict. The OGN includes the Mashashiya as a group at risk in its current assessment, albeit with reference to the same AI report, and referring to them as a community that had largely backed Qadhafi in the conflict.

180. The position of the Mashashiya provides an example of a group that the background and expert evidence reveals to be at risk in Libya but not, as far as the evidence put before us is concerned, having racism as its background, unlike in relation to other groups we have referred to. This illustrates that the architecture of risk is not dependent only on the twin pillars of racism and perception of loyalty to the former regime, as we have sought to make clear.

### **Qawalish**

181. None of the experts identified this group as one that would be the subject of adverse attention in Libya, none of the reports referring to the Qawalish. Having said that, none of the experts was asked about this specific group. We have not been told whether this is a group of black African appearance, although we suspect not from the context of the background evidence put before us.

182. There is background evidence indicating that this too is a group, along with the Tawurga, Tuareg and Mashashiya, that have been targeted in the past on the basis of actual or perceived support for the Qadhafi regime and they too have been displaced (USSDR; AI report 16 February 2012). The USSDR includes the Qawalish in the group of IDP's from tribes and cities known to have been loyal to the Qadhafi government. AI reports that this group are particularly targeted by the Zintan militia.

183. We do not, however, consider that there is sufficient evidence before us in relation to the current risk for the Qawalish. The USSDR relates to 2012 as does the AI report. We have not been given examples of instances where members of this group have recently faced problems of harassment, detention and ill-treatment, or indeed what the current attitude to them is. We have no evidence in relation to whether they have been allowed to return to their homes.

184. We do not exclude the *possibility* that those in this group may be at risk of persecution or Article 3 ill-treatment but the evidence before us is not sufficient to establish a reasonable likelihood of such treatment. In a case where a member of this group alleges a risk of persecution or Article 3 harm on return to Libya, it will be necessary for specific evidence of current risk to be adduced.

### **Tibu<sup>6</sup>**

185. There is background evidence in relation to the Tibu, another minority group of black African appearance. There is evidence of discrimination against this group, both pre and post revolution. However, according to the COI, quoting a report from Al-Jazeera of December 2012, they now dominate Libya's southern desert, guarding remote checkpoints, oil fields and weapons stockpiles. The OGN at 3.12.19 states that Qadhafi never liked the Tibu and at 3.12.20 it states that:

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<sup>6</sup> Also spelt Tabu, Toubou and Tubu-See OGN 9 May 2013 at 3.12.18

“The indigenous, semi-nomadic Tabu, marginalised by Gaddafi under his Arabisation campaign, staked out a leading role during the 2011 revolution with a goal to secure their civil rights. Combining their intimate knowledge of the Sahara with a tribal network spanning both sides of the borders, they forged a successful blockade against pro-regime reinforcements. When the revolution was won, a grateful transitional government controversially awarded the Tabu commander Issa Abdel Majid Mansour oversight over vital desert crossings to the detriment of Kufra’s majority Arab Zwai tribe. The Zwai, whose ties stretch over oil-rich territory to Ajdabiya, 150km south of Benghazi, previously benefited from Gaddafi’s divide-and-rule tactics”.

186. Whilst Professor Joffé would include the Tibu as being amongst those who would be in a risk category, his view is on the basis that the Tibu are black African. However, the background evidence does not support the suggestion that this group would be at risk, either in their own right, or, for the reasons we have given, on the basis that they are part of a group that has been described as Black Libyans.

## **Women**

187. Background evidence indicates that despite constitutional guarantees in relation to equal rights, these were not enforced by the interim governments, particularly in relation to women and minorities. Militias and extremists are said to have used violence and intimidation against women they considered in violation of religious law and cultural norms. The COI and OGN both describe the problems faced by women in terms of domestic violence and discrimination. During the revolution thousands of women were raped.
188. In rural areas societal discrimination restricted women’s movements, according to the OGN, even to local destinations. Most women will not travel unless accompanied by a husband or male relative. Members of the elite, however, have more freedom in this regard. We also note what is said about unmarried or divorced women living on their own.
189. There were some news reports of the government’s intention to address the issue of violence against women. A BBC news report of 13 December 2011 refers to women heading two ministries; health and social affairs. It nevertheless goes on to describe Libyan society as a deeply conservative, male dominated society where public gatherings are often segregated. There is stated in that report to be an assertive new generation of women’s rights emerging.
190. Dr Porter thought that it is possible for a woman to travel overland from Tripoli to Benghazi, but would need to be accompanied. In written evidence he said that it was not necessarily dangerous for a woman to travel alone but it would be unusual. She would be subject to additional questioning at checkpoints. Since the revolution Libyan society has become more socially conservative. In oral evidence he said that a woman’s ability to navigate checkpoints would depend on the purpose of the travel and he was not aware of a woman having suffered ill-

treatment at a checkpoint. He said that a single woman with no links to the community would have “tremendous difficulty” accessing accommodation and that it was very rare for a woman to arrive in a community without knowing a single person in the community, or to rent a room by herself because of the suspicion that would arise of her being a prostitute. There would be no difficulties specific to women in flying from Tripoli to Benghazi. If a woman were travelling with her brother, that would overcome the difficulties she might face in overland travel if alone.

191. The expert evidence was consistent with the background evidence in terms of the difficulty of accessing accommodation as a single woman.
192. The OGN at 3.11.15 refers to the inability of the government to provide women protection against harm. Some women and particular sub-categories of women will be able to demonstrate the need for international protection but taking into account all relevant factors. It is as well to set out in full what the OGN says about the potential for risk to women in Libya.
193. At 3.11.15 it states the following:

“Given the generalised discrimination towards women in Libya, and the inability of the current Government to provide protection against harm, it is likely that some women and especially particular sub-categories of women (e.g. women of African ethnicity, victims of sexual violence, and women perceived to have been allied to the Gaddafi regime) will be able to demonstrate a need for international protection. All relevant factors should be taken into account, including the age, health, educational and economic status, and the individual circumstances of the applicant. Female applicants able to show they are at real risk of persecution because they are accused of sexual ‘misdemeanours’ or offences against family honour are likely to be able to show that they fall into the category of a particular social group (PSG).”

And at 3.11.16

“Given the circumstances and cultural factors set out above, female applicants who have been raped by soldiers loyal to Gaddafi or other combatants are also likely to be able to show that they are at real risk as members of a PSG. Evidence suggests that even where the rape victim’s father or husband does not attach personal blame to her, as is the case with other categories of sexual dishonour, she is still at risk of being the subject of an ‘honour’ killing, in order to save her and her family from dishonour.”

194. The evidence does not reveal that purely on the basis of their sex women in general are at risk. What is said in the OGN about risk in relation to the potential for risk to women, in at least one respect, says no more than what we consider already to have been established, that is that women perceived to have been allied to the Qadhafi regime will be able to establish the need for international protection. That, however, is not because the person is female, but because she

comes within the risk category that we have identified of former/suspected Qadhafi loyalists or supporters.

195. There is no inconsistency between what we have said in the preceding paragraph and our conclusions in relation to family members of those associated with the former regime. As we have said, merely being a (female) family member does not, of itself, create the risk.
196. We have already emphasised the need for a case-specific and fact-sensitive enquiry. Such an approach is trite but pertinent in particular in considering the case of a female returnee. For example, the OGN at 2.3.8 states that women who are members of the elite have more freedom in terms of travel. That illustrates what is said at 3.11.15 about all relevant factors needing to be taken into account. We do not understand the OGN to be stating that *in every case*, a woman who, for example, is accused of a sexual misdemeanour would be at risk. Her status, her connections, her ability to travel, would all be relevant factors.
197. To take another example; a woman of black African ethnicity may more easily be able to demonstrate risk on account of an accusation of a sexual misdemeanour because in her case there is the added issue of discrimination and racism against those of African ethnicity which is likely to affect her circumstances on return.
198. The combinations are potentially many and varied. Devising an endless list of hypothetical examples is more likely to hinder than help in the assessment of risk but we have sought to illustrate the need for all factors to be taken into account.

### **Failed asylum seekers**

199. No background evidence was put before us indicating a risk to failed asylum seekers from the UK. The AI report of June 2013, where it refers to the violation of human rights of foreign nationals, including asylum seekers, plainly refers to those seeking asylum on Libyan soil.
200. Dr George said that a failed asylum seeker would not be at risk on return from the UK given that very many Libyans have been living in exile. He went on to say that the phenomenon of Libyans living outside the country for many years is nothing very special. Similarly, as we have already seen above under the subheading "Travel", Dr Porter said that there have been no reported instances of returnees being detained by airport authorities or militias on leaving the airport (at Tripoli) and there has been no persecution of those who "sat out" the revolution in Europe or the US.
201. No submissions were made on behalf of any of the appellants before us to the effect that an appellant would be at risk on return purely on the basis that he/she would be returning as a failed asylum seeker.

## **Risk on arrival at Tripoli or Benghazi airport**

202. Tripoli airport is the international airport at which flights from the UK arrive. Whilst there have been occasional security concerns, the evidence does not warrant a finding that for the ordinary traveller, or a returnee from the UK (whether as a failed asylum seeker or otherwise) any protection risk arises. Admittedly, security is maintained or enforced by militia or former militia now under the, at least nominal, control of the government but Dr Porter's evidence effectively testified to the relative normality of the situation at Tripoli airport. Again, none of the appellants contended that a risk arises merely from the fact of return to Tripoli airport.
203. In relation to Benghazi airport, the situation there we see as to some extent reflecting the more precarious security situation in Benghazi itself. There was evidence from Professor Joffé as to the struggle for control of the airport and continuing tensions in that regard. Nevertheless, neither the background nor expert evidence supports any suggestion that arrival at the airport per se, for the ordinary traveller and including returnees from the UK, involves a risk that requires recognition in terms of international protection. In any event, as we have said, return from the UK will in the first instance be to Tripoli airport.

## **Onward travel from Tripoli**

204. The potential for risk under this head is substantially covered by the observations and conclusions we have set out above. We have set out the evidence in relation to checkpoints, manned by militia. Dr Porter told us that checkpoints exist on all major roads out of Tripoli. We consider it inevitable that travel by road from Tripoli will involve passing through checkpoints. Given the evidence of checkpoints at or around Tripoli airport, an encounter with a checkpoint after leaving the airport is likely to occur sooner rather than later.
205. As we have seen, whether a person will be stopped at a checkpoint depends on various factors. To take an obvious example from the evidence, a woman travelling alone is more likely to be stopped than a man alone. Overland travel is possible. The possibility of harassment by a militia or being a victim of general banditry cannot be ruled out, but Dr Porter's evidence was that such a risk is not exceptionally high.
206. Both Dr Porter and Dr George travelled by road in Libya without coming to harm. Of course, being white European may, on one view, have reduced the risk to them and we would not wish to draw unwarranted conclusions from their experience. However, travel to and from the airport is clearly a daily occurrence for Libyans and the roads in general are said to be busy.
207. The evidence does not support a conclusion that travel from Tripoli airport, by road, poses a risk that requires international protection for those who are not otherwise at risk. The evidence similarly establishes that it is possible to travel from Tripoli to Benghazi by road, without unacceptable risk. In coming to this

conclusion we have taken into account the background evidence and the evidence of Professor Joffé in relation to the family book. We do not consider that a person who does not possess a Family Book would not be able to travel in safety by road. As Professor Joffé accepted, it is likely that many people will have lost their family book given the recent upheavals in the country, and this is a fact that we consider is likely to be understood by would be inquisitors at a checkpoint.

208. Our assessment of the issue of safety of internal travel is subject to the following qualification. We have seen that travel to certain parts of Libya is prohibited, with a closed military zone in the south of the country. The OGN refers to a threat from criminal activities in areas bordering Sudan, Chad, Niger and Algeria, and with the exception of the official land border crossings to Tunisia and Egypt, visitors and residents are not permitted to travel in the interior or to border areas without an officially sanctioned guide or specific permission from the authorities. We were not referred to any evidence in relation to the ease or otherwise with which a person would be able to obtain permission from the authorities to travel to the "interior" of the country.
209. In terms of risk in travelling to other areas, we bear in mind the UK government's travel advice, which we have set out above. It advises against all but essential travel to Tripoli, Zuwara, Zawiye, al Khums, Zlitan and Misrata, and to the coastal towns from Ras Lanuf to the Egyptian border, with the exception of Benghazi. It then goes on to state that the FCO advises against all travel to all other parts of Libya, including Benghazi.
210. However, precautionary travel advice in relation to a relatively newly post-revolutionary country which is, to use Dr George's words "awash" with arms, is advice one would expect from any government. That does not mean that for all returning Libyans there is a need for international protection, as our analysis of the evidence reveals.
211. We go no further than to repeat that land travel is possible and can be undertaken without giving rise to a risk of harm that requires recognition in terms of international protection. That is even aside from the question of internal relocation which we have already considered. The specific areas of enquiry that are the subject of these appeals relate to Tripoli, Benghazi and Zawiye. Nevertheless, we are able to conclude on the evidence before us that a claim to international protection is unlikely to succeed simply on the basis of the risk of travel to any particular area of Libya, again quite apart from the question of internal relocation. Area specific evidence would have to be adduced which establishes such a risk. Nevertheless, although we do not consider that any different outcome results from an assessment of risk in travel from Zawiye to Tripoli, we consider it separately because AMH is from Zawiye and it is one of the specific issues with which this decision is concerned.

## **Travel to Zawiyeh from Tripoli airport**

212. Professor Joffé told us that Zawiyeh is a provincial capital in its own right. AMH said in evidence that it was 40-45 km from Tripoli. We note the UK government's travel advice, which includes Zawiyeh. We have summarised an AI report of February 2012 which describes Zawiyeh as having experienced violent confrontations between supporters of the uprising and Qadhafi forces and where revenge attacks and reprisals by local militia have taken place against those who are known to have, or are suspected of having, supported the former regime. In addition, a report from Al Jazeera dated 25 August 2013 referred to clashes in Zawiyeh between members of the Warshifana tribal group and residents of the town. Four people are said to have been killed and several wounded.
213. Professor Joffé referred to the dislike of Black Libyans from Zawiyeh as being intense. He also said that Zawiyeh is controlled by militia who have been extremely active in suppressing pro-Qadhafi activity in Bani Walid. With reference to AMH, he said that as a Black Libyan he would face profound racism, and particularly in the context of Zawiyeh he is likely to suffer considerable discrimination and persecution simply because of his ethnic origins. He said that whether there are checkpoints on the way to Zawiyeh varies depending on the activities of the local militia and there could be checkpoints inside Zawiyeh itself.
214. On the narrow question of whether it is possible to travel from Tripoli to Zawiyeh, we repeat the observations we have made under the sub-heading "Onward travel from Tripoli". In addition, we note that Dr Porter visited Zawiyeh when he went to Libya in August 2013. He did not experience difficulties specific to making that trip by road, albeit that we note that his personal profile is plainly different from that of a returning Libyan. Nevertheless, we do not consider that the evidence establishes that travel to Zawiyeh from Tripoli presents any greater challenge, difficulty or risk, in itself, over and above the particular risk that there may be for an individual who otherwise had established a risk of persecution or Article 3 ill-treatment. The mere fact of travel from Tripoli to Zawiyeh does not in itself create a risk to a person who would not otherwise be at risk.

## **COUNTRY GUIDANCE**

215. Drawing on all the expert and background evidence, and taking into account the submissions of the parties, we come to the following conclusions:
- (1) In the aftermath of the armed revolution that brought about the fall of the dictatorial and repressive regime of Colonel Qadhafi, the central government in Libya has relied on various militias to undertake security and policing functions. Those militias and the many others that operate within Libya, often have their own interests, loyalties and priorities which may or may not coincide with the interests of the central government.



### **Article 15(c)**

- (2) There is not such a high level of indiscriminate violence in Libya, within the meaning of Article 15(c) of Council Directive 2004/83/EC ("the Qualification Directive") so as to mean that substantial grounds exist for believing that an individual would, solely by being present there, face a real risk which threatens his or her life or person.

### **Former regime members and associates**

- (3) Having regard to the generally hostile attitude of society to the former regime, the following are, in general, at real risk of persecution or Article 3 ill-treatment on return to Libya: -
- (a) former high ranking officials within the intelligence services of that regime;
  - (b) others with an association at senior level with that regime.
- (4) As a general matter, the closer an individual was to the centre of power within the former regime, the more likely that the individual will be able to establish a risk of persecution or Article 3 ill-treatment on return.
- (5) The majority of the population of Libya either worked for, had some association with, or has a member of the family who worked for or had an association with the Qadhafi regime. Such employment or association alone is not sufficient to establish a risk of persecution or Article 3 ill-treatment on return.
- (6) In general, family members of those described in (3) and (4) above are not at risk of persecution or a breach of their protected rights on return. It is possible, however, that an individual will be able to establish such a risk but this will need to be demonstrated by specific evidence relating to the individual's circumstances. Mere assertion of risk by association as a family member would not be sufficient without fact-specific evidence of the risk to that particular family member.

### **Black Libyans etc**

- (7) A 'Black Libyan' is a Libyan of black African appearance, and includes a person who may not actually possess Libyan nationality but for whom Libya is their country of former habitual residence. There is endemic racism within Libyan society towards Black Libyans. However, Black Libyans who are not Tawurga or Tuareg are not per se at risk of persecution or Article 3 ill-treatment on return, and will only be able to establish the need for international protection with reference to some additional factor particular to that individual.

- (8) The Tawurga are Black Libyans who are perceived by Libyans to have been mercenaries on the side of the Qadhafi regime and to have committed human rights abuses during the revolution. The Tuareg are also Black Libyans and are also perceived to have been supporters of the former regime.
- (9) Whilst there remains a need for an individual assessment of each individual's circumstances, a person who is Tawurga or Tuareg will in general be able to establish the need for international protection. The same is true of persons from the Mashashiya ethnic or tribal group. The Mashashiya are not Black Libyans but are similarly perceived as a group to have been supporters of the Qadhafi regime.

### **Women**

- (10) Whilst Libya is a male-dominated society and there is evidence of discrimination and violence against women and poor recognition of women's rights, being female does not per se establish a risk on return. However, taking into account all the circumstances, including a woman's age, health, level of education and economic status, one or more of the following characteristics or factors are likely, depending on the circumstances, to be significant in relation to the assessment of risk on return for a woman:
- a) African ethnicity;
  - b) Being a victim of sexual violence, including having been raped by soldiers loyal to the Qadhafi regime or by other combatants;
  - c) Being a woman accused or suspected of sexual misdemeanours or offences against family honour.

### **Failed asylum seekers**

- (11) Failed asylum seekers are not, for that reason alone, at real risk on return.

### **Risk at point of return**

- (12) There is no real risk of harm to the ordinary traveller arriving either at Tripoli international airport or Benghazi airport.
- (13) However, a person who has established that they come within one of the risk categories set out at (3), (4), (9) and (10) above, will be at risk from government security forces or from militias, on arrival at Tripoli International Airport, on account of information that is required to be given by passengers on arrival.

### **Risk following return**

- (14) Even if a person described in (13) above is able to pass through the airport without being detained, because of the presence of militias at various checkpoints such a person is reasonably likely to be detained at a checkpoint en route to his or her home area.
- (15) Notwithstanding the prevalence of checkpoints manned by militias, it is possible to travel overland from Tripoli airport to other destinations without a real risk of persecution, serious harm or Article 3 ill-treatment. Land travel in general is possible and can be undertaken without giving rise to a risk of harm that requires recognition in terms of international protection. The evidence does not reveal such a level of arbitrary or irrational conduct on the part of militias at checkpoints such as to put the ordinary traveller at real risk. A claim to international protection is unlikely to succeed simply on the basis of a claimed risk of travel to any particular area of Libya. Area specific evidence would have to be adduced which establishes such a risk.
- (16) The 'family book' is the main proof of citizenship, listing family members and being required, for example, to obtain employment or a bank loan. However, the fact that a person does not possess a 'family book' would not prevent travel within Libya and the lack of a family book would not itself give rise to a risk of harm.

### **Sufficiency of protection**

- (17) In general, an individual who succeeds in establishing a real risk of harm by reference to the risk categories set out at (3), (4), (9) and (10) above, will not be afforded a sufficiency of protection from that harm.

### **Internal relocation**

- (18) Likewise, such individuals would not, in general, have available to them the option of internal relocation.
- (19) For persons who have established a real risk of proscribed ill-treatment in their home area for a reason other than by reference to one of the categories set out above, for example because of a family or tribal feud, or because of hostility from a particular militia, it is possible to be able safely to travel from one part of Libya to another, depending on whether the reason for the risk is one that would give rise to further risk for that same reason, on encountering a checkpoint.
- (20) A male seeking to avoid a local risk of harm such as described in (19) above, would be able in practical terms to relocate to another area of Libya, be it for example Tripoli or Benghazi, particularly if the person has tribal or family connections there. The absence of such connections would not

prevent the person from establishing himself, in the sense of being able to live in the new community and find accommodation. It would not be unduly harsh for such a person to relocate internally.

- (21) However, such a person may not be able to avoid a risk of harm in a new area where the person has no connections in terms of tribal or family links, but the person or group that is feared does have such links. A fact-specific enquiry is essential. An appellant's assertion that the individual or group that is feared has links to say, Tripoli or Benghazi, or another prospective place of relocation, will need to be assessed in the light of the findings in relation to overall credibility.
- (22) In relation to the possibility for a woman to relocate internally, taking into account the position of women in society in Libya, the difficulty for women of accessing accommodation if alone, and the rarity of a woman arriving in a community without knowing any person there, internal relocation would not be reasonable and would be unduly harsh unless in the prospective area of relocation the woman has a close family or significant other connection, aside from merely a tribal connection.
- (23) In addition, bearing in mind the above factors, a woman is likely to be more conspicuous with the result that her presence may more easily be discovered by the prospective persecutor.
- (24) The following cases are superseded by this decision and are no longer to be treated as providing country guidance:

ME (Risk - Failed Asylum Seekers - Hassan) Libya CG [2003] UKIAT 00200

HH (Risk – Failed Asylum Seekers) Libya CG [2003] UKIAT 00202

KK (Failed Asylum Seeker) Libya CG [2004] UKIAT 00151

## **RESOLUTION OF THESE APPEALS**

### **The first appellant-AT**

216. AT is from Souq Al-Juma'a, in Tripoli. The basis of his asylum claim was that his father ran an electronics business but also worked for the Qadhafi regime in the Control and Intelligence Service ("CIS"). His father stopped working for the CIS but he and others were rounded up by government forces. The appellant was also targeted by pro-Qadhafi forces. Because of his father's work for the former regime he and his brothers were targeted by anti-Qadhafi revolutionaries. When he left Libya in 2011 he believed that the rebels were still looking for him and his brother.

217. First-tier Tribunal Judge Mather did not find the appellant to be credible. She did not accept that his father worked for the CIS, accepting only that he is a businessman running an electrical business. She did not accept that the appellant had been targeted at all, that he had been subjected to persecution in the past, or that he would be persecuted on return.
218. The grounds of appeal in relation to the decision of the First-tier Tribunal did not take issue with the credibility findings. We proceed on the basis of the First-tier judge's credibility findings, it being accepted on the appellant's behalf that the respondent's skeleton argument correctly sets out the adverse credibility findings and in respect of which no submissions were made on behalf of the appellant attempting to reopen those findings.
219. We note that this appellant is from Souq Al-Juma'a. Dr George referred to events of the Friday before the hearing when a large number of demonstrators were killed and many wounded by the Misrata militia. Dr Porter states in his written evidence that Souq Al-Juma'a has its own militia. He also referred to the events of that Friday, the incident having taken place partially in the neighbourhood of Souq Al-Juma'a.
220. In examination-in-chief he said that the appellant, having ID from Souq Al-Juma'a, puts him at risk in terms of contact with the Misrata militia. He would have to give his address, amongst other details, on the disembarkation form at Tripoli airport which was controlled by the Misrata militia.
221. In cross-examination Dr George said that until the events of the previous weekend he would not have said that a person coming from Souq Al-Juma'a would put a person at risk. He said that there could be recriminations from the Misrata brigade against those from Souq Al-Juma'a who had attacked them. However, he went on to agree that someone who had been in the UK for the past three years would not be seen as someone who had attacked the Misrata brigade the previous weekend. He also said that someone from Souq Al-Juma'a going through Tripoli airport would not be more at risk than someone presently living in Souq Al-Juma'a. He accepted that his assessment of risk was entirely speculative in that it was too early to make a judgement about people being subjected to harm on the basis of where they are from.
222. We note that it was not argued on behalf of the appellant AT that he would be at risk on the basis of the events on the previous Friday and his coming from Souq Al-Juma'a. Furthermore, the fact that the appellant was not in Souq Al-Juma'a at the time of those events means that it is not reasonably likely that he would be seen as someone opposed to the Misrata militia.
223. This appellant's asylum and human rights appeal on the basis of the claimed involvement of his father with the intelligence service of the former regime was rejected.

224. For the reasons we have given, the evidence does not demonstrate that the appellant would be entitled to refugee eligibility, humanitarian protection on the basis of an Article 15(c) risk, or in relation to Article 3 in terms of the general security conditions.
225. No claim under Article 8 of the ECHR was advanced before us.
226. In the circumstances, the appellant's appeal on asylum, humanitarian protection and human rights grounds is to be dismissed.

### **The second appellant-AMH**

227. AMH is from Zawiyeh, close to Tripoli. He describes himself as a 'black Arab', is a Sunni Muslim and is a member of the Bla'za ethnic group.
228. First-tier Tribunal Judge N. Manuel dismissed his appeal on all grounds. The First-tier judge made certain findings of fact which are not infected by the error of law, Senior Immigration Judge Storey directing that the primary findings of fact should stand. It was accepted before us that, so far as necessary, further findings of fact may need to be made.
229. As to the findings by Judge Manuel, she found that the appellant had been opposed to the Qadhafi regime in the past, as he had claimed, and since his arrival in the UK. She accepted that he was a member of the Bla'za ethnic group. She referred to a report by Professor Joffé which described the H as a sub-clan of the Bla'za.
230. She accepted that as a Black Libyan he had suffered discrimination. One of the specific findings at [47] was that the appellant's father's car was set on fire during violence directed against Black Libyans in 2000. She noted, however, that the appellant and his siblings had not been deprived of the opportunity to attend school and undertake further education, including completing in 2010 a three year civil engineering course at the High Institution in Zawiyeh. He had been able to leave Libya three times: to go to Switzerland, Yemen and the UK. He had been able to find work in Libya.
231. Judge Manuel found that the appellant's father had worked for 30 years in the operations department of the military, and despite the fact, as she found, that his family is one of two families from that particular ethnic group in Zawiyeh, they have continued to live in a village just outside Zawiyeh. She concluded that the discrimination that he and his family suffered on account of "their race/tribe/black origins" could not be described as persecution.
232. She further found that the appellant's older brother had moved to Tripoli about two years prior to the hearing (which was in September 2011) to avoid problems in Zawiyeh and that he had managed to obtain employment in Zawiyeh and Tripoli without difficulty.

233. Another brother had travelled freely to Saudi Arabia and returned to Libya. His brother then went to Yemen and came back to Libya in 2002. He had remained in Libya until 2008 when he went to Egypt.
234. Judge Manuel found that the appellant's claim that he feared persecution on account of his ethnicity was undermined by reason of his intention to return to Libya at the end of his course of study in the UK.
235. We note that in the appellant's asylum interview he said in answer to questions 18-21 that his father retired in 1999 after 30 years service, with the rank of "sergeant or chief sergeant" and that during his military service he was based in Zawiyeh. At question 139 of the interview he said that his father had been threatened to the effect that even if Qadhafi stepped down "your son" would be punished by being killed.
236. The appellant's oral evidence before us was that he had spoken on the phone to his wife who said that the family were planning to flee Zawiyeh because they were in fear. He told us that he did mention this phone call to the judge at the hearing of his appeal before the First-tier Tribunal. Ms Patel was able to provide us with a manuscript copy of the notes of evidence taken by her at the hearing before the First-tier Tribunal. They accorded with the First-tier judge's record of proceedings on this issue, as we revealed to the parties before us. The appellant did give evidence to the First-tier Tribunal that he had received a phone call from his wife about two weeks before the hearing, that she appeared scared of the situation in Libya, and did not talk much. However, the records of proceedings do not indicate that he said that his wife had told him she was planning to leave Zawiyeh. Indeed, Ms Patel's record of the evidence is consistent with Judge Manuel stating in the determination at [40] that his family "have continued to live in a village just outside Zawiyeh".
237. We are not satisfied that the appellant did tell the First-tier judge that his wife told him in a phone call that the family were planning on leaving the area. Not only is this not reflected in the First-tier judge's determination, it is not a matter that was subject to any challenge in respect of the judge's determination. Ms Patel was not able to provide us with any notes of evidence which would suggest that there was any error in the First-tier judge's narration of the appellant's evidence in the determination. The grounds of appeal in relation to the decision of the First-tier Tribunal refer at [11(iv)] to the appellant's family, consisting of his elderly parents, his wife and young children continuing to live just outside Zawiyeh, being too frightened to travel elsewhere; believing it is safer to stay indoors than travel and being in an area that they know well so that they can hide. This is also inconsistent with the appellant's account of having been told by his wife that they were planning to leave.
238. The appellant's evidence was that his friend HH told him by phone that various identified tribes are all using violence to control their areas of Zawiyeh and are all persecuting Black Libyans. As set out in his witness statement dated 7 March

2012, HH told the appellant that his father had been beaten up by the rebels and had been taken to hospital and that this happened at the end of January 2012. According to the witness statement that was the last time he had spoken to HH who told him that his family had all left; that is his parents, wife, children, brothers and sisters and that the family home is empty. The statement continues that HH had been to visit the family and found that the house had been abandoned. He had also told him that his cousins are in prison, accused of being Qadhafi supporters. Everyone in the appellant's uncle's house had fled too.

239. However, we are not satisfied that the appellant has given a credible account of having lost contact with all family members in Libya. He agreed in evidence that his family in Libya had consisted of three brothers and three sisters, uncles and aunts as well as his parents, wife and children. As was noted in cross-examination, his evidence does not include an account of having tried to contact other members of the family apart from his parents and wife.
240. We do not accept as reasonably likely his explanation that he did not inform other members of the family that he was coming to the UK. His further explanation that his brothers, sisters, uncles and aunts were living separately and that everyone is busy with their own lives is similarly not credible in the context of the situation in Libya in which it is reasonable to conclude that family members would be concerned to establish the whereabouts or safety of other family members. Furthermore, the appellant said in evidence that his brothers and sisters also have his phone number yet have not contacted him.
241. The evidence in relation to his apparent efforts to find his family through the Red Cross does not indicate a genuine attempt to find lost family members, bearing in mind his having cancelled an appointment with the Red Cross on 20 August 2012 (page A155 appellant's bundle). He agreed that the letter from the Red Cross dated 7 September 2012 was the last letter that he received from them, although he said that he maintained contact. We are not satisfied, however, that the appellant did maintain contact with the Red Cross in the way he described, bearing in mind that it is reasonably likely that confirmation of that contact with the person he named as Sara would have been able to have been provided.
242. The lack of credibility in the appellant's account of having lost contact with his family undermines his claim that his father was beaten up by rebels and that his family have fled Zawiye, and that his uncle has also fled.
243. On behalf of the respondent it was submitted that given the appellant's evidence that he is a well known opponent of the Qadhafi regime and that he and his brother are leading lights locally in terms of opposing the regime, AMH would be well known in the area for that reason and would not be at risk of being suspected as a supporter of Qadhafi.
244. However, that position does not take into account the long service of the appellant's father in the military for the Qadhafi regime. As we have already



indicated, the evidence is to the effect that a sizeable proportion of the population were in some way associated with the former regime in terms of employment. Such a connection alone would not create a risk of persecution or Article 3 ill-treatment. The additional and significant factor in the case of AMH is that he is black. Again, that fact alone does not establish a risk requiring international protection.

245. An enquiry into the appellant's circumstances by those he is likely to encounter on return to Libya and en route to Zawiyeh, is reasonably likely to reveal his anti-Qadhafi activities and views. However, there is little basis for confidence in the rationality of the response by the militias to such an enquiry, in the context of a Black Libyan whose father had a long association with the Qadhafi regime in a military capacity.
246. Although we are not satisfied that the appellant has established that his family have left Zawiyeh, we do not consider that this provides much of an insight into the potential risk for this appellant.
247. We are satisfied that there is a real risk of persecution for this appellant on return to Libya to his home area. His return is reasonably likely to be the subject of enquiry by militias in control of Zawiyeh with the risks attendant in that enquiry. In any event, we do not consider that he would be able safely to reach his home area. For the same reasons, we are not satisfied that he would be able to avail himself of the option of internal relocation, either to Tripoli, Benghazi or any other part of Libya.
248. Accordingly, we are satisfied that he has established to the required standard that he has a well founded fear of persecution on the basis of his imputed political opinion. It follows that he has also established a risk of ill-treatment contrary to Article 3 of the ECHR.
249. His appeal is allowed on asylum and human rights grounds with reference to Article 3 of the ECHR.

### **The third and fourth appellants-HKA and AE-S**

250. These appellants are brother and sister and their appeals are closely related. We have nevertheless given them separate consideration.
251. HKA is female and is the sister of the fourth appellant AE-S. They are both of the Ashwihdi ethnic group and are both from Benghazi. The First-tier Tribunal rejected the credibility of the appellant's account of her father having been involved in anti-Qadhafi activities. The appellant's claim for asylum was also based on what she said were her own anti-regime activities when she was at university where she distributed anti-Qadhafi leaflets, as did her brothers. She said that she had attended demonstrations outside the Libyan embassy in London.

252. First-tier judge Duff concluded that there is nothing to suggest that the appellant would be at risk from the (then) authorities on the basis of her activities opposing the regime, which activities had not come to the attention of the authorities.
253. AE-S came to the UK at the same time as his sister. His appeal was heard at the same time as that of HKA. Judge Duff also found that there was no reason for this appellant to come to the attention of the authorities. He also claimed to have attended demonstrations in the UK although the judge did not find credible that he had given his name to a person on the demonstration (in the context of members of the Qadhafi regime posing as demonstrators and taking people's names).
254. The case for the appellants now, as set out in the skeleton argument, is that it would be unsafe for them to return to Benghazi on account of the unstable security situation and the consequent risk of serious harm. They could not safely relocate internally. It is also said they would be at risk as failed asylum seekers, and on the basis that they would be perceived as having pro-Qadhafi sentiments. The appellants' skeleton argument refers at para 45 to a 'risk profile' for HKA as including her being from the Ashwihdi ethnic group, but there was no evidence before us to support the contention that she would be at risk for that reason and it was not a matter that was pursued in oral submissions. We make the same comments on this issue in relation to AE-S.
255. In relation to HKA, the fact that she is female is argued as being a factor that would increase the risk to her, being at increased risk of being stopped and questioned at a checkpoint. We accept that there are particular problems for women in Libya but the evidence of Dr Porter was that any problems that she may encounter travelling as a single female would be alleviated by the fact that she would be travelling with her brother.
256. We are similarly not satisfied that there is a basis from which to conclude that she could not safely return to Benghazi via Tripoli by air, or even by road. It was acknowledged in submissions before us that she would be returned with HKA.
257. Applying the guidance we have given above, we do not consider that there is any basis from which to conclude that either HKA or AE-S would be at risk of persecution, serious harm, or Article 3 ill-treatment on return. For the reasons we have given, we are not satisfied that either of them is entitled to humanitarian protection on the basis of the general security situation in Libya.
258. Whilst the security situation in Benghazi is more unstable than in Tripoli, the expert and country background evidence does not reveal that these two appellants would be unable to return there. Similarly, we are not satisfied that the route of return, from Tripoli by air, or by road, establishes a risk of harm sufficient to engage the Refugee Convention or Article 3.
259. In the circumstances, neither for AE-S nor for HKA is it necessary to consider the question of internal relocation. Were it necessary to consider it, we would have

concluded that each appellant would have the option of relocating within Tripoli. The evidence before us was that it is not unusual for people from Benghazi to live in Tripoli and there is no inherent risk associated with doing so on account of the fact that the person comes from Benghazi.

260. In the circumstances, the question of whether either or both of them could acquire Egyptian nationality is not a question that requires resolution. Although the matter was not addressed in oral submissions by the parties, at our request we received written submissions from the parties after the hearing. Given that this is now not an issue which requires resolution, we need only say that there was disagreement between the parties in relation to whether either or both of them could acquire Egyptian nationality. We note that some doubt was expressed by Professor Joffé as to whether HKA could acquire Egyptian nationality, and we infer that he would have the same doubt in relation to AE-S.

261. The appeals of HKA and AE-S on asylum, humanitarian protection and human rights grounds are each dismissed.

## **DECISIONS**

In relation to the first appellant, the First-tier Tribunal made an error on a point of law. The decision of the First-tier Tribunal is set aside and the decision re-made, the appeal being dismissed on all grounds.

In relation to the second appellant, the First-tier Tribunal made an error on a point of law. The decision of the First-tier Tribunal is set aside and the decision re-made, allowing the appeal on asylum and human rights grounds with reference to Article 3 of the ECHR.

In relation to the third appellant, the First-tier Tribunal made an error on a point of law. The decision of the First-tier Tribunal is set aside and the decision re-made, dismissing the appeal of the third appellant on all grounds.

In relation to the fourth appellant, the First-tier Tribunal made an error on a point of law. The decision of the First-tier Tribunal is set aside and the decision re-made, dismissing the appeal of the fourth appellant on all grounds.

### **Anonymity Order**

We make an order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and consequently, this determination identifies the appellants by initials only.

Upper Tribunal Judge Kopieczek

/6/14

**APPENDIX A**

**ERROR OF LAW DECISION-AMH**

Heard at Field House  
On 17 May 2012

Determination Promulgated

.....

Before

**SENIOR IMMIGRATION JUDGE STOREY**

Between

**[AMH]**

Appellant

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Miss G Patel instructed by Jackson & Cantor Solicitors  
For the Respondent: Mr P Deller, Senior Home Office Presenting Officer

**DECISION AND DIRECTIONS**

1. The appellant is a national of Libya. He challenges the decision of First-tier Tribunal (FTT) Judge Manuel in September 2011 dismissing his appeal against a decision by the respondent dated 9 June 2011 refusing to grant him asylum and giving directions for his removal.

2. It is unnecessary for me to furnish much detail because the parties were in agreement with me that the FTT judge materially erred in law. The judge found that the appellant was a black Libyan and member of the Bla'za tribe whose home area was just outside

Zawiya and that as a black Libyan he and his family had suffered discrimination. Nevertheless the judge did not consider the appellant would be at risk on return because, having (along with his family) been involved in anti-Gadhafi activities, the appellant "would be able to show he had not been a supporter of Gadhafi". In so finding it does not appear that the judge based himself on the background country information which on its face appeared to suggest that black Libyans were perceived purely on the basis of their ethnicity to be pro-Gaddafi and that in the confusing circumstances still prevailing at the date of the hearing, careful individual or rational judgements by the new regime would not necessarily be made.

3. The FTT's judge's treatment of Article 15(c) was unsatisfactory. The appellant had claimed he would be at risk on return to Libya by virtue of the high level of indiscriminate violence there. The FTT judge's response at paras 61-62 was to state that:

"61...Aside from the fact that the SOS has undertaken not to remove failed asylum seekers to Libya at present, I take account of the fact that the UK government has not accepted, even at the height of the conflict, that Libya is in a state of internal armed conflict.

62. I conclude therefore that there are not substantial grounds for believing that the Appellant would face a real risk of suffering serious harm if he is returned to Libya..."

4. With respect to the FTT judge, the fact that the Secretary of State had undertaken not to remove failed asylum seekers to Libya at that time was irrelevant to his task. He was obliged to consider the position hypothetically in terms of whether, if returned, the appellant would be at risk. Further, the FTT judge was not conducting a mere review of the respondent's decision and so the fact that the respondent did not consider there was an armed conflict in Libya at that time was no more than one aspect of the evidence and did not without more warrant the conclusion that "therefore" the appellant was not at risk.

5. I observe that at the date of hearing there was still a No-fly zone in force in Libya and fighting was still continuing. It was certainly arguable on the available evidence that there was a state of armed conflict in the country as a whole or parts of it and it is also the case, of course, that in QD (Iraq) the Court of Appeal did not appear to consider that for Article 15(c) to be engaged it was even necessary for there to be an armed conflict; the essential matter was the existence of a high level of indiscriminate violence.

6. For these two reasons I consider that the FTT judge materially erred in law and that his decision is to be set aside. I should clarify, however, that there was no challenge in this case to the judge's primary findings of fact, only to his application to those findings of correct legal criteria. Hence his primary findings of fact shall stand.

7. It may assist if I comment on a further aspect of the FTT judge's decision.

8. In his treatment of the issue of risk on return, the FTT judge appeared to consider that the Court of Appeal judgment in HH and Others (Somalia) [2010] EWCA Civ 426 established that so long as the precise route of return to a country was not ascertainable, it was not necessary for the decision to deal with whether there would be risk on return

arising from the precise point of entry. However, in relation to Libya, the reason for the inability to identify a point of return was arguably a concern that there was no safe part of the country. That being so I consider it at least arguable that HH & Others cannot be prayed in aid to prevent assessment of risk on return. Further, if it is the case that the respondent has only ever identified Tripoli as a point of return for returnees to Libya (and Tripoli was at the relevant time still affected by a no-fly zone), it is at least arguable that there was no proper basis for considering the route of return uncertain.

9. I raised with the parties whether this case would be suitable to be joined with other cases that have been identified as potential country guidance case on Libya (one of them also having Jackson and Cantor as representatives – AA/04789/2011 AT). Both representatives said they considered this case would be a helpful addition, enabling the Tribunal to consider not just generic risk but risk to significant categories of returnees. I explained to them that the decision on whether to join this case would be for the Country Group Convenor but that the parties would be notified one way or the other as soon as possible.

10. For the above reason the FTT judge materially erred in law and his decision is set aside, with a notice concerning a continuation hearing to be sent to the parties shortly.

Signed

Date

Dr H H Storey

Judge of the Upper Tribunal

**APPENDIX B**

**ERROR OF LAW DECISION-HKA**

Heard at Field House  
On 16 September 2011

Determination Promulgated

.....

Before  
**SENIOR IMMIGRATION JUDGE STOREY**

Between

**[HKA]**

and

Appellant

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND DIRECTIONS**

1. The appellant is a national of Libya. In a determination notified on 12 May 2011 the First-tier Tribunal (Immigration Judge Duff) dismissed the appellant's appeal against a decision of the respondent on 24 March 2011 to refuse to grant asylum and to remove her as an illegal entrant. Permission to appeal to the Upper Tribunal having been granted, the matter came before me to decide whether the FTT materially erred in law.
2. Both parties were in agreement with me that the IJ had materially erred in law in failing to address the potential difficulties the appellant would have on a hypothetical return to Tripoli in early May 2011 when the Gaddafi regime was still in power and when it was not in dispute that the appellant is from Benghazi and is of the A tribe. The IJ based his decision on an assessment of likely risk to the appellant on the basis of her return to Benghazi and further on his assessment that she and her brother "could make a claim for Egyptian nationality, because of the

nationality of their mother". Given that the respondent contemplated return to Libya via Tripoli the IJ was obliged to consider risk at the point of return and the issue of whether the Libyan authorities there would have seen her as of adverse interest given her place of residence and tribe. Given that there was no evidence to show that the appellant had Egyptian nationality by operation of law, it was also an error for the judge to have regarded that as a reason why the appellant would not face a real risk of persecution in Libya.

3. Both parties were also agreed that the above errors did not, however, impinge on the IJ's principal findings of fact and indeed the challenge raised against the IJ's decision was not based on a challenge to credibility. Accordingly the IJ's findings of fact in relation to the appellant shall stand. The only accepted facts are that she is a national of Libya born on 6 November 1979, is a female, is from Benghazi and is from the A tribe.
4. In response to questions from me both parties also confirmed they were happy for the case to proceed as an intended country guidance case. On current information it is likely to be joined to be heard with the case of her brother, Mr [AE-S] reference number AA/04537/2011.
5. It was agreed that it would be useful to hear oral evidence from Dr Joffe assuming he is available on the date fixed for the hearing. He has already submitted a report but it will obviously need updating.
6. The next step will be for the Tribunal to fix a date for hearing allocating sufficient time for oral evidence from Dr Joffe.
7. The appellant's representatives are directed to submit a supplementary report from Dr Joffe at least 5 working days in advance of the date fixed for substantive hearing. This direction is a complement to standard Tribunal directions.
8. Closer to the date fixed for hearing the Tribunal will hold a CMR hearing to ensure that preparation of materials is in hand and that the country guidance issues are specifically identified (given the fast-changing situation presently it would be premature to seek to specify those now, although both parties are aware in general terms of the need to examine which categories of person, if any, are likely to face risk on return to Libya at the date of hearing before the panel who will do the country guidance case).

Signed

Date

Judge of the Upper Tribunal



## **APPENDIX C**

### **ORAL EVIDENCE OF AMH**

1. In examination-in-chief the appellant adopted his witness statements dated, 17 August 2011, 7 March 2012 and 9 October, 2013. In relation to paragraph 8 of the witness statement dated 7 March 2012, there is a correction in that it was in the town of Al-Kuffrah that there were two tribes. The town was not called Alkarah. Altabo should read Al Tabou. The names of the tribes have been mistyped in the statement.
2. In cross-examination he agreed that he had come to the UK in October 2010 as a student but after the revolution began in Libya he claimed asylum, in May 2011. He was interviewed in connection with his asylum claim and he made the statement dated 17<sup>th</sup> August, 2011, reproduced at pages 324 to 342 which he had adopted today.
3. Before he came to the United Kingdom to study he lived in Zawiya with his wife and five children. Another child has been born since he has been here. Before leaving he moved his wife and children to live with his parents in a village just outside Zawiya. His wife and children were living in the village of Belazi when he made his claim. Both his parents also lived there. His wife and children were living with his parents. His children were born in 2003, 2004, 2005, 2006, 2009 and one in 2011. His children are now aged between 2 and 10 years old.
4. He has four brothers and three sisters. His brother, AO was living in Tripoli when the appellant left. He had been living there since 2009. The appellant's brother, S, lives in Egypt and he had lived there since 2008. Another brother, H, lives in Zawiya but separately from his parents, and his other brother, A, also lives in Zawiya separately. His sister, Se, lives in Zawiya separately and his second sister Su lives in Al Ujelad, which is west of Zawiye. His third sister, A, lives in Tripoli. He has uncles and aunts living in Tripoli, Zawiya and Zuwara. S is the only member of the family living outside Libya. All the appellant's uncles and aunts are of the same ethnicity.
5. The appellant confirmed that he had been in contact with his family and friends when he made his claim. AO at that time was in Tripoli. He agreed that he had said that his brother did not have problems there and was better than before.
6. He was referred to para 33 of the statement which starts at page 324. The appellant agreed that his brother AO moved to Tripoli and in the first sentence of that paragraph he said that his brother has had no problems in Tripoli. He agreed that he went there because he had ethnic problems in his area. He agreed that his brother's move to Tripoli but that was not without problems. The appellant agreed that he had not been able to contact his brother since shortly before he moved to Tripoli. He was referred to his asylum interview at question 226 where he explained that when he had said that his brother was better than before he was making an assumption based on the fact that he had not heard that he had been having problems from anybody.
7. To avoid problems his brother was going to work and returning from work and did not go out, avoiding problems. This was in Tripoli. Before he came to the United Kingdom he

knew his brother had gone to Tripoli and that was when contact with him terminated. His brother told him about the problems.

8. He was referred to his witness statement which states that he had not been able to contact his brother since before he went to Tripoli. The appellant explained that he had heard that his brother had problems from other members of the family. The family had told him of his problems in Tripoli and they got this from him. He was referred to his evidence moments earlier when he said that his brother had told him of his problems, and the appellant agreed that that was the case.
9. He was referred to para 46 of the same witness statement of 17 August 2011 where he said that at that date his family were still staying at his parents' house near Zawiye, not because it was safe but because they were scared to travel. The remainder of the paragraph was put to him.
10. The appellant agreed that that was what he had said. They think it is safer to stay wherever they are indoors rather than to travel. He was then referred to what he had said in his second statement at paragraph 4 and he agreed with the contents. He agreed that his family had continued to live in the village just outside Zawiye with his parents, as had been found by the Immigration Judge, where his parents had always lived.
11. It is true that the last time he had spoken to his wife was two weeks before the full hearing, around 20 August. During the conversation his wife had told him that rebels had started to take revenge against black people because it was assumed that they had all fought with Gaddafi and that he had not spoken to her since.
12. He agreed that it was alarming to hear that his wife and family were planning to escape and leave their home. This news came only three days after the first witness statement. His first witness statement was on 17<sup>th</sup> August, 2011 and it was around 20<sup>th</sup> August, 2011 when he spoke to his wife. The appellant said that he signed his statement and then went to court, but it was adjourned. It was after the adjournment that this contact happened. People involved with the revolution entered the area and problems started.
13. The appellant agreed that it was an upsetting telephone call to receive and he had not been able to make contact with his wife again. The hearing before the judge had taken place two weeks later. The appellant insisted that he had told the judge about the telephone call. It was pointed out to the appellant that the judge had said that his family remained in Zawiya. It was pointed out to the appellant that even when he applied for permission to appeal to the Upper Tribunal his grounds of appeal stated that his family remained living in Zawiya. He was referred to the grounds dated October 2011. 21. The appellant maintained that he told the Immigration Judge about the call from his wife. Since October 2011 he did not know where the family went to until a friend called HH contacted him who told him that his family went away. He spoke to him when he, HH, was in Libya but he does not know where he is now because all his contacts are cut. He spoke to him in January 2012 and he was in Libya up to that point.
14. He was referred to his witness statement dated March 2012 at para 5. (We quote that paragraph of the statement in full:

"I was also in touch with my friend HH by telephone. HH told me that there were four tribes who are in control of different areas of Zawiya; Awlad Salkar, Awlad Sowlah, Awlad Ajinah, Iwlad Abdulmula. He told me that sometimes

these tribes work together and sometimes they fight each other, but they are all using violence to keep control of their areas of Zawiya, and they are all persecuting black Libyans. HH told me that my father had been beaten up by the rebels. He said that my father had been taken to hospital and this was at the end of January 2012. That is the last I spoke to HH. He told me that the rebels came to my father's house in Zawiya and beat him and that my wife and children have fled Zawiya, he did not know where they had gone. All my family have left, my father, my mother, wife, children, brothers and sisters. The house is completely empty. HH has been to visit them and found the house been abandoned.")

15. As to whether up until that point his family had stayed in Zawiyeh, he does not know as this is what H told him. He said they are not there. They were there when the rebels came to the house and beat his father.
16. It was put to the appellant that on this account his family had stayed in Zawiya up until January 2012. He said he believed they stayed until August 2011. He received a call from his wife saying that they were all planning to escape. The call lasted for five minutes and she was scared. He did not know where they stayed until he was told by HH.
17. He agreed that he had contacted the Red Cross. He had lost contact with all his family members. It was put to the appellant that he had not mentioned in his witness statement having lost contact with his brothers and sisters. He explained that they all had his telephone number. As to why he had not mentioned in his witness statement that he had lost contact with his brothers and sisters, there was no contact but they have his telephone number.
18. The appellant was then referred to page 158 in relation to his contact with the Red Cross. S is his wife, Mu is his father, Ma is his mother, H is his daughter and A is his son. He was asked why the letter only referred to these members of his family and he said he had meant all his family, especially his parents. He was referred to pages 156 and 155 of the bundle. He explained that he had no further documentation because one of the people is called Sarah and he has met her more than once at a place where she meets asylum seekers and she has said that there is no news.
19. He was referred to para 42 of his witness statement dated 17 August 2011, in relation to his claim that people had been arrested in Libya as a result of his encouraging them to demonstrate. He agreed that the paragraph was accurate. HH told him that the reasons his friends H and J had been arrested because of him. This is the same HH he had previously referred to. They had been actively demonstrating against Qadhafi. The appellant had encouraged them by phone to demonstrate more. The appellant did not know when they were arrested because he was not there. HH was warning the appellant about going back. The appellant had been one of the reasons why H and J had been arrested. HH remained in Libya until the appellant's last call in January 2012.
20. It was pointed out to the appellant that he had said that HH had fled. The appellant responded by saying that HH went to Tunisia. He went there to make calls and then went back. He received a call from HH while events were taking place. It was some time before 17<sup>th</sup> August, 2011 and the appellant did not know when HH returned.
21. The appellant said that he had said that HH remained in Libya because he was there the last time he had spoken to him. It was put to the appellant that his account was

contradictory in terms of the level of contact with family and friends in Libya. The appellant said he did not understand why it was said to be contradictory. It was only one person he knew who had spoken to him and the second time was his wife. It was suggested to him that he had a wide number of family in Libya apart from his wife and friends. He had three brothers and three sisters, uncles and aunts. However, he does not appear to have given any information about his efforts to contact them. The appellant said that when he came to the United Kingdom he did not inform any of them that he was coming. Everyone was scared and black people especially were being targeted because they cannot really speak.

22. Even if his brothers and sisters, uncles and aunts knew that he was coming here, they were all living separately. They could get his telephone number from his wife or anyone else. As to his previous evidence that they had his number, did not have all the numbers to contact everyone.
23. It was suggested that if his account was true he would have made efforts to find out from his wider family what had happened. The appellant said that his account was true. His wife was not a Libyan citizen so he could not contact her family. He was thinking of his family and he was worried and because of this he has become diabetic. It was HH who told him about his family. Again it was suggested to him that if he had been worried and anxious to find his family after 20 August 2011 it would have been possible by one of those routes, particularly his family in Zawiyeh, to find out that they had remained in his father's house at least until January 2012. The appellant said that HH was the closest to him and he contacted him and he told him about what had taken place.
24. In re-examination he said that Zawiyeh is 45-50 kilometres away from Tripoli, and HH went to Tunisia and then returned. Tunisia is 70 to 100 kilometres away from Zawiyeh. The appellant's wife is from Yemen.
25. In answer to questions from the Tribunal he said that that he had not tried to make any contact with his wife's family in Yemen to see whether they might have heard from her because he does not have their telephone number. He does know their address but had not written to them as there are troubles in Yemen as well and that the post was not working. As to whether he had made any contact with his brother in Egypt, he has no telephone number or address for him.
26. In further cross-examination he said that his brother was not a famous preacher in Egypt but a normal person. He was only studying engineering in Egypt. He was referred to the witness statement of ESMA (page 344). His brother, S, had been a famous preacher and advised people on Sharia law before he went to Egypt. He met that witness in Bournemouth.
27. The appellant said that before his brother went to Egypt this witness had known the appellant's brother but there was no contact between the appellant and his brother now. The witness had not given the appellant his brother's telephone number. He did not ask him for his brother's number.
28. As to how it was that his brother was a famous Sheikh in Libya but went to being just an engineering student in Egypt, he was not entirely sure what his brother was studying. He thought it was engineering. His brother went to Egypt to study before events took place in Libya.

29. In answer to a further question put by the Tribunal in relation to the witness statement of ESMA (page 344) who states that the appellant's brother had had serious problems in Libya and had to flee to Egypt, it may be that the government was making it hard for him and which is why he thought of going to Egypt to study but he did not go during the troubles. He did not know that, as the witness statement says, Mr A had spoken to his brother twice. He was not aware that this was in Mr A's witness statement. He knew that he knows his brother and was in contact with his brother. As to why he did not contact his brother in Egypt to see if he had any news of his family. Mr A left the UK and the appellant has lost all contact with him.
30. In answer to further questions in re-examination he said that his wife is a Yemeni citizen and ethnically she is "close to black". When asked if he would explain what he meant he said that she was nearer to black than she would be to white in terms of her skin colour. Her father is black but her mother is mixed race like his wife.

## APPENDIX D

### EXPERT EVIDENCE

#### THE EXPERT EVIDENCE

1. The following is a summary of the expert evidence, as contained in the written reports and in the oral evidence. In addition to their written reports, the experts gave written answers to questions submitted on behalf of the respondent. We have not summarised those parts of the experts' reports which have been brought up to date by later reports or where information is already contained within, and is consistent with, other of the expert reports.

#### **Dr Alan George**

2. Dr Alan George has provided three reports dated 20 March 2012 and 2 October 2013, although the second of the reports amalgamates and up-dates the first. He provided responses to the Secretary of State's written questions in the third report dated 31 October 2013.
3. We note that his up-dated report proceeds on the basis of AT's claim that he would be targeted as the son of an intelligence officer. However, as we have noted, that aspect of the appellant's claim was not found to be credible by the First-tier judge. Nevertheless, that issue does not detract from the expert evidence contained in the report.
4. Putting current events in Libya into context he gives a brief overview of the Qadhafi regime and sets out the events of the uprising. We note that he states that Qadhafi's forces largely comprised foreign mercenaries although in oral evidence he accepted that that was probably an overstatement of the position. He would now put it in terms of Qadhafi's forces "including" foreign mercenaries.
5. On 23 October 2011 the chairman of the Transitional National Council ("NTC") declared Libya to be liberated and the war to be over. The report explains the post-Qadhafi political landscape.
6. In relation to security issues at paragraph 42 he describes security conditions since the fall of the Qadhafi regime as having been "chaotic and occasionally dangerous" and that *de facto* control is exerted by numerous local militias that operate checkpoints at the entrances to their territories, paying lip-service to the national authorities. He refers in the same paragraph to the detention of actual or suspected Qadhafi loyalists as having been a priority with consequent ill-treatment and torture of detainees, several of whom have died.
7. He reports that "generally peace has prevailed" but that there have been frequent, albeit short-lived "flare-ups" involving conflict between the militias. Progress towards the formation of a national judicial system, police force and army has been painfully slow. The security vacuum has allowed extremist Islamist factions to operate largely

unchecked with Sufi mosques and shrines being destroyed, and Western targets including US and British diplomats having been attacked.

8. Dr George quotes from a report by the International Crisis Group of 14 September 2012 which refers to Libya as a country of regions and localities pulling in different directions, beset by inter-communal strife and where well-armed local groups freely roam, but where "local actors" have stepped in to provide safety, mediate disputes and impose ceasefires. This being necessary in the absence of a fully functioning state without effective army or police.
9. Under the heading "Local protection" he states that he knows of no evidential basis that would support an assertion that a person in need of protection in Libya could expect effective assistance from the local authorities (*de jure* and *de facto*), as yet there being no effective national police force or army and with the judicial system being "non-functional".
10. With reference to various sources Dr George provides a sample of violent incidents between October 2011 and September 2013, numbering about 80, since the fall of the Qadhafi regime, stressing that these are just examples. There is further reference to the various militias that operate in the country.
11. At para 60 under the heading "Allegation and suspicion" he states that a major factor in personal security is the tendency of militiamen to make snap judgements about persons' background and/or loyalties. He suggests that a person can be at risk merely because of a suspicion, by association, or by a perception that the person must have been for or against the Qadhafi regime. He describes this in part as arising from a "strong propensity" in Libya "as in the Middle East generally" to confuse supposition with hard fact.
12. Under the heading "Revenge and blood feuds" it is emphasised that the family, extended family and tribe are the fundamental units of Libyan society, that revenge is a central feature of Libyan culture and that revenge attacks can be directed not only against specific individuals but also against their extended families.
13. The matter of blood feuds is not directly relevant to the issues to be determined in these appeals. We note, however, that it is said at para 66 that in recent years tribalism, whilst still important, has become less significant than it had been in the past. Dr George goes on to state that while particular tribes have traditional territories where they are the dominant element in the population, most if not all Libyan communities have a populace that is at least to some extent mixed. In the largest cities a significant proportion of the population never belonged to any tribe. On the other hand, it is stated that with the uprising against the Qadhafi regime there has been a general resurgence of primordial loyalties to family, clan, tribe and locality.
14. There is an extract from the US State Department Report for Libya ("USSDR") for 2012 which refers to the "new authorities" lacking the capacity and a basic legal framework to fully protect civil and judicial rights and that the most significant human rights problems during the year resulted from the absence of effective justice and security institutions. The report also describes various human rights abuses and states that "Hostility to real and perceived Qadhafi loyalists permeated the country, the principal targets of which were actual or suspected former Qadhafi soldiers or supporters."

15. During the course of the hearing Dr George provided a very helpful supplemental note in relation to the term "Wasta" which he refers to in his report. "Wasta" in summary is described as the collective name for the system of attaining objectives by means of the payment of bribes and/or by the utilisation of personal contacts and favours, such informal connections often taking precedence over formal procedures or laws. In his main report he describes how under the Qadhafi regime and perhaps even more so since, with the breakdown of central state structures, a system of power and influence based on tribe and family permeates the country. The tribe and extended family, or clan, remain the key social economic and political units to whom loyalty lies in preference to the state. Government corruption coupled with favouritism based on family and tribal ties were perceived to be severe problems.
16. In describing the outlook for Libya there is reference to strong tribal and regional loyalties, a country "awash" with arms and with seasoned fighters, very many of whom are ill-disciplined and ill-educated. Revenge is a key element in Libyan culture and numerous autonomous militias, often antagonistic towards each other and some linked to the authorities, wield power on the ground. He states that in almost all Libya local militias are far more powerful than the authorities.
17. Dr George concludes his assessment of the outlook for the country in stating that although the largely successful elections of July 2012 were cause for optimism, the instability which is often very violent, is likely to persist until the new authorities manage to establish functioning police forces and a disciplined national army. That, he states, is not likely to happen for many months.
18. In assessing the potential risk to AT, Dr George, as we have observed, proceeds on the basis of AT's account of his father's work for the Intelligence Department of the Board of Control under Colonel Qadhafi which was not found to be credible. Going on to refer to the risk that that appellant may otherwise face he states that he would be at risk because of the security situation but that in his view the risk of his being "adversely affected by outbreaks of violence would not be high".
19. In considering internal flight the report states that in his view no part of Libya is presently immune to the violence and insecurity. He observes that internal flight in Libya can be problematic. Although the country is large, some 95 per cent of it is arid, uninhabited desert and in relation to its size it has relatively few populated areas. It has some 6 million inhabitants of whom about 75 per cent reside along the coast.
20. Families, extended families, religious and ethnic groups form the basis of Libyan society and people in such communities display a strong tendency to live together in relatively well-defined districts, looking to their immediate communities for social, economic and political support. Against that background he states that "it is neither the general practice nor is it easy for individuals to relocate to parts of Libya remote from members of their families and communities." People tend to know their fellow residents and newcomers attract attention. Residents and local militias tend to be curious about the background of newcomers and to ask questions. He states that by means of tribal contacts a pursuer can locate his quarry with relative ease. In this respect he refers to Libyan clans often being allied with others forming intricate networks that can extend over large areas and will often have members in widely disparate locations. Individuals can be located relatively easily because of the nature of Libyan society and newcomers to an area cannot easily live anonymously.



21. Dr George emphasises that attitudes towards former members of Colonel Qadhafi's security agencies do not vary from one part of Libya to another.
22. In his third report dated 31 October 2013 in response to the questions about the judicial system, whilst standing by what is in his previous reports, he states that disparate elements of the system do function in an *ad hoc* manner, with geographical variations and variations in the specific area of judicial activity. However, there is no "coherent, reliable, *nationally-effective* judicial system. Thus, he concludes that the judicial system is in that general sense "non-functional".
23. In relation to the International Criminal Court's ("ICC") decision of 11 October 2013 that Libya was not unable to carry out the prosecution of Abdulla Al-Senussi (former Director of Military Intelligence under Qadhafi), this in Dr George's view does not constitute support for the contention that Libya has a coherent, reliable and nationally effective judicial system. There is no reason to doubt that the particular legal facilities that are the subject of the Al-Senussi case are functioning in a manner that satisfied the ICC. Equally, however, that could easily be interrupted if a sufficiently powerful local militia had cause to intervene. He cites the example of the prime minister having been abducted and detained on 10 October 2013. Dr George cites parts of the ICC's judgment which is said to focus on the particular circumstances of the Al-Senussi trial.
24. As regards the decision that all 31 Qadhafi era officials are to be committed for trial, he states again that there is no dispute but that certain courts are functioning in Libya. However, he suggests that it is crucial to note that one of those officials is Saif al-Islam, Colonel Qadhafi's eldest son, who remains in detention by the local Zintan militia. He cites a press report which indicates that Saif was not delivered to any of the pre-trial hearings despite his captors being ordered to produce him.
25. As to the question concerning the "effectiveness and development of the trial monitoring network" about which there was a report dated 8 October 2013, Dr George refers to a Trial Monitoring Network established in June 2013. In quoting from the report he notes that it has evidently faced challenges in achieving its objectives including difficulties in establishing its presence in Libya and gaining entry to courts.
26. Commenting on the Transitional Justice law and the report on it, he reaffirmed that laws passed by Parliament may not be respected by the militias that are the *de facto* authorities, and noted that as far as he was aware Parliament had not yet taken the final vote on the law. As the law had yet to be "promulgated", the planned Fact Finding and Reconciliation Board had not yet been established and no compensation had yet been paid to victims.
27. Lastly, in relation to the report on the progress and implementation of the torture, kidnapping and discrimination law, although that law has been passed, as with all other laws implementation is hampered by the extremely limited extent of government control. *De facto* control is held by scores of local militias who have scant respect for laws passed by a Parliament to which their loyalty is only nominal, and in relation to which he cites security council briefings dated 18 June and 16 September 2013 from Tarek Mitri the Special Representative of the Secretary-General and Head of the UN Support Mission in Libya ("UNSMIL") which concerns conflict-related detentions.

## Dr George-oral evidence

28. Dr George's oral evidence was given over two non-consecutive days. In examination-in-chief he said that he had recently seen a figure of 1,700 for the number of militias in Libya. Some militias have undertaken policing services although the links to the government ministry may often only be nominal. An organisation called Libya Shield was set up by the government to co-opt militias to act on behalf of the government because central government has no power of its own and has to rely on the militias. It is an attempt to bring the militias into the fold by paying salaries and issuing instructions which they may or may not obey.
29. He referred to the issue of loyalty to the Libyan state as against tribal, local or other loyalties. The militias have no powerful motive to disband. The harsh reality is that "power flows from the barrel of a gun".
30. If one drives out of Tripoli and along the coast to Misrata each village and town has a series of checkpoints. Misrata has a very big checkpoint. He had tried to visit the town of Tawurga but the exit point checkpoint prevented him. In Tripoli it is possible to move around and then suddenly a checkpoint will appear, something that he witnessed. If there is a (local) crisis, the locals will come out and man a checkpoint. In Tripoli he went out shopping and saw women and children shopping. There was a strange normality behind it all.
31. There are a series of militias co-ordinated by the Tripoli Military Council ("TMC"). In fact there are two of these TMC's operating from the same premises and he in fact spoke to their leader. He later stated that the Defence Ministry has links to the Libya Shield. The Interior Ministry has links to the Supreme Security Committee ("SSC"). The militias came into Tripoli and did not leave. One is the Zintan militia and the other is the Misrata militia. They established a presence in Tripoli and did not budge.
32. In relation to his report at paras 91-92 where he refers to close communities, there is no straightforward answer as to whether this applies in Tripoli. Residents of the cities, including Tripoli, are migrants from particular areas. They tend to conglomerate but there is more mixing than in the villages. People do, however, know who is in their neighbourhood. He had checked last year in a suburb for the relatives of a particular asylum applicant. The local people knew exactly who they were talking about. In Tripoli the population is, however, much more fluid; not the same as in a poorer area.
33. People from Benghazi do live in Tripoli. He said that he does not know, however, whether they live in discreet communities and is not aware of any studies having been undertaken in relation to this.
34. It would be unusual for anyone to come to Tripoli without knowing anyone. When he goes to Tripoli he makes sure that he has contacts in place. Someone going to Tripoli without going through a network would be noteworthy but this has to be put into context. If a person is in a small village and says that they come from such and such a place in Tripoli, someone in the village would know someone and be able to find out about that person. Cities are more anonymous. In the suburbs of Tripoli the curiosity would be intensified as in insecure situations this could be a matter of life and death. He is not able to answer as to whether a persons 'story' is checked through networks. As a general comment he would say sometimes, yes.

35. A figure of 8,000 is often used as to the number of detainees. To the best of his knowledge detentions are still continuing but not on a massive scale. He could only say that it *could be* that someone in detention would for that reason be perceived as a supporter of Qadhafi. It is very difficult with Libya to give definitive answers. There are so many courses of action that could arise from a particular situation. There is a lack of research and figures. At a checkpoint you might often be dealing with uneducated teenagers with Kalashnikovs. It may come down to whether they are in a good mood or if they like your face.
36. In relation to recent events (involving the shooting of demonstrators by the Misrata militia) in Tripoli, he did not see this as representing any fundamental change in the situation. Nothing very new happened to precipitate the weekend's events.
37. In cross-examination Dr George confirmed that he had visited Libya in December 2008 and in September 2012. The visits were mostly to Tripoli but he did make quite extensive trips to Misrata and to the Nafusa Mountains. He agreed that some parts of the 2 October 2013 report are from the previous report but this is nevertheless part of the history of Libya. He had not been provided with a copy of the determination of the First-tier Tribunal in relation to AT.
38. In relation to the violent incidents that he catalogues in his report, he said that he was very struck by the extreme localisation of events. Violent upheavals can be disparate in type and event. It was put to Dr George that the violent incidents that he details could be put into roughly six categories. These were suggested as being: firstly, confrontations between different ethnic groups or groups from different regions; secondly, politically motivated violence especially when groups take installations; thirdly, Islamist violence; fourthly, criminal violence; fifthly, targeted assassinations or bombings which may overlap with category two or three; sixthly, attacks on peaceful demonstrators by militia.
39. In terms of the first category, with reference to the confrontations in Kufra between February and July 2012, it could be that July 2012 is the last of them but violence could arise next week say. The confrontation pre-dates the Qadhafi era. It is difficult to say what the prospects for renewed violence in Kufra are because nothing is resolved and the militias are ill-disciplined. The smallest incident could set it off again. The same is true in Tarhuna, east of Tripoli. The clash between rival militias in Sabha involving the black African ethnic group the Toubou referred to on page 15 of the report is the last report of such an incident in Sabha although it could flare up again at any time.
40. Dr George agreed that other incidents to which he was referred were examples of groups that bore a grudge against each other over long-standing disputes where there was vying for control of the local economy. However, the incident near Bani Walid (involving government controlled forces and militiamen-page 18 of the report) was mixed with questions of support for the former regime. Kufra could also have involved that issue as a trigger but he is not saying that it was. It is normal that a person's actual or perceived position vis-à-vis the Qadhafi regime is important.
41. Dr George said that he did not necessarily accept the categories that have been suggested. He would have preferred to undertake a categorisation with more detailed research.

42. In relation to the second category, referred to an incident (page 16) of clashes at Tripoli airport in June 2012 he agreed that the response of the militia to a particular grievance was to occupy the airport.
43. The real power at the airport in Tripoli lies with the Zintan militias, a nominally government force. He had been told that when the government took over security at the airport some militias simply put on a government uniform. When asked about other specific incidents he agreed that such violence disappears as quickly as it arises but added that it would then reappear somewhere else.
44. Referred to various incidents that are said to be in the fifth category of violence, being targeted attacks against security forces, Dr George agreed that there were many attacks of that type. Benghazi has been a particular focus of that type of attack or killing and people have been professionally targeted. He said, however, that he would be extremely cautious about extrapolating from his report (setting out various incidents of violence) what was the evolution of different types of incidents of violence. Some of them carry the seeds of their evolution internally. For example, if you destroy a Sunni mosque there is no longer a Sunni mosque to destroy and therefore there is a decrease in that type of incident.
45. In relation to the risk of indiscriminate violence, he did not think that everyone in Libya, just by reason of being there, is at risk of being killed. He said that he does not visit places where he is at risk of being killed. Women and children were out shopping and he was out shopping. He would not hesitate to walk about in Misrata or Zintan. He might think (more) about going to Benghazi but a targeted assassination takes some planning. The assassinations in Benghazi appear to be well planned. The risk of an ordinary Libyan being caught in a bomb explosion in cross-fire between militias is rather low.
46. The Tripoli incident where demonstrators were shot at by militia did not start with that demonstration but in a previous exchange of fire between militias.
47. Ordinary Libyans have little truck with militias but they are powerless. Although the Misrata elders have distanced themselves from the militias what that means in the long term remains to be seen. If the Misrata militias calculate that it serves them to withdraw from Misrata they will.
48. There have been attempts to police the roles of militia operating in Tripoli. They do serve as police forces by safeguarding neighbourhoods, directing traffic and trying to ensure law and order. Not all militias are out of control. They run the airport and at times are enlisted by the government, but as already mentioned, there are limitations for example if their own interests are threatened. They do have quite sophisticated command and control structures and organised hierarchies. It does not mean that they are highly disciplined groups but they are not totally out of control.
49. The militias protect the civil populace and such state-like institutions of structures as there are and the populace generally. That, however, can all go out of the window as tensions arise. Most of the time to date by no means has Libya been in a constant state of armed conflict, but that can go out of the window very rapidly as soon as militia interests come into play and conflict with those of State authorities.

50. There has been a shift in the pattern of detentions from 2011 onwards. When there were a lot of ex-Qadhafi fighters at large there were more people to arrest. Once all the obvious suspects were arrested the rate of arrests tapered off. If someone is behaving suspiciously at a checkpoint they are likely to be arrested. Most individuals from the Qadhafi era have fled the country or have been detained and there are therefore fewer arrests on grounds of sympathy for Qadhafi. A person is more likely now to be arrested on the basis of suspected criminality or as suspected Islamist.
51. There are categories, for example Black Libyans, who were expelled from the town of Tawurga who may be detained just because of who they are. His source is a friend who is posted to the UNHCR and produces a bulletin of problems faced by displaced persons. A particular fear is in relation to those displaced from Tawurga which is a town near Misrata mainly inhabited by Black Libyans said to be sympathisers of Qadhafi. African migrant workers are frequently detained by anti-Qadhafi militias as he allegedly recruited mercenaries on a large scale. This plugs into the deep-seated racism in Libya.
52. A Black Libyan is of black African appearance. The Tibu are black African. There are no figures for the percentage of Black Libyans in Libya. In his opinion it may amount to 5 or 10 per cent of the coastal population, although on reflection 10 per cent may be a little on the high side. It may be 30 per cent in Kufra and 20 per cent in Sabha in the south west, although again the latter figure may be rather high.
53. Dr George said that he was not sure that he would agree that the attention to Qadhafi related people is mostly motivated by revenge. The leanings of the militias have little changed. They would say that it is not revenge but preventing the resurgence of the regime. There is still a fervour to hunt down Qadhafi loyalists.
54. As to why someone such as the appellant AT would attract any attention at a checkpoint, Dr George said that he would have to be highly speculative. If, for example, someone is nervous that may be enough, or if their documents were not in order. Another example may be if the person is alleged to have been a member of the security forces who committed abuses. Libya is not a country where there are a set of rules and regulations in force. If there is an 18 year old with a Kalashnikov dealing with a particular person, whether an individual was or would be suspected of association with the Qadhafi regime or is a relative of such, will depend on the particular circumstances.
55. So far as 'relatives' are concerned, he derives that opinion from the nature of Libyan and Middle Eastern society. He is unable to show a particular case of such an event in relation to a relative but he has not looked for one. Dr George did however cite the example of the enquiries he made in Tripoli in relation to an asylum applicant who said that his brothers were members of the security forces. His researcher spoke to people in the area who confirmed what he had said about his brothers and that they raped people. The neighbours said that this individual would be killed (if he went back).
56. Tawurgans who are Black Libyans can have trouble at checkpoints. As to how they would be identified, they would be asked for their ID documents or the individual may say that they are a Tawurgan or they might not be believed if they said they were not. Tawurgans have been distributed through large areas of Tripoli, and the Mashashihans also, but they are not being hunted down. They are not, however, able to go back to their home area.

57. Mashashihans are not Black Libyans. It is not possible to tell someone from Tawurga simply by their appearance.
58. It is common to see black people on the streets of Benghazi, Misrata and Tripoli going about their business in an ordinary way. He would say that he would now revise his report to state that foreign mercenaries were certainly involved with the Qadhafi forces but to state that his forces 'largely comprised' such forces was probably an overstatement. He would now say they 'included' foreign mercenaries.
59. As a result, a lot of foreign workers left but it is true that Sub-Saharan workers are returning although the numbers are not known. A number are also on their way to Europe. A lot are coming back. As to whether that is an indication that the risk to them is not what it was, it may be that they fail to understand the risks that they face. Dr George agreed that it is not correct now to say that Black Libyans would be perceived as mercenaries. It would be an overstatement to say that such individuals would be likely to be perceived as ex-fighters for Qadhafi. There remains an element of racism and the majority may not have a particularly good time. It would also be an overstatement to say that there is a risk of being detained and of suffering serious harm simply on the basis of ethnicity. However, it is a question of degree; there is still a risk. He would not call the risk serious, severe or real but it is still a risk; a potential risk, for example when confronted by the 18 year old with a Kalashnikov.
60. It is the case that it is easier to move and settle in Tripoli and Benghazi than in a village. It is also true that not every Libyan has a tribal affiliation and a person may downplay it even if he does. There is a spectrum whereby at one extreme a person depends on networks or contacts and at the other a person who is more self-sufficient. The general picture is that people rely on networks and contacts. To live away from family is unusual.
61. In answer to our questions he said that indiscriminate violence by definition affects everybody, whether or not they are Libyan. The very fact that he was able to drive to Misrata, tour the country, have coffee, speak to people in parts of Tripoli and the Nafusa Mountains without feeling fear or experiencing violence, obviously made an impression on him.
62. As regards Benghazi, he would still not regard the risk of indiscriminate violence as being severe but would be looking over his shoulder more than in Misrata. Benghazi cannot be compared to Beirut in the mid 80's, Baghdad in 2006-2007 or Mogadishu for many years, where life was anything but normal. A large portion of the population is going about business as normal in Benghazi.
63. As regards risk as a failed asylum seeker, having been in the UK for two or three years, there would be no real risk. Very many Libyans have been living in exile. The phenomenon of Libyans living outside the country for many years is nothing very special. Such a person would not stick out like a sore thumb.
64. Re-examined by Mr Ficklin he said that as to the events in Tripoli in recent days whereby 40 demonstrators were wounded, such eruptions can arise and then die down. After a gun battle he would not hesitate (to go out) a few days later if things had died down. He would check to satisfy himself as to the situation. It would be sensible to make enquiries or to have someone with him who knows the area. He would hesitate to

do research in Tripoli without a driver, not because of fear of attack but to allay suspicion and so that his objective could be achieved more easily.

65. There are ongoing detentions but they are diminishing since the end of the civil war. Detentions could and do occur at time of attempts to quell violence. There are two categories of people if stopped by a militia that are likely to attract more adverse attention than others. These are Tawurgans and the Mashashiya, albeit for different reasons. The general position is that there are not that many categories of person in that position. The fact of being from Tripoli or Benghazi would not put a person at risk. If for example a person is from Abu Salim district they might be regarded as pro-Qadhafi.
66. If for example, it is not known that a person is from the Mashashiya they would not be at risk. The same goes for the residents of Tawurga as it would not be known that they were from there. Such a person could be just another Black Libyan. It is common sense that someone from Tawurga is not going to reveal that fact at a Misrata checkpoint, or a Mashashiyan in the Nafusa Mountains.
67. Members of the Misrata militia are in Tripoli and so if someone is from Tawurga they would have a problem. If a person from the Abu Salim district of Tripoli was to encounter a particularly ardent anti-Qadhafi militiaman then such a person could have a problem.

#### **Dr Geoff Porter**

68. Dr Porter is the founder and president of North Africa Risk Consulting which is a consulting firm specialising in country risk assessments for private sector companies. Dr Porter is also an instructor with the Combating Terrorism Center at the US Military Academy at West Point's practitioner education program. His CV states that he instructs law enforcement agencies and intelligence agencies on terrorism and security issues in North Africa and the Sahara. That short summary of his CV is sufficient to establish his expertise in relation to the issues to be determined in these appeals.
69. He has provided reports dated 7 August 2012 and 14 October 2013. He also gave a report in response to the written questions sent by the Secretary of State to all the experts.
70. His first report deals with events leading up to the overthrow of Colonel Qadhafi and the immediate aftermath, as well as a variety of matters that are also contained in the more recent report. He visited Libya in August 2013, therefore after the first report was written. In the circumstances, a summary of the later report is sufficient.
71. After the overthrow of Colonel Qadhafi nationwide elections were held on 7 July 2012, judged by observers from Libya, the EU, the US and multilateral organisations to be free and fair. There were no widespread allegations of fraud, negligible accusations of polling station irregularities and almost no election day violence. Since 2012 different municipalities have staged elections for local councils. These elections have not received so much attention as the national elections and there were no election monitors so it is difficult, Dr Porter states, to gauge how free and fair those elections were. However, the municipal councils have received widespread support and are seen as legitimate elected bodies for pursuing local interests. Tripoli has yet to hold elections for a municipal council but the local Tripoli electoral commission has reiterated its intention to do so.

72. At paragraph 13 Dr Porter states that an overall assessment of the political landscape indicates conclusively that Libya's revolution-cum-civil war is over. There is no question about the possibility of renewed widespread violence between supporters of the ousted Qadhafi regime and revolutionaries.
73. However, it is the case that the Libyan government does not have an effective professional army. Police forces are severely understaffed and there is no meaningful independent judiciary. Security issues have affected the ability of the General National Congress ("GNC") to perform its political and legislative functions.
74. The security sector of the government continues to be uncertain and poorly managed, the heart of the problem being the lack of a clear chain of command. The August 2011 Constitutional Declaration did not clarify to whom the Army Chief of Staff would report and did not clarify relations between the Ministry of Interior and Ministry of Defence and the forces under their commands. The newly created presidential guards remain outside the control of the Army Chief of Staff and the Ministers of Defence and Interior.
75. Compounding the problem is a lack of political will to confront the numerous militias that are the source of Libya's security problems who have the backing of large and politically potent segments of the population. Militias have been recruited wholesale into the state's national security structure, raising questions about their reliability and allegiances.
76. Operation Tripoli, launched in March 2013, was intended to oust militias from government buildings in Tripoli and undermine their capabilities. It was to be followed by operation Benghazi. The former had some successes but faltered after several weeks. There is very little likelihood that Operation Benghazi will be initiated.
77. Section IV of Dr Porter's latest report is headed "Levels of violence in Tripoli" with a sub-heading "A taxonomy of violence in Libya". He refers to occasional confrontations throughout the country between different ethnic groups or groups from different regions, especially around the town of Bani Walid and the south eastern city of Kufra. He states that in general these confrontations are not political in nature. Instead they arise from inter-parties grudges, revenge for long-standing disputes or vying for control of the flourishing informal economy. These disputes are specific to the regions in which they occur and are not instigated by perceptions of allegiance or opposition to the Qadhafi regime.
78. The report describes a second category of violence, being politically motivated violence in both Tripoli and Benghazi. Groups that feel that the GNC is insufficiently addressing issues have taken important installations, institutions or infrastructure "hostage" as leverage. The violence is politically motivated but the goal is not violence in and of itself. The violence quickly dissipates within days if not hours. Although casualties have resulted, the victims are not the targets of the violence and individuals are not singled out.
79. Under the heading Islamist violence he describes "Salafi Jihadi" violence that is driven by hostility towards the West. Salafi Jihadi violence had only targeted individuals or institutions linked to foreign governments or to former high level officers in Qadhafi's intelligence services. He refers to three particular examples and states that none of them



resulted in any casualties and the attacks were extremely rudimentary. Such violence reached a peak in September 2012 with the assault on the US Consular Mission in Benghazi.

80. When considering "Militia profile" the report states that the militias use their weapons as deterrents rather than as actual means of coercion. They also serve as irregular police forces, safeguarding neighbourhoods, establishing night time patrols, directing traffic and generally trying to ensure law and order. Important installations, key traffic intersections and some government buildings are guarded by armed, uniformed men who are not members of official law enforcement or the military.
81. Some of the larger militias such as those from Zintan and Misrata have been enlisted by the government to function as proxies for a national security force. The National Transitional Council has allowed and sometimes encouraged those two militias to assist in peacekeeping operations around the country. Each can deploy quickly throughout the country, both having fixed wing and rotary aircraft as well as armoured personnel carriers, tanks and tank transport vehicles. Each has several thousand members.
82. Whilst the militias operate outside or above the law they do not behave in an undisciplined manner "and exhibit sophisticated command and control". The leadership is known to the public and there are clear hierarchies. Local militias have clearly demarcated territories. Some militias are in the pay of different ministries, for example oilfield security or airport security.
83. On the other hand he states that this is not to say that the militias do not carry out their own interpretation of justice. The vast majority of detainees in the country (5,000-6,000) are in militia custody. Those individuals have been detained because of past affiliation with the regime, family grievances or feuds or simply because of personal insults.
84. Regarding sufficiency of protection, there is no effective policing capability by uniformed officers under the authority of national or municipal institutions. Faced with the overwhelming firepower of militias and the widespread availability of weapons among the general population the official police cannot guarantee protection for individuals, nor can they provide recourse for individuals who have encountered problems. To secure protection individuals can turn to militia leadership and declare their support for the militia.
85. There is the danger that in travelling throughout the country an individual who is not from a given territory will be detained by a militia. In the vast majority of instances average Libyans are allowed to pass safely through militia held territories but there remains the possibility that an individual will be detained for unexplained reasons.
86. Militias often set up checkpoints after dark to monitor the movement of individuals. Day time checkpoints are rare although they do appear on intercity roads and occasionally on the periphery of some of the large towns and cities.
87. Tripoli has become largely a safe city. There have been intermittent bouts of political violence but these have largely been driven by grievances that the militias argue that the GNC is not sufficiently addressing. There have been revenge killings in the city and former members of the Qadhafi regime have been persecuted. Some former members of the regime still occupy key posts in the government.

88. Since July 2012 there has been an increase in violent crime and reports of criminally motivated murders and carjackings. Kidnapping, murder, rape and other violent crime is also increasing in Tripoli and elsewhere.
89. In relation to Benghazi, security there is decidedly worse than in Tripoli. It has also witnessed a series of politically motivated murders of former Qadhafi officials who worked in the intelligence services. There have been more than three dozen such murders in 2013. There has similarly been a dramatic increase in criminal violence.
90. The report states that security between cities is questionable and Dr Porter states that it is recommended that individuals fly between cities wherever possible. Two examples from personal observations are given. Nevertheless, he states that road travel in 2013 has improved and it is now feasible to travel by car throughout most of the country. Driving from Tripoli to Benghazi or Sabha is prohibitively long but feasible. The fundamental risk while travelling on roads out of Tripoli is the uncertainty regarding road conditions, the possibility of harassment from militias and general banditry. The risk of any of these is not exceptionally high but the lack of recourse to any national security service or emergency help amplifies the risk.
91. Checkpoints exist on all major roads out of Tripoli, as well as between cities and at the entry points to towns and cities. There is an acute desire to know who is travelling, from and to where, and why. There is a lingering anxiety over a possible counter revolution and a desire to protect informal economic activities from government oversight or encroachment by other groups. They are also used to find individuals with whom the operators have a regional, ethnic, tribal or family grievance. Some are manned by police and others by militia.
92. If someone is demonstrably pro-Qadhafi he is unlikely to be able to transit a checkpoint safely. The same applies in relation to someone from the Tawurga tribe. Racism runs deep in Libya.
93. The procedures at checkpoints are often *ad hoc*. Depending on answers to questions there may be a demand for other documents such as a national ID card or identification associated with the government, a ministry, a state-owned enterprise or a militia. Increasingly foreigners are asked to provide a passport to prove nationality. Because there is no set protocol at checkpoints there is correspondingly no set way of avoiding difficulties.
94. Tripoli and Benina (in Benghazi) airports are for the most part safe and secure and there is little immediate danger flying into these airports or transiting them. Airport security is reliable and safe well into the night, with passengers coming and going after midnight and into the dawn hours.
95. Tripoli airport is the main entry point for flights from Europe. It is served by numerous international carriers, including British Airways, Alitalia, Air France and Lufthansa. Since the end of the conflict flights operate with a reasonable degree of regularity although unexplained cancellations or delays frequently occur. There are direct flights from Heathrow several times a week. Tripoli airport is currently controlled by the Tripoli International Airport Authority. Airport staff are employees of the airport authority and security is provided by airport authority employees. Until May 2012 security was provided by the Zintan militia. In reality it appears that airport security

has been taken over by members of the Misrata militia who are now wearing official airport security uniforms and are on the payroll of the airport authority.

96. Airport security mans checkpoints on airport access roads and around the perimeter of the airfield. There are screening checkpoints at the entrance to the airport. Screening checkpoints are rudimentary, and often staffed by untrained personnel. There are still unidentified militia members at the airport in some kind of official capacity. There are no weapons apart from those carried by security officials.
97. There is reference to a security incident in June 2012 when a militia group from Tarhouna seized control of the airport in retaliation for the detention of their leader by an undisclosed group in Tripoli. Some planes were damaged but no passengers were hurt. The Zintan brigade retaliated but eventually the Tarhouna militia withdrew. There has been no major security breach since then.
98. Benghazi International airport is a secondary point of entry to the country, largely serving as a domestic airport. There are no direct flights from the UK although transfer directly from Tripoli airport is possible. The airport authority provides security. For the most part it is free of security concerns.
99. Mitiga airport no longer services inbound flights from Europe apart from in exceptional circumstances. It services regional international carriers to destinations such as Egypt, Jordan and Syria.
100. Customs and border patrol officers control entry and exit at international border crossings at the airports of Tripoli and Benghazi. Questions posed to Libyans returning from abroad include reasons for travel and length of stay abroad, and reasons for return. The officials do not generally ask questions about political affiliation or participating in the revolution.
101. Occasionally individuals are singled out for interrogation on return. Return without a Libyan passport would be grounds for further questioning, as would travel to sub-Saharan Africa and to the Sahara states in particular. Dr Porter states that Libya does not recognise dual citizenship.
102. Travel to European countries and to the US does not provoke suspicion. There may be animosity to those who "sat out" the revolution in Europe or the US, but this has not been a basis for persecution. There have been no reported instances of returnees being detained by airport authorities or militias on leaving the airport.
103. Benghazi residents, who have different accents from those from Tripoli, travel freely throughout the country, including in Tripoli. Some Libyans from Benghazi live in Tripoli unmolested.
104. At para 63 Dr Porter states that individuals who worked for the Qadhafi regime's intelligence services are exposed to unique risk. There have been numerous instances of assassinations, those people having apparently been on a hit list of 109 names. The risk applies even to those who left the intelligence services during the revolution and sided with the rebels. The assassinations have the hallmarks of being well planned and deliberate, but with no "collateral damage" or other casualties.

105. Souq Al-Juma'a in Tripoli (where AT is from) has its own militia. It is likely that AT would be able to come to some accommodation with the militia to secure his safety. He is also likely to be able to relocate without his Souq Al-Juma'a origins being revealed or jeopardising his safety.
106. In relation to AT's lack of tribal affiliation, there are many who are not associated with tribes or who downplay their tribal affiliation, especially in Tripoli and Benghazi where it has become less important than neighbourhood ties or social class. It is entirely possible for someone to relocate to another part of Libya without negative impact in relation to tribal issues.
107. In commenting on the risk to AT in terms of his claim that his father worked for the intelligence services under Qadhafi (which has not been found to be credible by the First-tier Tribunal) Dr Porter states that Libya is very interconnected and people in even far flung places know of each other. Individuals closely associated with the Qadhafi regime "and individuals' family members" have been kidnapped detained and murdered because of their past connections. However, that is not always the case. Seventy per cent of Libyan labour force during the Qadhafi regime worked in the public sector, so that the "gross majority" of Libyans was in some way associated with the regime. Association with the regime was especially high in Tripoli. It is not unusual for individuals to have worked for or to have had family members who have had some relationship with the previous government.
108. It is possible for a woman to travel overland from Tripoli to Benghazi. Three domestic airlines offer multiple daily flights between the two cities for approximately £64, taking less than one hour. Were HKA to travel overland it is recommended that she travel in the company of other women or men. She would be able to hire an inter city taxi or take a bus from Tripoli to Benghazi. Road travel could take well over 15 hours. It is not necessarily dangerous for a woman to travel alone but it is unusual. A woman travelling alone would be likely to be subject to additional questioning at checkpoints, especially since the revolution. Libyan society has become more socially conservative.
109. Dr Porter answered the respondent's written questions in a further short report dated 5 November 2013. He states that the ICC report in relation to Abdullah Al-Senussi is evidence of the vagaries of the Libyan justice system, in particular the possibility that Libya would be unable to provide Al-Senussi with legal counsel. The ICC's decision also potentially reveals the politicisation of the justice system. Al-Senussi's circumstances are far from representative. It is unlikely that a less well-known figure would be treated in a similar manner.
110. The fact that the Court is unable to compel the captors of the 31 Qadhafi era officials to bring them to court is evidence that there is no effective judiciary. The militias largely do as they please. The Zintan militia holding Saif al-Islam did not bring him to the pre-trial hearing although it had agreed to do so, and the Tripoli court has no power to compel the militia to do so.
111. The trial monitoring network is unlikely to be effective given that many NGO's recommendations are not implemented, because for example the counterparts with which the NGOs are dealing do not have the authority to enact reforms. At other times the reforms recommended do not correspond with the actual state of the institutions to be reformed.

112. As to the progress and implementation of the torture, kidnapping and discrimination law, like the trial monitoring recommendations, this is aspirational. There is no effective police force and no effective mechanism for monitoring discrimination. People are regularly kidnapped without any subsequent prosecution.

### **Dr Porter-oral evidence**

113. Dr Porter gave evidence by video link. In response to questions in examination-in-chief from Ms Harrison he said that there are many militia that vary in size from several thousand to a handful of people. Through family and tribal connections a person could secure protection. He does not know how someone could secure protection in Tripoli if the person is not from that area.
114. In relation to securing protection, the militias are not by definition hostile to each other. There are some large coalitions of militia, for example Libyan Shield and the Supreme Security Committee. It is not impossible that someone could be allied with several militias.
115. In Benghazi the violent incidents and criminal violence are entirely unpredictable, so it is possible that one could be a victim of criminal violence, or kidnapping.
116. As regards a woman travelling in Libya, the extent to which she would be able to navigate through the checkpoints would depend on the purpose of the travel. An example would be if she were visiting family and the family member were a respectable member of the community. On the other hand if she were engaged in commerce, she may have to pay some form of bribe. She may have to answer questions about her ultimate destination.
117. He is not aware of a woman suffering ill-treatment at a checkpoint. Libyan society is very segregated. He travels with groups of men so he has no direct experience of that issue.
118. A single female with no links to the community would have tremendous difficulty gaining access to accommodation. It is very rare that Libyans travel to new communities without establishing prior contact in terms of tribal or family connections. It is very rare for a woman to arrive in a community without knowing a single person in the community. It is very rare for a single woman to rent a hotel room by herself. The suspicion would be that she is a prostitute.
119. As to who controls Benghazi airport, he does not know but it could be Ansar Sharia or Libya Shield. Few westerners have travelled to Benghazi in the last several months because the security situation is so precarious.
120. He is not aware of any incidents at Benghazi airport since 2012, although local newspapers would have reports of incidents in relation to insecurity at the airport.
121. The citizenship law has not been updated; there is no constitution in Libya.
122. In response to questions from Mr Ficklin he said that as of today the Misrata militia had ostensibly withdrawn from the airport over the weekend. There had been a confrontation between them and demonstrators. Up to last Thursday the Misrata militia were providing airport security. Many members of the customs and border control are

from the Misrata militia. It is the ministry of the interior that is in charge of the airport not the ministry of foreign affairs. He does not know whether the ministry of the interior dictates to the customs and border officials what questions to ask.

123. The events in relation to the Misrata brigade last Friday did take place partially in the neighbourhood of Souq Al-Juma'a. As to whether AT, having ID from that area, puts him at risk in terms of contact with the Misrata militia, the answer is yes. Passengers arriving are required to fill out a disembarkation form with their name, date of birth, nationality and local address. If he arrived at Tripoli airport and were to hand it to the customs and border officials from the Misrata militia, this would create a potential risk. If the Misrata militia left Tripoli that does not mean that they would not be replaced by other militia.
124. In terms of whether the policing function of the militias conforms to a standard policing framework of investigation followed by a court appearance, his understanding is that they undertake that function in a completely arbitrary way. When he was in Libya in August his Libyan friend complained that they would detain a person and they would disappear, and he says that now there are 100 Qadhafis.
125. It is speculative to suggest why those detentions take place. They could be for any one of a number of reasons or for none at all; because of the way a person looked at the militia person, disrespected him, because of suspected association with the Qadhafi regime, or because of involvement in commerce that is the militia's area of commerce. It could also relate to accusation of (various) crimes.
126. There is an increasing sense of impunity and popular frustration with the lack of policing progress. Violent crime has remained constant since July 2012.
127. In cross-examination he said that there are numerous instances of violence between ethnic tribes. There have been allegations against the Tawurgans that they were allied with the Qadhafi forces. There have been prosecutions of the Tawurga. The Misrata militia took revenge against the inhabitants of Tawurga which was in effect 'cleansed'. The former inhabitants are either in detention or have spread around Libya. That is a good example of an area perceived as a whole to have been allied with Qadhafi.
128. There are other conflicts that are long-standing and pre-date the revolution against the Qadhafi regime. Those conflicts are specific to the region in which they occur.
129. As regards politically motivated violence, this has become an aspect of political culture in Libya. It is a way of amplifying a grievance and calling attention to things that have been ignored by the government. The kidnapping of the Prime Minister had political overtones. He was not tortured or beaten. His glasses were broken. He went to an ophthalmologist and was back at his desk by 10 am.
130. As to Islamist violence, there have been other attacks since those noted in his report. Jihadis also harbour a grudge against Muslims perceived to be insufficiently Muslim.
131. Other violent incidents involve foreign governments or former high level intelligence officials, ordinary criminal violence and that involving the peaceful demonstrators in Tripoli the weekend just gone. Aside from those categories, he does not believe that there is a prospect of a counter revolution.

132. Dr Porter agreed that there is no indiscriminate violence targeting individuals, for example in terms of bombs in market places or snipers. There has not been the indiscriminate use of violence as a political tool. The opinion in Libya is that it is Jihadi groups that were responsible for the assassinations of former intelligence officers mentioned at para 63 of his report.
133. In relation to those sorts of attack, he was speaking to a colleague last week in relation to a 'sticky bomb' killing a former member of the intelligence service and there were no other casualties. It was specifically intended to kill the driver but the bomb was no bigger than necessary for that purpose.
134. In relation to family members of former intelligence officers, the only evidence that he had seen is collateral damage. There do not appear to be any intended targets. Having said that, the daughter of Al-Senussi, Chief of Intelligence, was kidnapped in August 2013. She was released but not until the water supply to Tripoli was cut off until she was released. This was in August 2013. He is not aware of any other incidents involving family members.
135. There are no difficulties specific to women in relation to flying from Tripoli to Benghazi apart from the usual difficulties with air travel in Libya because of delayed or cancelled flights or uncertain equipment.
136. If a woman was travelling with her brother that would overcome the complications of a lone woman being asked more questions if travelling by bus or taxi from Tripoli to Benghazi.
137. It is very hard to believe that an individual (from Benghazi) would have no point of contact in the capital given the intimacy and the small size of Libyan society.
138. Up to last Thursday Tripoli airport has been a calm and safe place apart from a brief period when it was occupied for a short time.
139. He does not know the percentage of Black Libyans in the country. It may be a difficult statistic to devise because an individual in Libya could have characteristics that are considered to be black outside Libya but not within Libya and vice versa. Many of those considered Black Libyans are working in unskilled trades but they are seen moving about in Libya. It is impossible to say without talking to someone if they are a Black Libyan or an illegal immigrant from Sub-Saharan Africa.
140. There is a perception that they fought for Qadhafi. On the one hand there is an element of politically motivated racial persecution. Libyan society is blatantly racist. He is not able to answer as to whether black Africans are being detained on the basis of suspicion of being mercenary fighters. He was not able to answer as to whether there is (in legal terms) only discrimination or whether there is persecution against Black Libyans and Sub-Saharan Africans. He thinks there is still a belief that Sub-Saharan Africans who remained in Libya may be the remains of mercenaries who fought in Qadhafi's army.
141. Souq Al-Juma'a (where AT is from) is a large suburb of Tripoli and has its own militia. The areas of urban topography however blend in to one another. Up until the events of the last weekend he would not have said that coming from Souq Al-Juma'a would put a person arriving at Tripoli airport at risk. There could be recriminations from the Misrata brigade against those from Souq Al-Juma'a who had attacked them.

142. He agreed however, that someone who had been in the UK for the last three years would not be seen as someone who had this last weekend attacked the Misrata brigade. Someone from Souq Al-Juma'a going through the airport at Tripoli would not be more at risk than someone living in Souq Al-Juma'a at present. He accepted that his assessment of risk was entirely speculative in that it is too early to make a judgement about people being subjected to harm on the basis of where they are from.
143. In relation to checkpoints, cars could be stopped and searched on the basis that it is weapons that are being sought or anything deemed incriminating, alternatively simply as a justification for detention. It could also be a search for drugs, alcohol or other contraband items, or merely for a bribe.
144. There was a report from Human Rights Watch which documented the detention of Tawurgans by different militia throughout Libya. He does not have knowledge of such incidents beyond what is in that report.
145. He does not have information that today individuals are captured or detained because of past affiliation with the Qadhafi regime.
146. In order to be able to say what is the scale in the last few months of detentions for random or unpredictable reasons, one would have to have statistics on the whole range of people detained and for what reasons.
147. The variation in estimates in relation to the number of people detained is 40 per cent; from 5,000 to 8,000 people. There is no indication as to whether those detained are the same 5-8,000 or whether that is the number "cycling through" detention. There are no reliable statistics. Therefore there is no statistical information on the likelihood of detention.
148. When he was recently in Libya there were many other Libyans driving. Traffic is a problem as there is a lot of traffic on Libyan roads going through the checkpoints. He agreed with the suggestion that to an extent the risk of detention is not such as to deter those people going through the checkpoints.
149. Re-examined by Mr Ficklin he was asked whether the risk to him in travelling through the checkpoints was greater or less than for the average Libyan. He said that there are a lot of different factors that go to assessing an individual's profile. He does not know if he was at greater or lesser risk. It may have been less as he has no ties to Libyan society. Another view is that it could have been greater. He is from a non-Muslim country that supported the campaign to overthrow Qadhafi.
150. If a person was not able to pay a bribe at a checkpoint he suspects that such a person would be detained. If a person were to say at a checkpoint that they were a supporter of Qadhafi he agreed that there is a serious risk that such a person would be detained.
151. If a person said that they were from Tawurga, it would depend on the militia manning the checkpoint as to whether they would be detained. One would not know what particular militia is at a checkpoint until one arrives there. Not all checkpoints carry the same risk. He and his colleague passed through five checkpoints, and his colleague said that he did not know who was manning the checkpoints as they were never stopped.



152. There would be an increased risk to a person who was known to be a family member of a person who worked for Qadhafi's intelligence services.
153. As to risk to a family member of a person from a different militia, it would depend on the militia. Not all are hostile to each other; some are allied to each other. Some areas are associated with particular militias.
154. In answer to our questions he said that he is aware of the procedures at Tripoli airport because that is where he arrived and as far as he knows everyone has to undergo the same process.
155. As to the risk of indiscriminate violence on the streets of Libya for someone going back, the risk is relatively low. It could happen but the likelihood is about 5 per cent, certainly less than a one in ten chance.
156. In further cross-examination he said that there is a lot of violence in Libyan society and there is no formal check on the violence. Some can be described as indiscriminate but not on a wholesale terrorist scale. He was not saying that five per cent, or one in twenty Libyans are suffering the affects of violence, which would be awfully high. This is in the realm of speculation and (an assessment) would benefit from a statistical review which he does not have.

**Professor Emile Joffé**

157. Professor Joffé provided a total of 7 reports in relation to appellants AMH and HKA. They are dated, 19 August 2011, 1 September 2011, 21 March 2012, 15 August 2012, 12 September 2013, 4 October 2013, and 31 October 2013 in response to the respondent's written questions. In so far as necessary, we summarise them in chronological order.
158. The reports of 19 August 2011 in relation to AMH and 1 September 2011 in relation to HKA respectively, are useful background information but given the date on which they were written, at a time when Libya was in a state of civil war, do not give an up-to-date assessment of the situation in Libya relevant to these appellants, whose claims were based, to a greater or lesser extent, on their anti-Qadhafi activities. In the case of AMH the report pre-dates the hearing before the First-tier Tribunal and necessarily does not take account of the findings in relation to past persecution.
159. The report of 19 August 2011 deals in part with the potential risk from the Qadhafi regime on account of his having taken part in anti-regime protests and on account of his being black. He describes the appellant as being a member of the Bla'za "tribe" being the major tribal group in the town of Zawiyeh. Other groups mentioned by AMH are often collectively known as the Zawiyeh, since as an urban population precise tribal affiliation has tended to be less significant. AMH is a member of the H sub-clan of the Bla'za. The appellant's family being black, they are unlike the generally Caucasoid population of coastal Libya. His historical origins are almost certainly African and his ancestors may have been manumitted slaves who adopted the tribal identities of their former masters. Such persons are now accepted as full tribal members despite their different ethnic origins and the acute racial tensions in coastal Libya.
160. Professor Joffé describes the legacy of uncontrolled migration from sub-Saharan Africa as one of bitter hatred of black Africans, there having been riots targeting black populations on the assumption that they were of sub-Saharan African origin. The risk

to AMH in terms of his ethnicity is not on account of his tribe but on account of his being black.

161. There is a description of the concept and introduction of the notion of collective family and tribal responsibility during the Qadhafi regime. Some groups or tribes linked to the Qadhafi regime enjoyed significant privileges. These included the Qadhadhfa (Qadhafi's own tribe), the Maghraha from the region of Misurata and the Warfalla. These tribes had penetrated deep into the administrative and the security services as well as the army command.
162. In relation to HKA, the report of 1 September 2011 explains the issue of Libyan nationality and dual citizenship as of the date of the report, with reference to the suggestion that she is entitled to Egyptian citizenship. Thereafter the report is identical to that of 18 August 2011, with the exception of the concluding paragraphs which deal specifically with HKA's case based on her anti-Qadhafi activities and the security situation at that time.
163. Professor Joffé's report of 21 March 2012 can be described as an interim report in the sense that it post-dates the rebellion against the Qadhafi regime and describes the situation in the country at that time. At para 28, citing a report in the Guardian of 21 October 2011, he refers to militias having rounded up and imprisoned suspected "collaborators" from the former regime. He states that up to 7,000 persons are believed to be held in makeshift prisons as a result.
164. At para 30 it states that the Misrata militia have forced out of Tawurga the black population there, setting fire to their houses to ensure that they do not return. The ostensible reason for that action is, he states, that Tawurgans were regime supporters but given the racial tensions that are widespread in coastal Tripolitania, one of the three provinces of Libya, other factors have certainly played a part.
165. At para 31 he refers to a temporary occupation of Tripoli airport by the Souq Al-Juma'a brigade in relation to an incident in Bani Walid when several of their members died. The occupation upset the Zintan brigades that controlled the airport. In early December 2011 there were clashes between militias inside Tripoli which led to a demand by the provisional government to demand that all non-Tripoli based militias leave the capital by 20 December, a demand that was not met. There is reference to a local protest against the Zawiye militia in Bani Walid in January 2012. Para 33 describes serious clashes between two tribes at al-Kufrah in south-eastern Libya between the Arab Zawi tribe and the Tebu tribe from Chad. Such events had also happened under the Qadhafi regime.
166. The 15 August 2012 report in relation to AMH states at para 36 that those rounded up as suspected collaborators and still detained had reduced to 5,000.
167. The 21 March 2012 report states that remnants of the 32<sup>nd</sup> Brigade, the shock troops of the former regime, accused of most of the atrocities that took place during the civil war, had reformed and were committing further abuses. The 15 August 2012 report adds that those individuals are often Tuareg.
168. The risk to AMH is, as previously described, much to do with his assumed ethnicity, the report referring to the racism in Libya in particular in the coastal area and the

recruitment by the former regime of sub-Saharan Africans and Tuareg into its special forces.

169. The reports of 12 September 2013 and 4 October 2013 bring matters up to date. The first, prepared in relation to HKA, refers to the political situation. In relation to security, it refers to worsening violence in Tripoli and Benghazi, with security problems also in Kufrah, Jabal Nafusa, Zintan and Sabha. A number of incidents are referred to.
170. The Misrata militia persisted in excluding the population of Tawurga because it was alleged to have supported the Qadhafi regime. The Zuwara militia victimised the Warshafanna tribe for the same reason and likewise the Zintan militia in relation to the Mashashiya.
171. At para 20 Professor Joffé refers to the emergence of a shadowy network of salafi-jihadi militias under the generic title of Ansar al-Shari'a, which he states has nothing to do with Libya's own jihadists of the 1990's which was focused on destroying the Qadhafi regime. At para 21 it states that the movement is widely spread throughout Libya and has been implicated in attacks on Libya's Sufi movements.
172. From para 29 he refers to the worsening security situation in 2013, including in terms of a string of assassinations of intelligence, police and military officers accused of having served under the Qadhafi regime.
173. Under the heading "Economy and Society" it is stated that it might be premature to argue that Libya is becoming a failing state. Libyans themselves are increasingly frustrated by the security crisis and pressure is mounting on the militias to accommodate the new realities. The salafi-jihadi movements also face a growing tide of popular mistrust.
174. Day-to-day life for the majority of Libyans continued without too much disruption once the oil industry had been revived. Oil production had been back to the pre-war level and Libya had gained control of all the assets frozen in 2011. Seventy-eight per cent of the population lives in the urban conurbations around Tripoli and Benghazi but distribution (of food and consumer goods) has been maintained to the more isolated communities of the interior despite the precarious security situation there.
175. Nevertheless, there are serious problems in that oilfield and oil protection force workers, dissatisfied with their remuneration, had shut down the oil export port of Zuetina on three occasions. Action by Cyrenaican separatists impeded oil production and export. The result was a decline in oil exports by 50 per cent in August 2013 and had further fallen by September 2013.
176. However, Libyans are acutely aware of what they achieved in 2011 and there is a very strong feeling that they are not prepared to see those gains lost through fragmentation and chaos. The government is aware of the problems in relation to minorities and regional jealousies, and makes constant attempts to resolve them. Major managerial components of the oil sector have moved from Tripoli to Benghazi and provincial equality in the forthcoming elections for the constitutional drafting committee has been agreed.
177. There is also a general determination for Libya to achieve a collective future which avoids the fragmentation implied in the current security chaos. Even though deep

social wounds persist, the kinds of collective vengeance seen elsewhere in such circumstances has so far been avoided.

178. Security, even at open border points is unpredictable because they are still generally controlled by militia units. Tripoli airport is controlled by the Zintan militia and Benghazi airport is the subject of an attempt by Libyan special forces to control it against constant skirmishing by Takfir wa Hirja and salafi-jihadi groups. Land border points are also open to unpredictable clashes between rival militias although some are supposed to be controlled by Libyan army special forces personnel. There is no indication of how effective such control is or whether it is undisputed by neighbouring militia units.
179. The state is not able to provide adequate protection to its own nationals. Even though a few army units have been deployed, their authority is challenged by Libyan Shield forces. There is no effective police force outside the Supreme Security Committee units which, like Libyan Shield, are militia based. Both organisations are not under proper civilian control and both engage in arbitrary arrest and detention.
180. As regards relocation inside Libya, Libya's spatial population distribution plays a significant role. Libyan society is peculiarly intimate as the population is essentially compressed into a very small space of less than 5 per cent of the total land area. Personal security cannot be achieved through physical distance.
181. In addition, Libya is in a state of administrative chaos such that it is virtually impossible to obtain documentation from the municipal or national authorities. Duplicates of the family book which is an essential document that contains birth, marriage and death certificates, are unobtainable. The family book is a vital document to ensure residence and registration through the municipality and the police, as well as an identity card and/or passport which are vital for the purposes of personal identification and without which all Libyans risk arrest. The danger is in terms of the militias who arbitrarily check identification and detain those whom they consider to lack proper documentation.
182. The southern region of Libya was declared a closed military zone on 16 December 2012. In addition, Libyan residents are not allowed to travel to the interior or border regions (except for the borders with Tunisia or Egypt) without special permission or an official guide, under threat of prosecution.
183. The report concludes by stating that nowhere inside Libya, except perhaps for the centre of Tripoli, is considered to be a secure environment and even there there are constant violent incidents.
184. Professor Joffé's last report, in relation to AMH, adds that the depth of the crisis the country faces should not be under-estimated. There is still no agreement on what the form of the new constitution should be. Moderate Islamists in the GNC will not accept the exclusion of Shar'ia law and nationalists will not tolerate its inclusion. He refers to other political divisions and potential emerging political problems. In the province of Cyrenaica and in Benghazi there is no effective police force and as a result criminal activity has exploded. The oil sector protests are as much an attempt by local families to capture control of the oil trade as they were an attempt to improve pay and conditions.

185. Professor Joffé states that AMH will still face the intense racism that characterises Libya's coastal society. By way of example, the 35,000 strong black population of Tawurga was dispersed throughout Libya and the city remains empty. The attitude to Libya's ethnically black population is generalised throughout the country and similar tensions fuel the conflict at Kufrah and in Sabha between the Tibu and surrounding Arab populations.
186. AMH would not be able to ensure his personal safety by relocating. Tawurgans are forced to live in shanty towns outside the major population centres and cannot return to their permanent homes. The transient African population has fled either back to their countries or to Europe as a result of the hostility shown towards them by Libyans because of their perceived association with the Qadhafi regime.
187. The generalised degrading security situation makes life for despised ethnic minorities even more difficult. The state is not able to offer protection to its own nationals. There is little evidence that the Libyan authorities are going to resolve their security crisis in the near future, if at all, and there are growing fears that if the government falls there is the danger of civil war.
188. Professor Joffé was asked by way of written questions by the respondent to supply further information on the progress of the bill treating rape as a war crime during armed conflict and requiring compensation to victims of sexual violence, and the progress of gender-equality legislation pledged by Justice Minister Salah Bashir Al-Marghani.
189. Professor Joffé's response is dated 31 October 2013. He states that according to his sources there has been no progress on either issue. The rape bill is only in draft form and has not been further discussed since July. He suggests that this may be because the GNC has collectively assumed that compensation for rape and sexual violence is covered by the Transitional Justice Law passed in September 2013, which covers compensation in relation to human rights violations during the liberation. The gender equality law has not progressed beyond the draft stage either and is in any case only the suggestion of a minister. He describes the GNC as being in a state of considerable disarray.

#### **Professor Joffé-oral evidence**

190. In examination-in-chief on behalf of AMH Professor Joffé said that he was last in Libya 10 years ago but has kept in touch with events there.
191. In relation to the number of militias in Libya, he said that the conventional answer is that there are about 350 but it depends on how militia is defined.
192. In relation to the Political Isolation Law (barring anyone who held any position under the former regime from holding official positions), that would exclude up to half the population.
193. The bomb blast in the marketplace on 4 August 2012 in Tripoli was a consequence of a dispute in the market. There is no question of it being directed against particular individuals. The three car bombs that exploded in Tripoli on August 19 were not directed towards individuals but were part of a general tendency (for that sort of action) during Ramadan. They were designed to cause public insecurity and anxiety

and were quite indiscriminate. Although only two people were killed they were designed to cause considerable loss of life to people on the streets and around the locations of the bombs.

194. Large numbers of people in Bani Walid, and throughout the country were employed by the former regime. It is believed that a large number of assassinations in Benghazi and Tripoli have been against opponents of the former regime. This is based on reports from local officials in Libya.
195. Although some militias are paid by the government they have their own objectives. The position has not changed because of events over the weekend. Some units have apparently withdrawn over the last two days. This is a fairly common feature and happened in Benghazi where militias withdrew but returned after a short period of time. There is a suspicion that the Misrata militia will return even though they face opposition from the Zintan militia. Militias often have more than one objective and often become criminalised. They increasingly charge protection money as a tax at checkpoints, especially going south to Sabha, and militias being involved in smuggling operations across the Sahara. He believes that the Zintan militia are in charge at Tripoli airport.
196. Zawiye is controlled by the Zawiye militia which has been extremely active in suppressing pro-Qadhafi activity in Bani Walid.
197. As to what AMH could expect on return to Zawiye, having been in the UK when the uprising took place, he would face the fact that militia control movement and the way people are treated depends on how they are viewed by the militia.
198. As a Black Libyan he would face profound racism. Particularly in the context of Zawiye he is likely to suffer considerable discrimination and persecution simply because of his ethnic origins.
199. As to whether there are checkpoints on the way to Zawiye, it varies depending on the activities of the local militia. There are checkpoints outside the airport on the approach to Tripoli. There could be checkpoints inside the town of Zawiye. It is true that checkpoints can suddenly pop up. The incident in Tripoli last week occurred at just such a checkpoint.
200. He had learnt this morning that the Secretary of State had resumed enforced returns to Libya. He was surprised as the Foreign and Commonwealth Office advise no travel to Libya and the objective circumstances have not altered.
201. He is surprised that the police prevented the public protest at the destruction of Sufi shrines by Salafist groups. On the other hand he is not surprised because of the politicisation of the militias. Sufism is now regarded as something to be condemned. The police would have been very much intimidated by the militias who are heavily armed, whereas the police are not.
202. Libya is well on the way to becoming a failing state because it is unable to contain the violence.
203. It is difficult to determine the number of Black Libyans. He does not know how many Black Libyans who are citizens of Libya. They could amount to a third or a half of the

Libyan population. They are regarded as inferior and as a source of criminality and the false sector economy. During the civil war a large part of the anger was directed towards mercenary forces who were considered to be black, including the Tuareg and sub-Saharan Africans who were said to have been responsible for the worst abuses.

204. As regards AMH, he is not sure how people would be able to distinguish his ethnicity. Physical characteristics would not allow a distinction to be made between sub-Saharan and so-called Black Libyans. At a checkpoint he could very easily be considered to have been involved with the Qadhafi regime. It is the case therefore, that up to a third of the population are in the same position.
205. The government does not have the means to offer any protection. There is an embryonic police force with 1,000 members. There are the remnants of an army said to number 7,000 but the retraining has not been completed. There are also prejudices that exist (which would affect whether a person could be protected)
206. The family book contains details of the family, including dates of birth of the children, marriages and residence. It is essential information as part of the documentation process. Normally people have it as showing a right of abode. In theory people need to register with the police but at the moment that is more theory than practice. A newcomer would be noticed and the local authorities would want to know where the person came from. However, that would be with a functioning state. People are attempting to provide administration but some people also use informal principles.
207. He is not saying that Tripoli is safe but perhaps safer than other parts of the country. Even that is rather doubtful given the events of last weekend.
208. Tripoli has a population of about 1.3 million and including all the surrounding areas is about 2-2½ million. The same principles apply there in relation to a stranger appearing in the locality. In small neighbourhoods it would not be so easy for AMH to move in without being noticed. With his ethnicity it would be pretty obvious.
209. It is true that there would be several hundred thousand black people in Tripoli but the population of black people tend to be settled in shanty towns and a black person would be especially obvious in the centre. Parts of Tripoli have a black community but they have the same sense of community. They do not have their own militia.
210. In examination-in-chief on behalf of HKA, Professor Joffé said that Takfir wa Hirja (referred to at para 38 of his 12 September 2013 report on behalf of HKA) is a salafi-jihadi group created in Egypt in the 1970's, based on the principle of withdrawal from society to develop an Islamic lifestyle and attacking the dominant lifestyle. As far as he knows there are continued skirmishes involving that group. However, there is not much information that he has come across in relation to the situation at Benghazi airport. It is controlled by Libyan special forces but who are under constant pressure from groups who previously controlled the airport and who want to get back what was a very lucrative opportunity.
211. He is not aware of exclusive neighbourhoods that are for people from Benghazi or Tripoli
212. In cross-examination, in relation to the issue of indiscriminate violence, he said that that issue is one of predictability which is a measure of the indiscriminate violence. An

example is the events of last week when the local population were peacefully demonstrating and were fired on by militias. Those sorts of circumstances are unpredictable. It cannot be known from one moment to another whether there is going to be an incident.

213. Professor Joffé disagreed with the suggestion that the issue is not one of predictability but an assessment of whether all Libyans are at risk of serious harm. Violence in Libya tends to be extreme. The levels of violence are far higher than they would be in a well-ordered society and are reported in an active local press. One can walk in the street and find oneself in the middle of a firefight between two different groups. That happens regularly and the population objects very strongly.
214. The gun battle in Tripoli on 4 August referred to in his report of 4 October 2013 at para 7, started, as far as he remembers, as an argument between market sellers. Then someone set off a car bomb. He is unable to give further details as he had hitherto not been asked to provide them. As to the suggestion that a car bomb requires planning, he said that no-one was quite sure what the explosion contained. One does come across quite a few such reports of indiscriminate attacks although mostly at government targets.
215. It is true that the unexploded bombs referred to in the same paragraph of his report tend to target either foreign people such as embassies or military and defence buildings.
216. There have been confrontations because of the heavy handed behaviour of the Libyan Shield Force. This concerns crowd control and at checkpoints. This would provoke further incidents which would end up with shooting, although very often in the air.
217. He is not sure of the targets of the three car bombs in Tripoli on 19 August 2012 but they were placed in such a way as to catch as many people in the street as possible. As to reports suggesting that they were meant to kill police or military forces, he does not know if that is the case but it is during Ramadan that such techniques are used. Bani Walid is now occupied by several militias and is relatively quiet.
218. As to his evidence that the belief is that those responsible for the violence are Qadhafi supporters, it is difficult to say whether they are seeking to provoke a counter revolution to restore the former regime. People involved in the attacks are said to have been connected with the former regime.
219. The assassinations in Benghazi are targeted which is not always the case elsewhere and there are other ways of victimising a particular group of people. There are also arbitrary arrests and detentions. The number of those assassinated, kidnapped and imprisoned in Libya amounts to about 10,000. The conventional number of those said to be held in prisons is about 7,000 people but no-one really knows. That is not a massive number but is a significant number when one considers the population of Libya which is about 5.6 million people. That is enough for people to feel very insecure as a result.
220. Nearly all the arrests were in the first six months to a year after the conflict. There is no effective judicial procedure and a lot have been in detention ever since. As to whether the population of those imprisoned is therefore fairly constant he said that because these are private prisons no-one can really tell. It is also quite common for people to be kidnapped for ransom which adds to the insecurity. He could have provided more evidence of violence incidents (had he been asked).



221. In relation to demonstrators being met with gunfire in June in Benghazi and last weekend, those are two dramatic incidents but there have been other demonstrations that have been dispersed and people shot at at checkpoints.
222. Black Libyans such as AMH do not exactly suffer the same fate as the Tawurgans but Black Libyans are thought to have been supportive of the Qadhafi regime so they would suffer as the Tawurgans do. There is also discrimination.
223. As to whether the experience of the Tawurgans can be generalised to include all Black Libyans, they are symbolic of Black Libyans. Tawurga was targeted because it was believed that they supported the Qadhafi regime, and some did. There were reports of organised rapes by Tawurgans in Misrata and the Misrata militia sought revenge on all Tawurgans who were forced out of Tawurga. They are displaced across Libya. He does not agree that the experience of the Tawurgans cannot be generalised to include all Black Libyans. Most, if not all, Qadhafi's mercenary forces were assumed to be black, to have been supportive of Qadhafi and are persecuted, including the Tibu. Tawurgans were a special case of this as were the Tuareg. It is a generalised phenomenon to do with colour.
224. In terms of whether large scale arrests of Black Libyans and sub-Saharan Africans ceased in 2012, they have either all been arrested or have been displaced. Sub-Saharan Africans do remain at risk of being charged with illegal entry, and of supporting the Qadhafi regime.
225. Professor Joffé was asked about an Amnesty International report of June 2013 stating that a number of migrants are flowing back into the country to work. He said that he could not comment on whether they were coming back to work. Libya is heavily reliant on those migrant workers. It is possible that migrant flows into Libya have resumed. It is not necessarily the case that if they were being persecuted there would be reports of it. It depends on the extent of the reporting outside the capital.
226. It does not strike him as odd that AMH claimed that there were only two black families in Zawiyeh. He is not able to make any judgement as to whether or not that is true but the dislike of blacks in Zawiyeh is very intense. He took from AMH's witness statement that there were only two black families in Zawiyeh. He read it as being in relation to the whole of Zawiyeh.
227. He is not saying that Tripoli airport is unsafe to pass through; people do so regularly. In so far as it is militarily controlled the issue is one of unpredictability. Benghazi airport is more unsafe because of the struggle for control of it.
228. In relation to the family book, there is no greater risk in this regard for people returning from the UK.
229. So far as the travel restrictions to the south of the country are concerned, generally speaking the area is shut off but a person returning home if resident in that area would probably be given permission to travel there. The area of the travel restriction was marked on a map.
230. There are restrictions in terms of internal relocation by reason of the way in which individual towns are now governed. Misrata will not let people in. Derna is a well known Islamist stronghold. The oil area of Sirt is restricted because of the oil industry.

There are a lot of territories in Libya that are difficult to access. Zawiye is a provincial capital in its own right.

231. He is aware that a number of airlines serve Tripoli airport. Air Malta flies there every day and BA four times a week. With BA the majority of the flights are in relation to contracts. That tells him that the Libyan government is trying to revive the economy.
232. It is possible, depending on the case, that a person could use tribal affiliations in order to relocate. Asked to comment on evidence given by Dr Porter that it was hard to believe that someone would not have contacts in Tripoli, he said that this would depend on many things including the extent to which the person had used those links over their lifetime.
233. It is probably reasonable to suppose that many people given the current circumstances are unable to find or have lost their family book.
234. In re-examination he said that there is an artificial calm in Bani Walid because the militias are hostile to the population, as in Sirt. Arrests have continued since the conflict. He does not think that things have moved on in relation to Black Libyans but the situation is not the same as it was a year or two ago.
235. ENI, a major Italian oil conglomerate, has moved out of Libya and BP suspended operations at the time of the conflict and they have not resumed.

## **APPENDIX E**

### **SUBMISSIONS**

#### *Submissions on behalf of the Respondent*

1. Throughout Mr Palmer's submissions we were referred to various aspects of the Respondent's skeleton argument. In relation to Article 15(c), taking as a starting point the position of an 'ordinary' Libyan, we were referred to the decisions in Elgafagi and OD (Iran).
2. Mr Palmer submitted that Dr George's evidence was to the effect that there was no longer an active conflict. It was true, however, that there were areas where there were higher levels of violence, for example Benghazi where there are targeted assassinations of security forces and outside government buildings. Dr George said that he would be happy to visit Zawiye, Tripoli and Misrata, as well as Benghazi, although in respect of the latter he would be more cautious. His view was consistent with that of Dr Porter. It was clear that indiscriminate violence was not being used as a political tool, there being no bombings of market places or random firing at civilians by snipers.
3. Professor Joffé's emphasis was different, focussing on predictability, but such violence is always unpredictable. The question to be asked is how frequent are the violent incidents and over what areas. There was no evidence of such high levels of violence in any part of Libya. We were further referred to the written expert evidence from all three experts.
4. There may be particular features of an individual where the risk would be elevated, albeit that not everyone would be at risk. This is described as a sliding scale. No such factors are apparent in the cases of any of the appellants.
5. We were referred to the "taxonomy" of violence as described in the report of Dr Porter. The first category is of confrontations between different ethnic groups or groups from different regions. The expert evidence was to the effect that incidents of such violence, as in Kuffra and Bani Walid, could flare up again. However, if the question is asked as to whether there is now indiscriminate violence in terms of Article 15(c), the answer is no.
6. In terms of the second category of violence (politically motivated violence), these are not incidents in which particular individuals are targeted but there have been casualties. This relates to Tripoli and Benghazi. Again, it is accepted that there may be further incidents of the same kind in the future. However, there are no individual characteristics which would increase that risk. Although there have been bombs outside police offices, and police officers may be more at risk if they are guarding such places, that would not be relevant to anyone returning from the UK.
7. The third category of Islamist violence, submitted Mr Palmer, does establish that former high level officers in Qadhafi's intelligence services are at high risk of being targeted but the evidence establishes that those attacks are sophisticated and carefully planned.

Dr Porter had referred to sophisticated car bombs which are not intended to injure anyone else. The same can be said in relation to the targeted shootings.

8. In the fourth category are general crimes of violence, more evident in Benghazi than in Tripoli. However, it is not indiscriminate violence and there is no suggestion that any particular categories are at greater risk on the sliding scale.
9. In relation to the fifth category of violence (targeted assassinations and bombings) Mr Joffé was less certain that such incidents were necessarily so 'targeted'.
10. Category six (recent attacks on peaceful protestors/demonstrators), it was suggested, was the closest that could be argued in terms of indiscriminate violence but the risk is not a generalised risk, such incidents occurring on discrete occasions. There was no reason to believe that any particular category of person was at risk. It is possible that in future there may be similar demonstrations and it is possible that the militias will respond in a similar way but the risks will be known to those who want to participate in such demonstrations, and those who do not participate would not be at risk in that regard.
11. Article 15(c) risk has not therefore been established.
12. Dealing with potential risk categories under the Refugee Convention, referring to the skeleton argument at [25]-[27], there is no risk to failed asylum seekers and such an individual would not be seen as having pro-Qadhafi sentiments. The evidence of Dr Porter supported that view. It was not uncommon for Libyans to have been abroad and they would not invite suspicion on return, according to the evidence of Dr Porter.
13. Turning to the individual appeals, Mr Palmer submitted that that was sufficient to dispose of the appeal in relation to AT who could not therefore claim to be at risk as a failed asylum seeker and would not be at risk in relation to Article 15(c). The same applies in relation to AE-S and HKA.
14. So far as women are concerned, there is discrimination and harassment and there may be suspicion in relation to a woman travelling alone. However, the evidence does not support the claim that a woman in those circumstances would be subjected to persecution. Paragraph 3.11 of the OGN refers to the situation for women who have been raped who may be at greater risk of discrimination but this is not raised as an issue by HKA. In any event, that was not a matter that is at the forefront of the Secretary of State's case although the experts were asked for written responses to questions in relation to the anti-rape law.
15. HKA would not be travelling alone. She would be travelling with her brother. The evidence was that flights from Tripoli to Benghazi are cheap and with \$50 being provided to returnees. There is other general assistance available. Dr Porter also gave evidence that people could travel via inter city taxi.
16. As set out in the skeleton argument at [30] in relation to perceived Qadhafi supporters, the May 2013 OGN and the other evidence supported the view that they may be at risk on return. It is not suggested that there has been any change in that regard since May 2013. However, it is not accepted that anyone associated with perceived supporters would be at risk. According to the evidence of Professor Joffé, up to 70% of the population worked for the Qadhafi regime, a point also made by Dr Porter. Including

family members therefore, would mean that the vast majority of the population were associated with the regime. There is one reported incident of a family member, the daughter of Abdullah Al-Senussi, being kidnapped but then released without having been harmed.

17. The possibility of “collateral risk” to a family member from a targeted attack cannot be ruled out, but the evidence is that individuals are carefully targeted. The risk in this respect is speculative. There is no guarantee of safety but such a guarantee is not required.
18. There is evidence of many still remaining in the detention of the militias but there is not now in existence the same campaign to apprehend Qadhafi supporters or perceived supporters as there was at the end of the campaign against the regime.
19. There is a distinction to be made between Tawurgans and ‘Black Libyans’. There is no question of Tawurgans being able to return to Tawurga; they would be physically prevented from doing so, the town having been destroyed and being empty. Any Tawurgan returned to Libya would be internally displaced. Dr George’s evidence was that Tawurgans were not being hunted down. Many would be living in shanty towns on the periphery of major settlements. However, they may be expected to face risks at checkpoints if found to be a Tawurgan, particularly if it is a checkpoint manned by the Misrata militia.
20. The objective and expert evidence does not support the contention that all Black Libyans would be at risk of persecution on the grounds of ethnicity. It would be going too far to say that all Tawurgans would be at risk. They are internally displaced and do live in Libya, although in many individual cases the risk would be established. However, there may be cases where a Tawurgan has very good links in Tripoli. Others who have further afield to travel may encounter the Misrata militia at a checkpoint. It cannot be excluded that such a person may be detained.
21. The hypothetical exceptions to that risk may be rare. Almost all Tawurgans would be in need of (international) protection but there is a need to consider the individual circumstances as per the OGN. One could not go so far as to say that all Tawurgans are at risk but it may be difficult to find individual cases where such a person may not be at risk.
22. There is no dispute but that Black Libyans have been the victims of racism and discrimination; all the experts agree on that. Libya could be described as a racist society. The question is whether that discrimination reaches the threshold of persecution. Although the findings of the First-tier Tribunal in relation to the discrimination that AMH suffered are to be borne in mind, it is also the case that he has been in work, has received an education and was able to have a family life. He lived in Zawiyeh and it was only when he left that the family moved to outside Zawiyeh where his parents lived. The conclusion of the First-tier Tribunal that he has suffered discrimination but not persecution is defensible.
23. There is no doubt that during the war a real issue was the general perception that Qadhafi’s forces were bolstered by African forces from other countries but that perception is now known to have been overstated. Mercenaries were used but not to the extent that had been supposed. The perception did lead to sweeping arrests of

anyone perceived to be a Qadhafi supporter or fighter. The evidence does show that Black Libyans and sub-Saharan Africans were subjected to torture. We were referred to some of the background material on this issue. The Qawalish were also suspected to have been Qadhafi supporters and the Mashashiya also suffered.

24. The Tribunal is not directly concerned with Sub-Saharan Africans being returned to Libya. There is, however, a distinction made in the background evidence between Libyan and foreign nationals. The expert evidence was that an individual would be able to explain where they were from and their accent would also give an indication. The evidence does not show that Black Libyans are now being rounded up and arrested on the basis that they were mercenaries. One could not go so far as to say that if a person were not from Mashashiya or Tawurga then that person would not be at risk, given that the entire communities were at risk from specific militia for specific reasons.
25. The position of foreign workers was precarious and there was an outflow of those workers but they are returning. That does not indicate that they are not at risk of racism but it is an indication of change since 2011. There is no suggestion that black people generally are being detained. Such detentions are specific to foreign workers who are not entitled to be in Libya. The country would not be a 'magnet' destination, however, if the fate of those coming into the country would be persecution. Dr George said in evidence that it was an overstatement to say that Black Libyans were being detained as suspected Qadhafi fighters. He said that it was not a serious or real risk but said that there is a potential risk when such an individual is confronted at a checkpoint by someone who he described as a 17 year old with a Kalashnikov.
26. Dr Porter said that Black Libyans are to be found moving around, mostly doing unskilled jobs. He did also refer however to the representative of OPEC in Libya being black. He did not have evidence of black people being detained on the basis of being suspected of having been a mercenary for Qadhafi. If there was such evidence one would have expected Dr Porter to have heard about it.
27. Professor Joffé alone put the matter higher, suggesting that Black Libyans were at risk of persecution. He referred to the experiences of the Tawurgans but also the Warshfanna, who are not in fact black. When asked whether he was generalising the position of Tawurgans in terms of black people he gave a variety of answers but agreed that he was generalising. His evidence would have to be weighed against that of Dr George and Dr Porter and the recent background evidence.
28. Professor Joffé's expertise is not in issue but his evidence did show a tendency to generalise more widely than the other evidence disclosed. A particularly striking example was his willingness to understand AMH's evidence that there were only two black families in Zawiye, out of a population of 291,000. AMH himself had not made that claim about only two black families; he said in his witness statement that this was in his neighbourhood. Dr Porter, unlike Professor Joffé, had visited Zawiye in the last few months and had seen evidence of black people there. Dr George did not except Zawiye from the population of black people. Two experts had been to Zawiye and had a different perception of the level of risk, especially for Black Libyans.
29. Dr Porter gave evidence of the "possibility" of detention for unexplained reasons, for example a perceived insult if one is not from the same territory as the militia. However, he gave evidence of the level of traffic that passes through checkpoints and that traffic

is actually a problem. The day-to-day experience of Libyans is that there is a mere possibility of detention but not a real risk, which does not reach the level of seriousness required.

30. Souq Al-Juma'a is where AT comes from. People from certain districts in Tripoli may be thought to have more association with Qadhafi than people from other districts, but the risk to such a person was speculative.
31. The evidence is that the airport is safe and there are no reported concerns in relation to passengers arriving there. There are regular flights to Tripoli by BA and Al-Italia. People wishing to travel to Benghazi could go there by air, bus or taxi. Zawiye is a short distance away. Special permission is needed to travel to the southern zones but the evidence was that this would not prevent someone who was from that area returning there.
32. The table of returns since 2011 shows the numbers of forced removals of Libyans although it does not show what their destinations were, not necessarily showing enforced removals to Libya. There is no detail in the table of the actual destinations or onward destinations. In any event, that table is of no weight in terms of the issues, it having been produced only because the issue of returns was raised.
33. It is accepted that there is no national police force to investigate and detect crime and no nationally effective judiciary. However, to say that there is "no effective judiciary" is an overstatement. There is a judiciary which is independent. However, each case (where this is an issue) has to be assessed on an individual basis. Someone from Misrata will enjoy the protection of the Misrata militia. Dr Porter said that a person can ally with a particular militia and he described them as highly disciplined and hierarchical structures. They have 'secured the government contract' to supply policing services and that is what the militias are there to do. It is the case, however, that there is sometimes conflict with other communities. There is not a sufficiency of protection everywhere but again each case is fact specific.
34. Internal relocation would not be available for those in the main risk categories, for example former high level intelligence officers and Tawurgans. For others, however, who face a threat in the local area, relocation to Tripoli for example would not in ordinary circumstances be unduly harsh.
35. Professor Joffé gave evidence that someone who is isolated would find it very hard to relocate and find employment but the other experts presented a more nuanced picture. Dr George thought that it would be possible to establish networks. There is a spectrum. Generally, people live within families but tribal affiliation can also be relevant. Dr Porter, it was submitted, was the most realistic of all in his evidence in that he said that with reference to Tripoli he would find it very hard to believe that an individual would have no contacts at all there given the small size and intimacy of Libyan society.
36. AMH's case is a good example in that he has family and extended family in Libya. He has a brother in Tripoli, two brothers and a sister in Zawiye, with uncles and aunts in Tripoli, Zawiye and Zuwara. There is no reason to think that his situation is particularly unusual. There are many people living in Tripoli who are from Benghazi and vice versa.

37. The evidence in relation to the family book does not apply in any differential way to asylum seekers (from the UK). The issue is the same for all Libyans and the evidence is that it would not be unusual for many Libyans to be in the situation of not having a family book given the country's circumstances.
38. Although AMH's evidence is that he does not think that it is safe for black people in Libya, that perception overstates matters. He is from Zawiyeh and is not in a risk category. He is able to return there or relocate to Tripoli, as his brother did in 2009.
39. There are credibility issues in terms of his evidence that he has not had contact with his parents, wife and children since August 2011. In his second witness statement in 2012 he said that he called them two weeks prior to the hearing before the First-tier Tribunal. In that call he said that the family had decided to escape. Since then he had not been able to contact them and their phone is not being answered. It was not credible that he would not have informed the First-tier judge of the content of that call in terms of their deciding to escape. It was a matter that was similarly not referred to in the grounds seeking permission to appeal against the decision of the First-tier Tribunal. The notes of the evidence at that hearing indicate that he said that his family were still there and the grounds of application for permission to appeal also reflect that evidence. His evidence in this respect was an embellishment. It is not accepted that there was a lack of contact.
40. AMH would have been very anxious to find out what had happened to his family but he has not given an account of any determined effort to contact anyone in Libya. He said that for some of them he had no phone numbers but they have his number. The tracing request through the Red Cross was not made until March and has not vigorously been pursued. Subsequent appointments with the Red Cross had not been made or kept.
41. AMH said that his friend had called him and said that there had been an attack on the family at the end of January 2012. The family was still in the house in August 2012 and the question arises as to why there was no attempt to contact them, or ask his friend H to visit the house. In relation to his wife's family he said that he was thinking about contacting them and this had caused him to be diabetic, but that does not explain why he has made no effort to make contact.
42. His friend had had telephone contact with his brother. He had a brother in Egypt who is said to have been famous in Libya but apparently not in Egypt. The most striking evidence of fabrication is his account in relation to his friend H who it seems gives an account at just the right time of people being arrested because the appellant had phoned them rather than because they had been demonstrating.
43. In any event, his evidence is that he is a well known opponent of the Qadhafi regime and he and his brother are leading lights locally in terms of opposing the regime. He would therefore be well known in the area for that reason and would not be at risk of being suspected as a supporter of Qadhafi.
44. In answer to a question from the Tribunal, Mr Palmer submitted that the evidence does not show that there would be risk to an opponent of the Qadhafi regime by any resurgent pro-Qadhafi group. Dr Porter said there was no prospect of any such group carrying out a rearguard action. Professor Joffé said that there may be revenge attacks



against 'turncoat' soldiers but the other experts were of the view that the Islamists were responsible for such attacks.

45. As to other ethnic groups, the Tuareg and Tibu had already been referred to. It was not suggested that there was any persecution of the Berbers who are well represented in Parliament, and had indeed occupied the Parliament building on one occasion. It is true to say however, there had been discrimination of the Berbers under Qadhafi.

*Submissions on behalf of AT*

46. Mr Ficklin accepted that the information provided by Mr Palmer revealed that there were enforced removals of Libyans when it was thought that at the time there were none.
47. In relation to Article 15(c), Mr Ficklin said that he had no instructions to and did not concede that issue but he would not be making submissions on it.
48. The GNC is a nominal government and is not in charge. Who is in charge depends on the local situation. The GNC is only able to exert authority to the extent that various militias are willing to exert their authority as a proxy for the GNC. They exert their authority to further their own interests. At times these overlap those of the GNC, for example in relation to undertaking airport security.
49. In relation to detentions, these involve a real risk of serious harm especially at the early stages of detention by militias. Even in government controlled facilities there is a risk. Reference was made to the OGN and other background material in relation to torture and the types of detention facilities. The number detained by militias is uncertain with figures of between 5,000-10,000 being given but these figures are nothing other than a guess. It is not even known how many detention facilities there are. Dr Porter's evidence was that there are further detentions taking place.
50. There is evidence of the abduction of Qadhafi supporters and of pure criminality, as well as the protection by militias of their business activities, in relation to arrests of Qadhafi supporters and their family members but the numbers are not known.
51. Although it has been suggested on behalf of the respondent that the militias keep the peace and may be able to provide sufficiency of protection, if it results in detention that raises the risk of serious harm. There is no sufficiency of protection. There are many examples of new detentions for non-political reasons and where people have died in custody. In answer to a point we raised, Mr Ficklin said that it could not be acceptable for non-state actors who breach human rights to be the actors of protection. Even the quasi-legitimate functions of the militias raise a real risk of a violation of an individual's human rights.
52. There is evidence in the UN report of new detentions of those thought to support the Qadhafi regime and their family members. It has never been suggested that anyone who had a government job would be at risk, for example "a bin man". In cases of family, however, they would be collectively identified as a family of supporters. Black Libyans were not targeted because they were supporters or mercenaries but because there were black people who were. This is the same as it is for Tawurgans and Mashashyans. Collective identity is a feature of Libyan society.

53. Although there are targeted attacks against former intelligence officers, the UN report also refers to attacks on family members. It is also to be noted that it is said to be difficult to find lawyers to represent individuals who are former Qadhafi loyalists which is another example of collective identity. The expert evidence was that in the case of Tawurgans and Mashashyans, collective identity would take precedence over personal factors which would require investigation and proof, but in Libya none is needed for detention. There may be cases where an individual with “immutable characteristics” would be at risk at a checkpoint.
54. For the most part there would be no such thing as anonymous relocation. There may be exceptions for those who do not depend on networks. However, those networks may still communicate the fact of someone new coming into an area. Someone without a network would be even more unusual. If such a person is at risk in the home area, relocation even to Tripoli would not be possible. That, however, does not apply in the case of AT.
55. Although recent events in Tripoli are relevant, for example in terms of militia having been told to leave an area, the evidence is that the militia leave an area and then simply return.

*Submissions on behalf of AMH*

56. Ms Patel referred us to various aspects of the background evidence, AMH’s witness statement and her skeleton argument. The appellant's father was in the army for 30 years and his brother moved to Tripoli. Black H are the weakest group, he says, and Zawiye was not a safe place for his family. Zawiye is now under the control of the Zawiye militia. The appellant's account is consistent with the background evidence of what was happening in that area.
57. AMH did mention to the First-tier Tribunal the phone call from his wife. His evidence that his family had decided to leave is in his witness statement. The evidence was that at the time he left his wife and children with his family. In the phone call he had said in evidence to the First-tier Tribunal that his wife appeared scared and that the call only lasted about five minutes. He had said that communications had been cut off. He had tried to ring them every day.
58. The appellant’s witness, NS, gave evidence to the First-tier Tribunal that the appellant would be at risk because of his colour and would be perceived to be part of the forces that supported the regime. The evidence was not clear on the numbers of black families in the area. Because no-one could tell where a black person is from, that would put him at risk. There was evidence from another witness who was not called before the First-tier Tribunal because he had left the country. In cross-examination (before the Upper Tribunal) the appellant had said that he did not have the details of his brother. We were referred to the findings of the First-tier judge in terms of the positive credibility findings.
59. At the time of the hearing before the First-tier Tribunal the appellant was a refugee and is still a refugee. The evidence at the time of the First-tier hearing is the starting point.
60. There is evidence of recent efforts to trace his family in the letters from the Red Cross and in his oral evidence. Although there were no further letters from the Red Cross, his evidence is that he kept seeing the Red Cross worker and asking about progress.

Although it is said that he had embellished his account, that would not make the whole account incredible.

61. The only expert that had been to Zawiyeh is Dr Porter, in August. He also went to Tripoli and Misrata. Dr George had only been to Tripoli and Misrata last year. Dr Porter said that he was able to pass through the checkpoints as he was a foreign national from the US, a country that had helped to get rid of Qadhafi. Although it is true that he was not stopped at a checkpoint, he is white and was waived through. Although it is not far from Tripoli to Zawiyeh, the number of checkpoints is not certain and they are sometimes set up at short notice.
62. The evidence from Dr George is that there are about 1,700 militias, as is background evidence from the BBC, although the numbers are not certain. In oral evidence Professor Joffé said that there were about 350. At least it could be said that there are in excess of 350. The evidence is that these militias at checkpoints are unpredictable. If stopped, as a Black Libyan AMH would be asked questions and his family background would be established. The evidence accepted by the First-tier judge is that his father worked for 30 years in the army. His brother is also very religious and well known in Zawiyeh. The question is would they believe that he was not a Tawurgan? The evidence is that Tawurgans and Sub-Saharan Africans are targeted.
63. Even if it is thought that there is not enough evidence that all Black Libyans are at risk, the evidence does establish a risk in his case. Dr Porter said that there was no indication of how the militias would behave at a checkpoint. If he was not able to pay a bribe, the evidence is that that would lead to detention which would then lead to a breach of Article 3 or even 2 as people are known to have died in custody.
64. Although on behalf of the respondent it was sought to isolate the violence to specific areas, it cannot be looked at in that fragmented way. All experts agreed that Libya was an inherently racist country. Although there was evidence from Drs George and Porter of Black Libyans going about their business, Dr Porter was not asked how many Black Libyans he saw or what their background was. The fact that they go about their business does not mean that they are not persecuted. Severe discrimination on a cumulative basis can equate to persecution.
65. In relation to internal relocation, the evidence from Professor Joffé was that south Libya is out of bounds for all Libyans. For the appellant therefore, the options are Benghazi or Tripoli. He would, however, need to register with the police and there is the question of the family book which gives access to benefits and accommodation. There is also the harshness of relocation given the evidence of shanty towns on the outskirts of the city. The militia would be targeting these areas. It is true that there is no evidence as to whether the appellant has a family book. The matter was not put to him.
66. AMH does have a brother in Tripoli and a sister. Mr Palmer reminded us of the evidence in relation to other relatives the appellant has in Tripoli, Zawiyeh and Zuwara. Ms Patel reminded us of the appellant's evidence that since the conflict he has had no contact with those relatives.
67. So far as the evidence of enforced returns is concerned, the numbers are very low. It is hard to understand why no statistics are available as to the number of Black Libyans returned when bio-data is obtained when someone claims asylum. However, it was not

suggested that anything underhand was going on in terms of the lack of statistics. It could not be assumed, however, that any Black Libyans had been returned. It was accepted that the highest it could be put in this respect on behalf of the appellant is that it is possible for the information to have been collated but it has not been.

68. Although it is said that a returnee is met by a representative of the airline, that does not mean that it would not be a militia member. Returns are not monitored so if something had happened to a returnee it is not clear that one would have heard.
69. Since 2011 the government in Tripoli have wanted militias out of the city. They move out and then move back in. That is the pattern in Benghazi as well.
70. Ms Patel stated that she did not intend to make any (further) submissions in relation to Article 15(c) and it was a matter for the Tribunal.

#### *Submissions on behalf of HKA and AE-S*

71. Ms Harrison relied on her skeleton argument and endorsed the submissions made on behalf of the other appellants. HKA and AE-S would need to make arrangements to travel from Tripoli to Benghazi. The evidence is that Benghazi is worse in terms of security than Tripoli. We were referred to the report of Dr Porter at [42] and at [45] in relation to checkpoints and how easy or otherwise it is to navigate through them.
72. These two appellants without contacts going into a new territory may be asked for a bribe and detentions are arbitrary with the situation at checkpoints being extremely unpredictable. Although HKA would be returned with her brother, there is background evidence in the consolidated bundle at page 233 of two women who were with a male chaperone being arbitrarily detained, although they were then released.
73. It may be necessary to distinguish between a lone female and one accompanied, as explained in Dr Porter's report at [67]. In his oral evidence he said that a single woman trying to rent property or to reserve a hotel room could be suspected of being a prostitute. We were reminded of his oral evidence in relation to the potential problems faced by women moving from place to place, although he said that it would not necessarily be dangerous for a female travelling alone.
74. HKA had given details in her witness statement of her family, that information being consistent with the screening interview. There is no evidence as to whether she has a family book, although she travelled with her passport which it was said is part of the compendium of information in the family book.
75. In relation to Article 15(c), Ms Harrison adopted the same position as the representatives for the other appellants.

#### *Further submissions on behalf of the respondent*

76. We sought clarification from Mr Palmer in relation to whether it could be said that there are "Actors of Protection" in Libya, with reference to the Refugee or Person in Need of International Protection Regulations 2006 ("the 2006 Regulations"). Mr Palmer referred to reg. 4(2) submitting that it was not necessary for each of the matters set out there to be in place before it could be found that protection can be provided. The question is one of fact. We were referred to the decisions in Horvath and Bagdanavicius

which emphasise practicality and effectiveness. It was not accepted that reg. 4(2) establishes a set of legal hurdles.

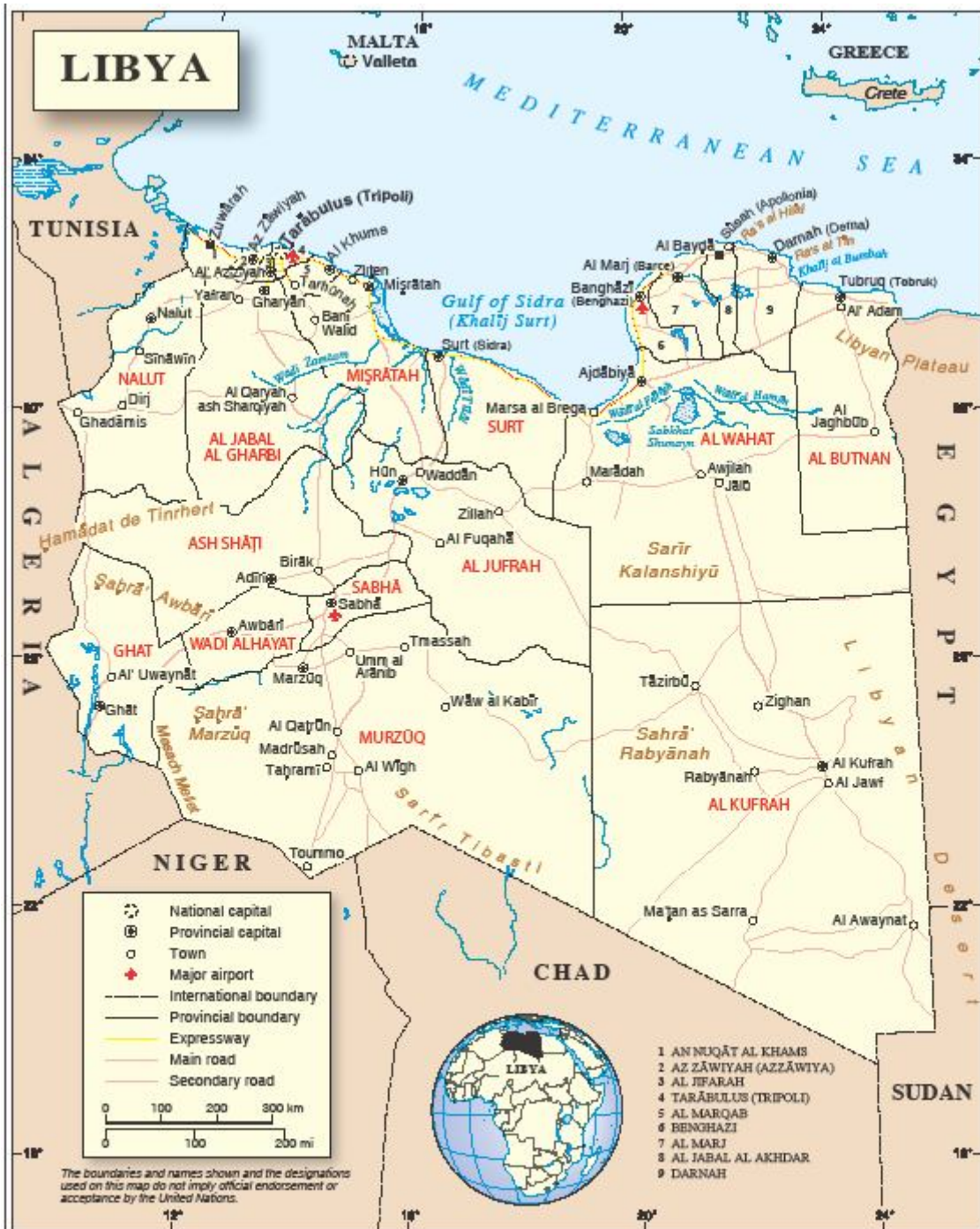
77. In these appeals it is not submitted on behalf of the respondent that the question of the effectiveness of protection is dispositive of the outcomes, neither have the appellants. Their arguments relate to risk categories. It was not, however, suggested that the same militias who present a risk to an individual could provide the protection to that person.
78. In other cases, for example a blood feud, the question of how effective the protection of the militias would be was not put to the experts and no evidence was advanced on the issue.
79. Even if reg. 4(2) does set out legal requirements that must be met, on the facts here they would be. Militias have taken over policing and there is some form of a judicial system, albeit not national in effect. It was accepted that on a national basis there is no judicial oversight of the militias. There are some courts operating Dr George said, although again not on a nationwide basis. The issue as to in what areas that is the case was not explored in evidence.

*Further submissions on behalf of AT*

80. Mr Ficklin submitted that reg. 4(2) did establish a set of requirements that had to be met. He relied on the decision of the European Court of Justice in Abdullah C-175/08 [2010] ALL ER (EC) 799. Although it is true that the militias have been 'sub-contracted' it is relevant for example to take into account that detention centres nominally under the control of the government do not conform to any national standards. The same is true in relation to policing. There would in that case be a flagrant breach of Article 6 of the ECHR.

# APPENDIX F

## MAP OF LIBYA



Map No. 3787 Rev. 7 UNITED NATIONS  
February 2012

Department of Field Support  
Cartographic Section

## APPENDIX G

### THE BACKGROUND EVIDENCE

1. Although some aspects of the background evidence are more easily categorised as relating to a discrete issue than others, we have sought to avoid an artificial separation of the background evidence by category. The fact that we have summarised the evidence with reference to broad categories does not suggest that any such category is to be isolated from contributing to the overall landscape of assessment. Our summary has regard to the issues that are to be determined in these appeals.

#### **General assessment**

2. The Country of Origin Information report ("COI") dated 19 December 2012, at 4.01, quoting The Encyclopaedia Britannica in its chapter "Libya Revolt of 2011" states that the National Transitional Council ("TNC") struggled to establish a functional government and exert its authority in the months following the fall of the Qadhafi regime. The report refers at 4.02 to the elections of July 2012. According to the Secretary General's Special Representative and head of the UN Support Mission in Libya ("UNSMIL"), election observers from the African Union, the European Union and the Carter Centre had made positive preliminary statements praising Libya's High Election Commission, for its transparency and flexibility in the face of security threats in Eastern parts of the country. At 4.04 an article from The Economist is quoted as referring to the relative failure of the Islamists in the election. At 4.05 the handover of power from the NTC to the General National Congress ("GNC") on 8 August 2012 is described.
3. Ali Zidan was elected as Prime Minister in October 2012, the previous prime minister having been dismissed a week earlier for failing to form a government. There were protests against some of the ministerial nominations who are said to have had links with the former regime. The Libyan national assembly building was stormed by protestors, the events "being a reminder of the volatility still plaguing Libya" a year after the fall of Qadhafi, according to a Reuters report dated 1 November 2012 (COI 4.06-4.07).
4. At 4.08, a Libya Herald article dated 16 November 2011 is quoted, noting that several ministers had been disbarred from holding public office by the Integrity Commission. The process of vetting is said to have been condemned by Human Rights Watch. There follows a long list of categories of those banned from holding public office on account of various activities or enrichment under the previous regime.
5. At 4.09 there is a description of attacks on Sufi shrines by Salafists in September 2012 and previous weeks, with neither the Ministry of the Interior nor the police intervening. The article from The Economist suggests that this may indicate the influence of the extreme Islamists or the weakness of the government and its security forces. The same article describes a disquieting aspect of the new Libya being the ability of local militias, especially in, for example Misrata and Zintan, to ignore the writ of the government. Tribal and ethnic tensions for example in southern cities such as Sebha and Kufra continue to provoke periodic outbreaks of violence.

6. The attack on the US Consulate in Benghazi in September 2012 killed the US ambassador and three other Americans. The extract from a BBC news report states that the US believes that Islamist armed groups used a protest against a film produced in the US as cover for the attack and a Telegraph article describes the possible involvement of Al-Qaeda (4.10-4.11).
7. At 4.12-4.13 the UN news service and Human Rights Watch ("HRW") reports on fighting in Bani Walid in September and October 2012 are referred to. The former refers to "growing civilian casualties due to indiscriminate shelling". Libyan army forces are said to have launched a full scale assault against the town, accusing it of being controlled by Qadhafi supporters. The small city of Bani Walid is said to have been one of the last to fall to rebel groups and to be a centre for regime loyalists and criminal gangs. HRW reported that the number of victims from the fighting "and indiscriminate shelling" remained unclear. Doctors at the hospital said that at least seven people not associated with any armed group had been killed and 60 wounded. "That number" rose as the major assault by attacking forces began on October 18 with thousands of residents fleeing. The Libyan official news agency reported that at least 22 people had been killed.
8. The HRW report describes Bani Walid as being home to Libya's largest tribe, the Warfalla with many considering the town as pro-Qadhafi. One militia from the Warfalla fought against Qadhafi and in 1993 a group of Warfalla were among those who staged a failed coup against Qadhafi. The officials in Bani Walid have said that they are loyal to the new government but refused to surrender those wanted for crimes before or during the 2011 conflict until Libya has a functioning judicial system and hundreds of Warfalla held without charge are released from detention, especially in Misrata.
9. The US State Department report for 2012 dated 19 April 2013 ("USSDR") reports that some human rights abuses continued most frequently where the elected government did not control militias. The government lacked the capacity and basic legal framework to protect civil and judicial rights fully. With regard to the courts there is a lack of enforcement capability, lack of competency and confusion over the applicability of the old and new laws. The most significant human rights problems resulted from the absence of effective justice and security institutions. The new government fell short of establishing a consistent rule of law.
10. The USSDR continues that:

"Other important human rights abuses included: arbitrary and unlawful killings, including politically motivated killings by groups outside government control; kidnappings; torture and other cruel, inhuman, or degrading treatment or punishment; harsh and life-threatening conditions in detention and prison facilities, some of which were illegal; arbitrary arrest and detention; lengthy pretrial detention; denial of fair public trial; an ineffective judicial system staffed by intimidated judicial authorities; arbitrary interference with privacy and home; use of excessive force and other abuses in internal conflicts; localized restrictions on humanitarian aid to civilians; limits on the freedoms of speech and press, including violence and harassment of journalists on several occasions and in certain areas; restrictions on freedom of religion; abuses of internally displaced persons (IDPs), refugees, and migrants; social discrimination against and societal



abuse of women and ethnic and racial minorities, including foreign workers; legal and social discrimination based on sexual orientation; trafficking in persons; killings related to societal violence; and breaches of labor rights in practice, including forced labor.”

11. Further, in relation to accountability, the effectiveness of the judiciary and security it is stated that:

“Impunity was a serious problem. Although militias detained abusive Qadhafi-era officials, the scarcely functioning criminal courts struggled to try them, and when they did attempt to conduct trials, judges often faced threats of violence. In the same vein, with the judiciary not fully functioning, the government had not taken concrete steps by year’s end to advance transitional justice. There were rarely investigations and still fewer prosecutions of those believed to have committed abuses.

With the disappearance of the authoritarian Qadhafi regime, militias that spearheaded his overthrow filled a security vacuum in many parts of the country. During the year militias and their supporters--at times nominally but not fully under the control of the interim and later the elected government’s authority--violated human rights and humanitarian norms, committing unlawful killings, physical violence, and other abuses. Hostility to real and perceived Qadhafi loyalists permeated the country, the principal targets of which were actual or suspected former Qadhafi soldiers or supporters. Nongovernmental actors, including autonomous militias and armed tribal groups, committed human rights abuses. Disappearances, illegal detentions, and imprisonment of persons on political grounds occurred, as did looting and further violence. Vulnerable civilian populations, including ethnic minorities and migrants, faced ongoing violence and discrimination.”

12. Particular targets of arbitrary and unlawful killings were real or suspected Qadhafi supporters, Qadhafi soldiers, possible sub-Saharan mercenaries, dark-skinned Libyans, former members of the security forces, as well as foreign diplomats.
13. Page 3 of the USSDR reports that there were at least 21 killings in Benghazi alone of current and former security officials, many of them defectors from the Qadhafi regime.

### **Militias/detentions**

14. An example of the human rights abuses that are said to have been committed by militias is that reported by the UN Support Mission in Libya, at page 5 of the USSDR: three detainees died on 13 April as a direct result of torture, and at least seven other persons were tortured in the Zaroug detention facility in Misrata. The Supreme Security Committee (“SSC”) which was under the control of the Ministry of the Interior, controlled the facility. The USSDR continues that:

“Treatment varied from facility to facility and was typically worst at the time of arrest. Reported abuses included beatings with belts, sticks, rifles, and hoses; administration of electric shocks; burns inflicted by boiling water, heated metal, or cigarettes; mock executions; suspension from metal bars; and rape. Abuses against detainees, particularly alleged Qadhafi loyalists and sub-Saharan Africans aligned

with Qadhafi, were similarly reported at other militia-run facilities throughout the country.”

15. According to a report by the UN Secretary General’s special representative for Libya, on 10 May 2012 there were approximately 3,000 people held in 31 Justice Ministry facilities and approximately 4,000 held by various militia groups at formal or secret detention facilities. At year’s end the ICRC estimated that several thousand persons remained detained with the greatest concentration of detainees being in greater Tripoli, Misrata and Benghazi. The vast majority were Libyans accused of fighting for the Qadhafi regime. The other main category was foreigners of which a majority appeared to be irregular migrants.

16. As to the types of informal detention facility and the conditions within them:

“makeshift facilities appeared throughout the country to accommodate detainees collected by all sides. These facilities’ conditions were uneven and varied widely, but consistent problems included overcrowding, poor ventilation, the lack of necessities such as mattresses, and poor access to hygiene and health care. Militias reportedly detained persons at schools, former government military sites, and other informal venues, including private homes and, in one case, a soccer club. Many prisons and detention centers were outside of central government control, and the conditions in some prisons and detention centers were harsh to the point of being life threatening. Access to food in Ministry of Justice prisons was generally adequate, although access to potable water was a critical problem in Joodayem, Salah Aldeen, and Dafniya prisons.

Men and women were reportedly held separately. In some instances minors were held in Ministry of Justice prisons with adults. Human rights organizations reported that militias also held minors with adults.

Administration: Information about the administration of prisons and detention centers was generally not available due to the lack of government control and improvised solutions that were required to accommodate the large increase of detainees in the course of the revolution. There was no information on adequacy of recordkeeping, alternative sentencing practices, permission for religious observances, investigation of allegations of inhumane conditions, or access to visitors. There was no credible ombudsman for prisoners and detainees.”

17. On page 15 of the USSDR, in relation to freedom of movement it states that on 16 December 2012 the GNC voted to declare much of the southern part of the country a “closed military zone”. With the ending of the conflict some militias and government forces imposed barriers to movement by setting up checkpoints in areas that remained strongholds for Qadhafi loyalists, such as Bani Walid, Sirte, Tawargha and other locations.

18. The Report of the Secretary-General on the United Nations Support Mission in Libya dated 5 September 2013 refers at para 20 to a decision by the GNC in March 2013 instructing the Ministries of Defence and Interior to remove from Tripoli all “illegitimate armed formations”, and ensure transfer to the army of all illegal arms and military equipment in the city. “Notwithstanding broad public support for the decision,

its implementation has proven to be quite difficult, partly owing to the conflicting political and regional agendas on the part of the various brigades.”

19. At para 21 there is reference to clashes between Zintan brigades affiliated with the Ministry of Defence and others affiliated with Tripoli’s Supreme Security Committee. The two-day clashes left at least 10 dead, and on 27 June, the Minister of Defence, Mohammad al-Bargathi, was dismissed. “The restoration of a fragile calm to the city’s streets was interrupted by the remote detonation of four car bombs on 16 July.”
20. With reference to eastern Libya, the report states at para 23 that Benghazi and other parts of eastern Libya witnessed mounting opposition to the revolutionary brigades, especially those referred to as Libya Shield. A demonstration outside the barracks of one such brigade resulted in an exchange of fire between protestors and the brigade, resulting in 30 people being killed. It goes on to refer at para 26 to “a discernible campaign” of assassinations targeting members of the security forces in eastern Libya.
21. The security situation in southern Libya is said in the report to remain mostly fragile despite government efforts. There was a spate of security incidents including armed attacks on 30 March on the security directorate in Sabha and a military base in the region and three car bombs in downtown Sabha on 26 June resulting in four deaths.
22. Para 38 suggests that the overall number of “conflict-related” detainees remains at around 8,000, the majority of whom are held in facilities nominally under the authority of the ministries of justice and defence. There was no significant advancement in the judicial screening of detainees, partly because of the limited enforcement power of the prosecutors and their reluctance to act through fear of reprisal. The safety of judicial personnel remained a serious concern, with several attacks on judges and prosecutors recorded. A high-level judge was assassinated outside the courthouse in Derna on 16 June and there were bomb attacks on courthouses in Sirte and Benghazi in July.
23. The treatment of detainees remained a serious concern, with evidence of torture and other forms of ill-treatment, and conditions of detention in a number of facilities, especially those holding illegal migrants under the authority of the Ministry of the Interior remained unacceptable.
24. Regarding the judiciary and prisons, at para 45 it is stated that except for senior members of the Qadhafi regime, the resumption of criminal trials remains slow, owing to security problems. Para 47 refers to prison breaks, including the escape of 1,400 inmates from a prison in Benghazi following a riot.
25. The OGN for May 2013, states at 3.13.14 in relation to prison conditions that:

“Prison and detention centre conditions in Libya are very poor; overcrowding, lengthy pre-trial incarceration, torture and deaths in custody are particular problems. The Libyan authorities have yet to gain authority over the hundreds of militias currently holding several thousand detainees outside any legal jurisdiction.”
26. At 3.13.15 it states that:

“There is evidence of security personnel and members of militia groups acting with impunity with regard to inhuman and degrading treatment. Reports indicate

that those perceived to have been pro-Gaddafi loyalists, and those perceived to have been working or fighting on his behalf, particularly those of African ethnicity are at particular risk of ill treatment. In such cases the risk of mistreatment will be sufficient to make removal a breach of Article 3."

27. Finally, it is said at 3.13.16 that where applicants can demonstrate a real risk of imprisonment on return to Libya, a grant of Humanitarian Protection is likely to be appropriate, going on to conclude as follows:

"However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3. Relevant factors include the likely type of detention facility, the reasons for detention, with particular regard to the individual's political profile, and the individual's age, gender, ethnicity and state of health."

28. In its summary of the report "Torture and deaths in detention in Libya" the United Nations Support Mission in Libya ("UNSMIL"), dated October 2013, states that:

"Torture and other ill-treatment in Libya is an on-going and widespread concern in many detention centres, despite the efforts of the Libyan authorities which are committed at the highest level to ending torture and to ensuring the proper functioning of the criminal justice system."

29. Since 2012, the report states, the government has sought to bring under the authority of the state the armed brigades which are in control of most of the detention facilities where torture takes place. In April 2013 Libya adopted a law criminalising torture, enforced disappearance and discrimination. A new law in September 2013 requires all conflict-related detainees to be released or referred to the public prosecutor within 90 days of the promulgation of the law. Nevertheless the report states, torture continues and is most frequent immediately on arrest and during the first days of interrogation as a means to extract confessions or other information. Detainees are usually held "without access to lawyers and occasional access to families, if any." The vast majority of the estimated 8,000 conflict-related detainees are held without due process.

30. From late 2011 UNSMIL has recorded 27 deaths in custody where there is significant information to suggest that torture was the cause. There are other cases which it has not been able to investigate. Eleven of the 27 cases took place in 2013 in detention centres under the nominal authority of the Government, but effectively under the control of armed brigades.

31. As to the number of conflict-related detainees, on page 4 of the report it is said that the 8,000 estimate is a figure that has remained fairly constant since the declaration of the liberation in October 2011. Accurate figures, including in relation to the detaining agency, are not available. The report describes at pages 4-5 the range of detention facilities, from those under the authority of the state, specifically the Judicial Police or Military Police, for example prisons, those fully or partially under the authority of armed brigades brought within various government ministries, to those run entirely by armed brigades with no formal connection to any State institution and no control by the government.

32. Vetting of brigade members integrated in State institutions such as the Judicial or Military Police has been minimal or non-existent.
33. On page 6 it states that those arrested include individuals suspected of having fought on the side of or of having supported Qadhafi's regime, "and their family members". Some have been detained apparently on the basis of belonging to certain tribal or ethnic groups, including Warfalla, Tawurga and Mashashiya "as these groups are collectively perceived by some as having supported the former regime". It goes on to state that given the arbitrary nature of the arrests and lack of judicial oversight "cases of personal score-settling are not uncommon".
34. The Ministry of Justice reported in September 2013 that of the estimated 8,000 conflict-related detainees, 4,000 are under the custody of the Judicial Police, with the remainder being held by the Military Police under the Ministry of Defence, by the SSC and the Combating Crime Department (composed mostly of armed brigades operating under the Ministry of the Interior) and by armed brigades not affiliated to any Ministry. Around 2,700 are in some seven detention facilities in Misrata.
35. As to the number of detention facilities, reliable figures are not available, although there are 37 under the authority of the Ministry of Justice as at September 2013.
36. A report in the Libya Herald dated 13 September 2013 describes SSC commander, Abdel Rauf Kara, as estimating that he has some 700 men under his command at his base at Mitiga airbase. There are seven or eight units and their numbers can be swelled to around 10,000 if reserves are called in. He stated that the members of the SSC come not only from Souq Al-Juma'a but from all over Tripoli, and outside Tripoli. The report describes him as the most powerful *thuwar* leader in the capital after Hashim Bashir, the commander of the city's SSC.
37. Kara is reported as stating that there is no trust between the *thuwar* (who make up the SSC) and the government because of the latter's tendency to appoint persons associated with the old regime. That the *thuwar* have not *en masse* joined the police or the army is because the government is considered suspect.
38. Kara is also reported as having stated that he does not condemn everyone who worked for the Qadhafi regime, stating that they have relatives and friends who used to work in it but they were not involved in any bloodshed, or did not steal any public money. Whether they are affiliated with the Interior Ministry or the army, all SSC units are paid by the government, and all other expenditures are met by donations, stating that people donate money to them "to maintain security and to provide protection." He accepted that on occasions he acted independently of the Ministries because sometimes he has to take decisions when "no one will be willing to instruct you" in relation to taking responsibility for protecting people and institutions.
39. In a further Libyan Herald report of 10 June 2013 he is quoted as accepting that the SSC when created did include drug dealers, smugglers and former prisoners under Qadhafi, and that some people who perpetrate crimes are also members of the SSC: "You would consider the SSC as a mix of sheikhs, students and graduates from prison!". He stated, however, that it played a key role in providing security in the capital.
40. A report by Amnesty International ("AI") dated July 2012 entitled "Libya: Rule of Law or Rule of Militias" (and based on a visit to Libya in May and June 2012) describes in its

introduction the detention and torture of two women aged 27 and 32 by militia at a checkpoint in February 2012, accused of supporting the former regime. In describing the abuses committed by militias the report states that they recklessly use machine-guns, mortars and other weapons during tribal and territorial conflicts “killing and maiming bystanders”. It continues, stating that militias continue to seize people albeit on a significantly reduced scale.

41. The report in its introduction states that UNSMIL estimated that about 4,000 people were held outside of government control in mid May 2012, but “recent” estimates in the report are said to put the number at about 7,000. The transitional government is said to have made some progress in bringing prisons under the oversight of the relevant ministries. Treatment in places of detention is said in the report to improve for longer term detainees although new arrivals continue to suffer abuse. Detainees are particularly vulnerable to revenge beatings and vigilante-style justice when held by victims or relatives of victims of human rights violations by Qadhafi forces or when held in cities where they allegedly committed the violations.
42. Progress in charging detainees with recognisable criminal offences is said to have been extremely slow, with some detainees being held for a year without charge. With rare exceptions they are interrogated without lawyers. To AI’s knowledge, by early June 2012 only three trials had begun in civilian courts in relation to crimes committed in the context of the conflict.
43. On page 10 of this AI report it refers to public criticism of the revolutionaries being uncommon. Outspoken individuals faced threats and intimidation “entrenching the climate of self-censorship” (quoted in the OGN at 3.10.6).
44. In a report by Amnesty International (“AI”) dated July 2012 entitled “Libya: Rule of Law or Rule of Militias” (and based on a visit to Libya in May and June 2012) reference is made to the Tawurga and the estimated population of about 30,000 having been driven out by Misrata militias, those former inhabitants being scattered across Libya, including in poorly resourced camps in Tripoli and Benghazi. The Mashashiya community from the areas of Awaniya, Zawiyat al-Bajoul and Omer in the Nafousa Mountains are said in the report to face a similar plight at the hands of Zintan militias. Not only are such communities barred from going home, they also face arbitrary arrest and other reprisals.
45. Foreign nationals “in an irregular situation”, particularly those from sub-Saharan Africa are said to remain at risk of abuse. Although they are no longer being arrested on a large scale on suspicion of being foreign mercenaries, they are still being routinely rounded up from their homes, or seized at checkpoints or from the streets by armed militias. Their crime is to have entered the country illegally. They are held indefinitely in detention facilities under the control of militias in poor conditions without any possibility of challenging the legality of their detention. Some have complained of beatings, in some cases amounting to torture. Further on at section 3 the report refers to both recent arrivals and those who have lived in Libya for many years being seized, and including both men and women.
46. Tensions and fighting in the remote south-eastern city of Kufra are described from page 47 of the report. The city is home to a black minority community, the Tabu, who are also present elsewhere in Libya as well as in Chad and Niger. Animosities between the

Tabu and the majority Arab Zwaii tribe predate the 2011 uprising against Qadhafi. The Tabu complained about discriminatory policies and practice during the Qadhafi era. The majority Arab population of Kufra complained about the involvement of non-Libyan Tabu in violence and other lawless behaviour. Tabus joined anti-Qadhafi forces during the uprising. A local Tabu leader briefly served as Kufra's representative on the NTC before resigning in October 2011 in protest against what he said was continued marginalisation and discrimination against the Tabu.

47. Kufra's residents are said to have borne the brunt of the resulting armed confrontations, which also included Libya Shield forces. Among those killed were individuals not involved in the fighting, including women, children and unarmed men. Both sides are said to have fired recklessly and inherently indiscriminate weapons such as mortars are said to have been used. There has been displacement of families from both groups as a result of the fighting and both sides seized captives who were ill-treated. A short report in Maghreb.com refers to further conflict in Kufra in June 2012.
48. In Sabha tensions between Arab and Tabu communities also led to violence in late March 2012. Bystanders and the local population were affected. The violence is said to have lasted six days and left 81 people dead. Tabu students at Sabha University reported that they had been harassed by Arab militia, had their rooms raided, their belongings taken, and were detained and tortured. A number of individual examples are described. An AI report of 23 April 2012 refers to 150 deaths and 350 injured.
49. Tabu militias are said to have been responsible for the deaths of civilians, arbitrary arrests and torture when they attacked the city of Traghen, about 120 km from Sabha in October 2011. There were claims that remnants of the Qadhafi government were in hiding there.
50. Conflict in Bani Walid is the subject of an AI report dated October 2012. The GNC had authorised the Ministries of Interior and Defence to use force to arrest suspects, including those said to have been responsible for the alleged torture and killing of the Misratan Omran Shaaban, one of those credited with having captured Colonel Qadhafi on 20 October 2011. Since then members of the Libyan army, Libya Shield forces and militias from around the country including Misrata, had surrounded Bani Walid and clashes occurred on the outskirts of the city. Three residents of the city are said to have been killed. There are said to have been long-standing tensions between Bani Walid and Misrata.
51. A BBC news report dated 9 June 2013 refers to the resignation of the Libyan army Chief of Staff after 30 people died in clashes between protestors and militia in Benghazi. Protestors had gathered outside the Libya Shield Brigade's premises, demanding that it disband. Tens of thousands are said to have taken to the streets in 2012 in Benghazi to eject a number of armed groups that were blamed for continuing lawlessness in the city.
52. Al Jazeera reported on 25 August 2013 on clashes in Zawiye between members of the Wershifana tribal group and residents of the town. Four people are said to have been killed and several wounded.
53. On 8 November 2013 Reuters reported on clashes between rival militias in Tripoli, in which anti-aircraft guns and grenades were used. At least one person is said to have

been killed and 12 wounded, although al-Arabiya television reported two killed and 21 wounded. The gunfire is said to have caused diners to run for cover and drivers to abandon their cars. Guests in one of Tripoli's best hotels, the Radisson Blu, were evacuated after windows in the reception area were broken by stray gunfire.

54. A Reuters report dated 8 November 2013 refers to fighting by rival militias in Tripoli describing it as a four hour battle with anti-aircraft guns and grenades, and as "the worst fighting for months in the Libyan capital". At least one person was killed and 12 wounded. It is said to have been the second outbreak of street fighting within days.

#### **Particular ethnic groups, dark-skinned Libyans and Sub-Saharan Africans**

55. The USSDR report states that although significant numbers of Libyans had returned to their places of origin, there were still 65,000 IDP's. Most Tawurgans had not returned to Tawurga by the end of 2012. Return of the inhabitants is impossible without systematic reconstruction and security efforts. There was no effective government programme to assist IDP's or facilitate their return and their needs were largely met through international humanitarian assistance. IDP's were vulnerable to abuses, such as armed attacks, arbitrary detention, trafficking, forced labour, and gender-based violence, from militia forces or other armed groups not under the control of the transitional governments.
56. IDP's from tribes and cities known to be loyal to the Qadhafi government, including the Tawurga, Qawalish, and Mashashiya, additionally faced harassment, violence, intimidation, and discrimination. Militias in Misrata arbitrarily detained hundreds of Tawarghan IDP's, including women and children, and transferred them to detention in nearby Misrata, where human rights groups reported serious mistreatment and torture. Dark-skinned Libyans were particularly vulnerable to harassment and abuse by militia forces.
57. Concerning the protection of refugees and access to asylum, the report on page 17 states that while the flow of persons across the border continued throughout the conflict, there were reports that hundreds to thousands of sub-Saharan Africans entered the country illegally, aided by the porous nature of the country's southern borders. Treatment of migrants depended upon their country of origin and the offence for which they were being held (some were held for having improper documents and others for having committed other crimes). There was no consistent protocol for determining whether foreigners were to be sent to migrant detention facilities or to criminal detention facilities. The waiting time for deportation to home countries was also uneven, with some individuals returned after three months and others waiting a year or more.
58. On page 17 of the USSDR it states that detention of sub-Saharan African refugees and migrants increased significantly after the fall of the Qadhafi government, when revolutionary forces detained thousands of sub-Saharan Africans on suspicion that they supported the Qadhafi regime or were complicit in abuses during the conflict. While the interim governments and affiliated militias subsequently released several thousand detainees, estimates of sub-Saharans detained in scattered detention sites at the end of 2012 ranged from 1,500 to 2,500. The UNHCR, ICRC, International Organization for Migration (IOM), HRW, and other organizations were able to access many detention sites and informal detention facilities run by militias to provide basic assistance,



including sanitation and health care, refugee registration, and counselling. Most detainees were not officially charged and had no access to review and judicial processes. Those with potential refugee claims had no access to refugee status determination procedures.

59. On page 24 of the USSDR it states that:

“There was societal discrimination and violence originating in ethnic differences. Racial discrimination existed against dark-skinned Libyans, including those of originally sub-Saharan descent, in part due to allegations that Qadhafi used African mercenaries during the conflict. There were reports of dark-skinned Libyans as well as Tuaregs being removed from their homes in Tripoli and held in detention centers and prisons.

There was also societal discrimination and violence originating in attitudes toward the previous regime. For example, fighting began April 1, reportedly involving heavy weapons, between the largely Amazigh and anti-Qadhafi western town of Zuwara, on one side, and the mostly Arab and pro-Qadhafi towns of Al-Jimail and Regdalin on the other.

There were also clashes reflecting a conflict between Tebou and Zway tribes over smuggling rivalries in the southeast of the country. On March 26, Arab government-affiliated militia clashed with Tebou tribal groups in the region near Kufra. According to reports from local contacts and NGOs, the fighting was largely one sided and targeted at Tebou civilian neighborhoods in attempt to push Libyan Tebou out of the country into Chad. On April 21, the conflict had escalated to the point that government forces were sent to Kufra to restore order.”

60. The AI report of 16 February 2012 entitled “Militias Threaten Hope for New Libya” states that a challenge for the new regime is to tackle “the widespread discrimination and xenophobia against sub-Saharan Africans and dark-skinned Libyans from Tawargha and other parts of Libya where support for al-Gaddafi forces during the conflict was reportedly high.” The forcible displacement of the residents of Tawurga is referred to and that thousands of people have been evicted or fled their homes in the Nafusa Mountains (mainly those from the Mashashiya and Qawalish tribes), as well as in Sirte and Bani Walid “and remain targeted by militias because of their alleged support for al-Gadaffi forces during the conflict.”

61. On page 11 (as copied in the bundle) of the same report, in relation to Tawurgans, it states that:

“People from the Tawargha area, who are black Libyans, are at particular risk of reprisals and revenge attacks by Misratah militias, because the area was a base for al-Gaddafi troops when they were besieging Misratah and because many Tawargha allegedly supported al-Gaddafi forces during the conflict. The number of Tawargha people among the detainees appears disproportionately high and most of those interviewed by Amnesty International said they had been tortured or ill-treated.”

And on page 12 in relation to the Mashashiya that:

“Members of the Mshashiya and from Qawalish tribes in the Nafusa Mountain area have similarly been targeted by militias because of their alleged support for al-Gaddafi forces during the conflict. People from the Mshashiya tribe and Qawalish village are particularly targeted by militias from Zintan.”

In relation to detainees from Sub-Saharan Africa it states that:

“People from sub-Saharan Africa who have been detained by militias have been particularly vulnerable to abuse. While many Sub-Saharan Africans were detained during and in the weeks after the conflict because of the belief that al-Gaddafi forces used African mercenaries to fight pro-NTC forces, many are now being held because of their suspected “illegal” status or related issues. When Amnesty International delegates visited Ain Zara Prison in January 2012, about 400 out of approximately 900 detainees were foreign nationals, mainly from Sub-Saharan Africa. According to the prison administration, about 10 per cent of the foreign nationals were accused of having fought during the conflict. Several Sub-Saharan Africans interviewed by Amnesty International in detention and after release said they had been tortured or ill-treated.”

62. Specifically in relation to Zawiyeh, the same AI report describes the town as one that saw violent confrontations between supporters of the uprising and Qadhafi forces and where revenge attacks and reprisals by local militia have taken place against those who are known to have or are suspected of having supported the former regime.
63. The OGN of May 2013 in relation to particular categories of persons states that Tawurgans and the Mashashiya are vulnerable to arrest by the Misrata and Zintan militias, as suspected supporters of Qadhafi and of having committed crimes during the conflict (3.10.4). At 3.10.5, referring to Amnesty International reports it states that militias take persons suspected of having supported Qadhafi forces and committed crimes during the conflict captive from the streets or at checkpoints. Easily identifiable targets, such as black Tawurgans or Sub-Saharan African nationals, are particularly vulnerable to such practices, severely impeding their freedom of movement. Displaced Tawurgans have been subjected to arbitrary arrest and torture in detention.
64. Paras 3.12.1-3.12.32 consider ethnic groups stating that the principal minorities were Amazigh, Tuareg and Tebou. Although under Qadhafi the Amazigh faced discrimination, including limitations on the use of their language, by the end of 2012 they used their language publicly, publishing journals and using their language Tamazight on public signs and on the radio. They encouraged the government to make Tamazight one of the official languages.
65. Racial discrimination existed against dark-skinned Libyans, including those originally of sub-Saharan descent, in part due to allegations that Qadhafi used African mercenaries during the conflict. There were reports of dark-skinned Libyans as well as Tuaregs being removed from their homes in Tripoli and held in detention centres and prisons.
66. Allegations that mercenaries were recruited from Chad, Nigeria and Sudan appeared to be heavily exaggerated. Many Africans worked in civilian jobs. There have been reports of harassment and violence towards sub-Saharan African migrant workers, by rebel fighters and civilians. HRW reported that Africans were held in overcrowded cells with

appalling hygiene standards and no access to clean drinking water. Many sub-Saharan Africans have been displaced by the fighting and for fear of reprisals. Many noted with horror how revolutionary brigades had exacted revenge against largely unarmed Mashashiya and Tawurga, two communities that had largely backed Qadhafi in the conflict.

67. Thousands of non-Arabs, like Tuaregs, have no official documentation attesting to their citizenship. The main proof of citizenship is the "family booklet" in which all members of the family are listed and which is presented when applying for jobs, university, or when taking out a loan from a bank. Tuaregs who have been in Libya "for 100 years" have managed to obtain a family booklet but those who settled in the country 40 or 50 years ago were denied one and possess neither Libya nor any other citizenship (3.12.10).
68. Many Tawurga have moved to Benghazi, Tripoli or southern Libya. They remain displaced and live in camps and with host families, though some are held in detention. "The generally dark-skinned Tawurga" were accused by the brigades of siding with Qadhafi and of killing and raping residents of Misrata during the revolution. According to community groups, about 18,000 Tawurgans are in Benghazi, 13,000 in Tripoli and 7,000 in and around Sebha in the south. There are smaller numbers in other places. In Tripoli they are mostly based in four camps: at the Naval Academy in Janzur, and in the al-Fallah and Sarraj neighbourhoods. Basic humanitarian assistance comes mostly from LibAid, a Libyan government agency. Security has improved, with fewer raids by the Misrata militias who claim they are searching for wanted men. In January 2012 militias from Misrata raided the Janzur camp and shot dead a man, three women and three children (3.12.15-3.12-16).
69. At 3.12.17 it states that about 1,300 Tawurgans are detained, missing or dead according to HRW which also said that crimes committed against the Tawurga may amount to crimes against humanity.
70. Para 3.12.23 refers to members of the Tebu and Tuareg communities having long complained about discrimination, racism and the inability to renew identity documents or obtain new ones for their children. Such communities also tend to be among the poorest and live in informal settlements with little access to services.
71. The Tuareg number some 100,000. Some opposed Qadhafi while others found employment in the regular army. Many Libyans tend to identify all Tuareg as regime supporters. At least 1,500 Tuareg fighters joined Qadhafi's loyalist forces. Sources inside the Libyan city of Ghadames told a news agency that the Tuareg tribes have been subjected to ethnic cleansing for the previous eight months since May 2012, the Ghadames tribe apparently being responsible. Many Tuareg are said to have been detained in illegal places of detention in secret locations in inhumane conditions. They are said to be being searched for everywhere, including in hospitals, to be killed and tortured. As of January 2013, 2,400 who had fled Ghadames remained internally displaced in Libya (3.12.24-3.12.27).
72. The COI report 2012, from 19.10, quoting a report of the UN Human Rights Council 'International Commission of Inquiry on Libya', released on 2 March 2012, describes the

targeting of Tawurgans by the Misratan *thumar*<sup>7</sup>, and of Mashashiya towns regarded as loyalist (to Qadhafi) by *thumar* from Zintan. Mashashiya detainees have been tortured, towns looted and property burnt. Those who have attempted to return to their homes are reported to have been beaten.

73. As regards the Tuareg, at 19.19, the report of the UN Human Rights Council 'International Commission of Inquiry on Libya' dated March 2012 is quoted as stating that three interviewees indicated that an indeterminate number of Tuareg men were recruited to fight alongside Qadhafi forces.
74. The Tebu are said in an article from Al-Jazeera dated December 2012, quoted at 19.20 of the COI, now to dominate Libya's southern desert, guarding remote checkpoints, oil fields and weapons stockpiles. Before the revolution against Qadhafi they had been marginalised for decades. Dislike for Qadhafi led the Libyan Tebu to rise up against him whereby they provided crucial southern support to the coastal rebels' fight.
75. At 19.21-19.22 the section of the COI on "Black Libyans", referring to a report of August 2011 states that since the early days of the Libyan uprising there have been reports of organized racist attacks on so-called "Black Libyans" and foreign workers, particularly in rebel-held areas. Officials of the UN High Commissioner for Refugees related that refugees arriving from eastern Libya at the Egyptian border reported that armed Libyans had been going from door to door, forcing sub-Saharan Africans to leave. Tens of thousands of refugees arriving at camps in Tunisia and Egypt said that they were accused of being mercenaries hired by the government.
76. The HRW report dated 20 March 2013 gives many examples of detentions, torture and killings of people from Tawurga by Misrata militias, as well as the destruction of Tawurga.
77. Various reports and news articles, in particular from the background bundle in respect of AMH refer to historic racism in Libyan society, as well as discrimination, intimidation, detention and ill-treatment of sub-Saharan Africans and Black or dark skinned Libyans. Several of the reports refer to the claims that such individuals were Qadhafi mercenaries as being exaggerated.
78. A report from Amnesty International ("AI") entitled "Scapegoats of Fear", dated June 2013 states in the opening paragraph that the human rights of tens of thousands of foreign nationals, including asylum seekers, refugees and migrants, continue to be violated. The report goes on to state that:

"In a context of political instability and lawlessness, foreign nationals, mainly from sub-Saharan Africa, are at constant risk of exploitation, arrest and indefinite detention pending deportation. Those without "proper documentation" are particularly vulnerable as Libyan legislation criminalizes entering, staying in or leaving Libya irregularly. When Amnesty International delegates were in Libya in April and May 2013, approximately 1,700 detained asylum-seekers were held indefinitely in poorly resourced "holding centres". The situation of asylum-seekers and refugees in Libya is particularly precarious as Libya widely resorts to

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<sup>7</sup> Translated in various reports as "revolutionaries" and otherwise spelt as "thumar".

their detention in breach of international law and the country still lacks an asylum system and national asylum legislation.

Libya continues to be heavily reliant on foreign workers, especially in the agriculture and construction sectors as well as the services industry. Despite this, the authorities have failed to develop a coherent migration policy to protect the rights of these workers and regularize their status. Such failures mean that abuses against migrant workers thrive with impunity.”

79. The report goes on to state, however, that migration flows following the mass exodus of foreign nationals in 2011 appear to have resumed, and that:

“Once again, the country is a magnet destination for people, particularly sub-Saharan Africans and North African and Middle Eastern nationals, who are looking for economic opportunities or for international protection as they flee persecution, violence and armed conflicts in the region and beyond.”

80. Many thousands are said to arrive every year in the hope of continuing their journey to Europe. In addition to the Department of Combating Irregular Migration (“DCIM”), militias and in some cases ordinary citizens motivated by xenophobia and misguided fears about diseases, detain foreign nationals on an almost daily basis, driven by what they believe is their national duty. Arrests are said to take place at any place and at any time, although most often from their homes, at checkpoints or on the streets. The AI report describes the conditions of detention as in most cases falling short of international standards, and at times amounting to cruel, inhuman and degrading treatment.

81. A recent report dated 14 October 2013 entitled “Racism and revolution: the plight of black Africans in Libya” by Equal Times states that the end of the Qadhafi regime opened up huge divisions in Libyan society, stating that in particular the lid was lifted on “a fervent undercurrent of racism which has resulted in the detention, torture and murder of thousands of black Libyans and sub-Saharan migrants since 2011.” Allegations of black mercenaries from countries like Chad, Niger and Mali killing civilians, coupled with stories of mass rape allegedly committed by the mainly black inhabitants of Tawurga is said in the report to have fuelled the mistreatment of dark-skinned people in recent years.

82. The report continues that the exact number of sub-Saharan African refugees, asylum seekers and economic migrants in Libya is unknown. However, some reports are said to put the figure at around 18,000. In referring to the Libya Shield it says that:

“A group of former anti-Gaddafi militias who operate as a de facto army and police force under the country’s newly formed Ministry of Defence, one of its responsibilities is ‘securing’ the refugee camps and its residents.

In reality, this means stopping anyone from leaving, even if it means using extreme violence.”

Stories were reported of migrants and refugees who had money and other property stolen by the Libya Shield, and that those who protest are severely beaten and subject to electric shocks.

### Former Qadhafi loyalists

83. The OGN of May 2013 refers to targeted killings having occurred throughout 2012, particularly of former members of the Qadhafi intelligence and security services. No investigations into the killings were announced and no arrests in respect of them made. Very few lawyers are willing to represent alleged Qadhafi loyalists, either for ideological reasons or out of fear of reprisals (3.10.9-3.10.11).
84. The conclusion at 3.10.18 is that:
- “Given the generalised attitude of resentment towards perceived Col. Gaddafi supporters and fighters, and the force with which the Gaddafi regime previously sought to subdue the opposition, it is likely that applicants in this category will be able to show a need for international protection. Perceived supporters of Gaddafi and his regime are at risk of extra-judicial execution, arbitrary detention, torture, ill-treatment and death in detention, both by authorities of the Interim Government or its armed affiliates, as well as by armed militias operating without government control.”
85. Para 3.10.19 goes on to state that consideration should be given to the individual’s circumstances, including “the nature and degree of the perceived relationship to Gaddafi’s regime”, and that:
- “Where it is accepted that an individual applicant was closely involved with Gaddafi and the regime, or his particular circumstances indicate a likely risk of attracting the adverse interest of militia brigades allied to the Libyan authorities, a grant of asylum will generally be appropriate, subject to any exclusion considerations under Article 1F of the Refugee Convention.”
86. The OGN concludes that it is unlikely that such a person would be able to relocate internally given that the interim government would not be able to provide effective protection, that torture is carried out by officially recognised security entities and that persons suspected of having supported Qadhafi’s forces are taken captive on the streets and at checkpoints.
87. The Immigration and Refugee Board of Canada report dated 7 December 2012 in relation to the “Situation and treatment of those perceived to be loyal to Qaddafi since his fall; state protection”. It refers, *inter alia*, to various sources which describe detentions of Qadhafi loyalists during and after the conflict, their torture, assassinations or executions and disappearances.

### Women

88. The USSDR states on page 21 that notwithstanding the Constitutional Declaration including references to equal rights, the interim governments did not enforce the prohibitions particularly with regard to women and minorities. Militias and extremists used violence and intimidation against women they considered in violation of religious law and cultural norms. The law criminalizes rape but does not address spousal rape. A convicted rapist must marry the victim, with her agreement, or serve a prison term of up to 25 years. According to local contacts and NGO’s, the forced marriage of victims to rape perpetrators as a way to avoid criminal proceedings has reportedly stopped.

89. The Home Office Operational Guidance Note for Libya dated 9 May 2013 (“OGN”) states that in rural areas societal discrimination restricted women’s movements, even to local destinations. Referring to the Freedom House report it states that most women will not travel unless accompanied by a husband or male relative. Members of the elite have more freedom in this regard but are still expected to have permission of their families in order to travel abroad (2.3.8).
90. The same paragraph continues in stating that travelling within Libya is difficult, as Libyan hotels generally do not rent rooms to unaccompanied women, due to cultural and traditional requirements. Women rarely walk in the street in the evenings, unless accompanied by a male family member or another woman. There are a range of related cultural and social restrictions which are generally stronger in rural areas and small towns. It is socially unacceptable for an unmarried or divorced woman to live on her own.
91. Both the COI and the OGN describe the problems faced by women in Libya in terms of discrimination and domestic violence, with laws that do not protect women’s rights. During the revolution thousands of women were raped.
92. 3.11.15 of the OGN states as follows:

“Given the generalised discrimination towards women in Libya, and the inability of the current Government to provide protection against harm, it is likely that some women and especially particular sub-categories of women (e.g. women of African ethnicity, victims of sexual violence, and women perceived to have been allied to the Gaddafi regime) will be able to demonstrate a need for international protection. All relevant factors should be taken into account, including the age, health, educational and economic status, and the individual circumstances of the applicant. Female applicants able to show they are at real risk of persecution because they are accused of sexual ‘misdemeanours’ or offences against family honour are likely to be able to show that they fall into the category of a particular social group (PSG).”

And at 3.11.16:

“Given the circumstances and cultural factors set out above, female applicants who have been raped by soldiers loyal to Gaddafi or other combatants are also likely to be able to show that they are at real risk as members of a PSG. Evidence suggests that even where the rape victim’s father or husband does not attach personal blame to her, as is the case with other categories of sexual dishonour, she is still at risk of being the subject of an ‘honour’ killing, in order to save her and her family from dishonour.”

93. Libya Herald on 23 September 2013 reported that the government intended to clamp down on violence against women, while presenting legislation to the GNC to guarantee equality between men and women, backed up by legal sanctions. Justice Minister Salah Bashir Al-Marghani said that the issue of violence against women had to be addressed.
94. A BBC news report dated 13 December 2011 refers to women heading two ministries in the new government, health and social affairs. The report describes Libya as a deeply conservative, male-dominated society where wedding parties and public gatherings are often segregated and men traditionally take the political decisions. An assertive new

generation of women's rights is emerging, gathering every day in homes, offices and Tripoli's smarter hotels, to discuss and set out their demands. Referring to a protest outside the prime minister's office, it states that dozens of women covered their mouths with tape to symbolise the silence with which rape victims were greeted by the interim government.

### **Security/policing/judiciary**

95. Under the heading "Safety and Security", The Report of the Secretary-General on the United Nations Support Mission in Libya dated 5 September 2013, the report refers to the bombing of the French embassy in Tripoli in April 2013, the targeting of an Italian diplomatic vehicle in June and the firing of a rocket-propelled grenade at the UAE embassy in July. In June UN staff in Sabha were temporarily relocated to Tripoli after armed clashes between rival tribes and the closure of the city airport.
96. In a Security Council Briefing dated 16 September 2013 by the Special Representative of the Secretary-General and Head of UNSMIL, at para 16 it reports that progress in integrating revolutionary fighters into the police and army remains very limited, as is their reintegration into civilian life. However, to encourage such fighters to enlist in the army and to improve salary for current uniformed personnel, salary increases were to take effect from January 2014. The training outside Libya of 12-15,000 soldiers was also announced. The Briefing goes on to state that the Libyan police continue to integrate individuals from the armed brigades.
97. In a detailed report entitled "Searching for Justice in Post-Gaddafi Libya" described as a socio-legal exploration of people's concerns and institutional responses at home and from abroad, it states at 2.2.3 that the development of an active civil society has been supported by government policy and NGOs have in many cases become a vehicle for policy initiatives. Para 3.3.1 notes that Law 37/2012 outlawing the "glorification" of the Qadhafi regime was struck down as being unconstitutional by the Supreme Court.
98. The OGN of 9 May 2013 at 2.2.3 states that Libya continued to make efforts to form national security services. The numbers in the security services are said to be unclear although in March 2012 Libya's Interior Minister said that the police force numbered 25,000 "and was able to provide security". Nevertheless, at 2.2.6 it states that the authorities struggled to establish a functioning military and police that could enforce and maintain law and order. Many of the armed groups refused to disarm and filled the security void. Some cooperated with the government and provided security services. Others operated without state sanction. At 2.2.9 the OGN states that the police force remained weak and depended largely on the SSC for ensuring law and order, although the SSC's lack of vetting criteria and scant training contributed to abuse by its members.
99. The judicial system is stated to remain weak, with threats and attacks on prosecutors and judges further inhibiting the rule of law. There are some functioning courts in city centres trying ordinary cases. An estimate of 9,000 is given in relation to the number of those in government or military custody without any formal trial or sentencing, although later at 3.10.14 the estimated figure is given as 7,000.
100. The conclusion at 2.2.17 is that:



“The current limitations of Libya’s legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm mean that in general claimants would not always be able to access effective protection.”

101. Regarding internal relocation, paras 2.3.3-2.3.9 refer to the closed military zone in the south of the country and difficulties with land border crossings, including threats from criminal activities in areas bordering Sudan, Chad, Niger and Algeria. With the exception of the official land border crossings to Tunisia and Egypt, visitors and residents are not permitted to travel in the interior or to border areas without an officially sanctioned guide or specific permission from the authorities.
102. Referring at 3.9.8 to FCO travel advice for Libya, updated in January 2013, it states that violent clashes between armed groups are possible across the country, particularly at night, and even in those places that have previously avoided conflict. These often include the use of heavy weapons. There is a high threat from terrorism. Attacks could be indiscriminate, including in places frequented by expatriates and foreign travellers and there is a threat of kidnapping (3.9.9).
103. At 3.9.13 it is stated that:

“Libya has become a patchwork of factions whose continued presence - one that appears to be empowering warlords over elected officials - makes it difficult to ensure the establishment and maintenance of a single body of law that can apply equally and to all.”
104. The OGN assesses at 3.9.20 that:

“There continue to be outbursts of internal armed conflict in parts of Libya, but it is not at such a level, either in Libya generally or a material part of it, that substantial grounds exist for believing that any civilian would, solely by being present there, face a real risk of serious harm. The security and humanitarian situation in Libya remains fluid, and some individuals may fall into an enhanced risk category on the basis of certain characteristics. Each case must be considered on its individual merits.”
105. A number of reports deal with what on the face of them could be described as political acts of violence. BBC news Africa on 10 October 2013, reporting on instability in the country noted that the Italian Consulate in Benghazi was attacked in January 2013, the French embassy in Tripoli in April, the EU’s convoy in August and the Russian embassy in October (2013). AI reported on 8 March 2013 on the attack on a TV station which had broadcast a debate about the proposed Political Isolation Law. During the attack Al-Assema TV, a private news channel in Tripoli, was stormed by armed men who abducted four people.
106. BBC news Africa reported on 30 April 2013 that the offices of the Libyan Justice Ministry in Tripoli were surrounded by armed men demanding the expulsion of officials who worked for the government during the Qadhafi era. The report goes on to state that armed groups have targeted state buildings in the past.
107. In a report dated 8 August 2013 Human Rights Watch (“HRW”) state that at least 51 people have been killed “in a broadening wave of apparent political assassinations” in Benghazi and Derna in eastern Libya, although it later states that the actual number is

probably higher. The victims included a political activist, two judges and at least 44 serving members of the security forces, most of whom had held positions in the Qadhafi government, at least six having been high ranking officers under Qadhafi. Such political assassinations are said in the report to have peaked in the second half of 2012 and again in January and July 2014. No groups or individuals had claimed responsibility for the assassinations and the only person known to have been arrested escaped.

108. HRW information was to the effect that 12 victims were apparently killed by explosive devices targeting their cars and the rest were shot, mostly in drive-by shootings in front of their homes, workplaces or in their cars. The suspect who escaped was shown in an on-line video apparently confessing to having killed several people stating that commanders of Islamist militias operating in eastern Libya gave orders for the killing of former officers and that they had said that it was acceptable to kill army officers and people affiliated with the current government. In a second video he stated that he had confessed under torture.
109. Given the fact that most of the attacks targeted Qadhafi-era officers in the Benghazi and Derna area and the planned and efficient manner of the killings, it is suggested in the report that they are related and part of a pattern or campaign against individuals with a particular profile.
110. HRW stated that Benghazi has experienced large-scale attacks by various militias on state security forces facilities and army positions as well as armed clashes between militia factions and attacks on foreign diplomatic missions. There is reference to an attack on the International Committee of the Red Cross ("ICRC") in May 2012, with a militia accusing the ICRC of proselytising for Christianity including distributing Bibles.
111. Reuters reported on 5 October 2012 that at least 12 soldiers were killed in an attack on a checkpoint near the city of Bani Walid. In a further report dated 9 November 2013 the killing of two policemen in Benghazi by gunmen is referred to, and stating that this was a day after the army had vowed to restore order in the city. The report goes on to state that security in the city has deteriorated in the past few months "with militants and Islamists roaming unchallenged".
112. The blockade of an oil port by Berbers in western Libya in October 2013 is reported by the Society for Threatened Peoples on 28 October 2013. It is said to have been a form of protest against the ongoing exclusion of ethnic or racial minorities.
113. In an article in Libya Herald dated 14 October 2013 there is a report on the conference on the Transitional Justice Law, held in Tripoli on 30 September 2013. The President of the GNC is said to have explained the aims of the law which include provision for compensation for victims of the Qadhafi regime and of the revolution, to provide justice and compensation for victims of injustice since the revolution and promote national reconciliation. A Fact-Finding and Reconciliation Board is to be set up. Amongst its tasks will be to look at the position of internally displaced persons, such as the Tawurga, missing persons, those imprisoned, and to investigate attacks on people by militias, individuals or state bodies. The rights of those accused of human rights crimes will be guaranteed in the proposed law, and no civilian will be tried in a military court.

114. A further Libya Herald article dated 24 October 2013 refers to a newly passed legislation against torture, kidnapping and discrimination, including with reference to holders of public office, bureaucrats and members of the security forces being subject to the law and to ensure that the prohibited offences did not take place.
115. A report from No Peace Without Justice dated 25 October 2013 describes details of a series of activities and workshops between 5-8 October 2013 "to strengthen the capacity of Libyan national institutions and civil society actors on accountability, human rights and the rule of law." The Tripoli Bar Association as well as judges and various experts took part.
116. Libya travel advice-Gov UK, as of 17 October 2013 was against all but essential travel to Tripoli, Zuwara, Zawiye, al Khums, Zlitan and Misrata, and to the coastal towns from Ras Lanuf to the Egyptian border, with the exception of Benghazi. It then goes on to state that the FCO advises against all travel to all other parts of Libya, including Benghazi.
117. A BBC News Africa report dated 11 October 2013 refers to the "brief" kidnap of the Prime Minister Ali Zeidan, who described it as an attempted coupe. He was seized from a Tripoli hotel and held for several hours by more than 100 armed militiamen. The report states that the motive for the abduction remains unclear but some militias had been angered by the recent US Commando raid in Tripoli to capture the senior al-Qaeda suspect Anas al-Liby.
118. Al Arabiya reported on 12 November 2013 that the Libyan Prime Minister the previous day had vowed to supply more aid to security forces struggling to pacify Benghazi. The report goes on to refer to an attack the previous week in which a public prosecutor and five members of the security forces were killed in a series of attacks in "the region" (of Benghazi). With reference to the kidnap of the Prime Minister the head of an interior ministry anti-crime unit is reported as having boasted that he was behind the "arrest".
119. Air Transport World on 4 November 2013 reported that Etihad Airways had temporarily suspended its thrice weekly passenger flights and twice weekly cargo flights to Tripoli due to what the airline described as unspecified "safety and operational challenges" in recent months. It said it had been concerned about the conditions at Tripoli airport over recent months.
120. The report dated 16 October 2013 from Voice of America News "Chaos Continues in Libya Where Militias Rule" states that chaos reigns where a barely functioning central government is unable to control the "thousands" of militias that roam the country. The report refers to an estimate of 200,000 militiamen spread across the country, forming a "parallel state" over which the central government has no power. An analyst who had just returned from Libya stated that:
- "You have communal clashes...militias fighting over control of airports or smuggling routes...shutting down oil production facilities...kidnappings."
121. Libya Herald reports dated 4 August 2013 and 20 July 2013 refer to a Qatar airways flight being unable to land at Tripoli airport because of specific security concerns in relation to the flight, and clashes around the airport in July.

122. The HRW report dated 17 November 2013 states that militias from Misrata fired assault rifles, machine guns and heavy weapons at overwhelmingly peaceful protestors in Tripoli on 15 November, Ensuing clashes between armed groups and militias left 43 people dead and at least 460 wounded. State security forces present at the initial protest are said to have failed to protect protestors or to arrest and disarm the militias. The report goes on to state that the 43 people killed included people who were apparently not involved in the protest or the clashes. Two of the victims appear to have been medical personnel who were trying to retrieve wounded people.
123. In what is described as a related incident, HRW was told that armed men from Misrata entered Tripoli's al-Fallah camp for displaced residents of Tawurga on 16 November 2013 and fired indiscriminately at residents, leaving at least one man dead and three injured.
124. Deutsche Welle reported on 17 November 2013 that the Deputy Head of Libyan Intelligence was abducted in Tripoli.
125. A former Coventry University student has, according to a report in the Coventry Evening Telegraph dated 12 September 2013, been in custody in Libya having been arrested on his return there in 2012. He is said to have been accused of taking part in demonstrations and spreading false information on the internet about the Libyan uprising. At the time he was studying mechanical engineering at Coventry University on a Libyan government scholarship. His trial was adjourned because the judge did not turn up for the hearing having been adjourned several times before. A Libya Herald report of 10 September 2013 carries a similar report in relation to the student's expected appearance at court the following day. An AI news report dated 10 September 2013 deals with the same case.

## APPENDIX H

### INDEX OF COUNTRY MATERIALS

	<u>DATE</u>	<u>SOURCE</u>	<u>DESCRIPTION</u>
<b><u>2013</u></b>			
1	17 November	<i>Human Rights Watch</i>	Libya; Militias kill unarmed protestors
2	17 November	<i>Deutsche Welle</i>	Libya's deputy Head of Intelligence abducted
3	16 November	<i>Deutsche Welle</i>	Militia take aim at Tripoli protestors
4	16 November	<i>Deutsche Welle</i>	Fighting rumbles on in Tripoli in wake of militia attack
5	12 November	<i>Al Arabiya</i>	Libyan PM promises aid for security forces
6	9 November	<i>Reuters</i>	Two policemen killed in Libya's Benghazi
7	9 November	<i>Inter Press Service News Agency</i>	'Libya's Berbers Close the Tap'
8	8 November	<i>Deutsche Welle</i>	Rival militia clash, terrorize Libyan capital
9	8 November	<i>Telegraph News</i>	Heavy Fighting on Streets of Libyan Capital
10	8 November	<i>Libya Herald</i>	Misrata breaks with Rogue Militia
11	8 November	<i>BBC News</i>	Rival Libyan Militias exchange gunfire in Tripoli
12	8 November	<i>International Criminal Justice program</i>	Supporting Libya's democratic transition
13	7 November	<i>NPR</i>	Militias rule whilst Government flounders
14	6 November	<i>Wall Street Journal</i>	BP to cede control of Libyan Oil venture
15	6 November	<i>Reuters</i>	Chaos in Libya brings trouble importing food

16	6 November	<i>Libya Herald</i>	BP to slash Libyan plans
17	6 November	<i>Libya Herald</i>	Congress Decision still awaited on LROR
18	5 November	<i>AKE</i>	Libya Update
19	5 November	<i>Libya Herald</i>	No obstruction to creation of Army
20	4 November	<i>United Nations News Centre</i>	UN mission condemns assassination attempts in Benghazi
21	4 November	<i>Air Transport World</i>	Etihad suspends Tripoli flights
22	4 November	<i>Voice of America News</i>	Libyan Federalists raise tensions
23	3 November	<i>Libya Herald</i>	GNC disbands the Libyan Revolutionaries' Operations Room
24	1 November	<i>AKE</i>	Libya Update
25	1 November	<i>Libya Herald</i>	Etihad Airways suspends Tripoli flights
26	31 October	<i>Libya Herald</i>	Over 1000 new officers graduate from police academy
27	31 October	<i>Libya Herald</i>	Libya military to be sent for training in Italy in weeks
28	28 October	<i>Society for Threatened Peoples (Germany)</i>	Berbers occupy an oil port in western Libya
29	27 October	<i>Al Jazeera</i>	NTC: a vision of democratic Libya
30	24 October	<i>Libya Herald</i>	Saif Al-Islam, Abdullah Senussi and others committed for trial
31	22 October	<i>Amnesty International</i>	Displacement and persecution in Libya
32	22 October	<i>Libya Herald</i>	Benghazi Islamists reach out to local tribe and moderate federalists
33	21 October	<i>Magharebia</i>	'Benghazi killings escalate'
34	18 October	<i>Reuters</i>	Militia rivalries threaten new war in post revolt Libya
35	17 October	<i>Magharebia</i>	Terrorists hijack Libyan Revolution
36	17 October	<i>Voice of America News</i>	Chaos continues in Libya where militias rule
37	14 October	<i>Equal Times</i>	Racism and Revolution; The Plight of Black Africans in Libya

38	12 October	<i>Deutsche Welle</i>	Tribal feuds, local conflicts engulf Libya
39	11 October	<i>BBC News</i>	Libya PM Zeidan's brief kidnap was 'attempted coup'
40	11 October	<i>International Criminal Court</i>	Decision of International Criminal Court Prosecutor v Saif Gaddafi
41	11 October	<i>Eurasia Review</i>	Libya responds to UN Torture Allegations
42	10 October	<i>Foreign and Commonwealth Office</i>	Libya; travel advice
43	10 October	<i>BBC News</i>	Might of militias challenge Libya's fragile government
44	10 October	<i>BBC News</i>	Guide to Libya's militias
45	9 October	<i>Libya Herald</i>	New Tunisia Libya bus service announced
46	8 October	<i>No Peace Without Justice</i>	NWPJ supports justice sector reform
47	5 October	<i>Reuters</i>	Libyan checkpoint ambush kills at least 12 soldiers
48	5 October	<i>Al Jazeera America</i>	Libyan soldiers killed in ambush of military checkpoint
49	4 October	<i>Human Rights Watch</i>	Suspend death sentences against Gaddafi loyalists
50	3 October	<i>Radio Free Europe Radio Liberty</i>	Two Libyans killed in Russian Embassy Attack
51	2 October	<i>Radio Free Europe Radio Liberty</i>	Two Libyans killed in Russian Embassy Attack
52	2 October	<i>Libya Herald</i>	More instances of torture and killings in prisons
53	1 October	<i>UNSMIL</i>	Torture and Deaths in Detention in Libya
54	30 September	<i>Libya Herald</i>	Conference on transitional justice law explains aims
55	30 September	<i>Libya Herald</i>	GNC agrees uncompromising law on torture
56	26 September	<i>Libya Herald</i>	Tripoli jail stormed, illegally detained prisoners found.

57	23 September	<i>Libya Herald</i>	Marghani pledges gender equality legislation
58	18 September	<i>RP Defense</i>	Multi-national training to rebuild Libyan army
59	Undated	<i>Representative of Secretary General and Head of UNSMIL</i>	Security Council Briefing
60	13 September	<i>Libya Herald</i>	SSC still necessary – Abdel Raouf Kara
61	12 September	<i>Coventry Evening Telegraph</i>	New trial setback for ex city student accused over demo
62	10 September	<i>Amnesty International</i>	Libyan who attended protests in London could face life in jail
63	10 September	<i>Libya Herald</i>	Protest charges against pro Qaddafi student violation of human rights
64	5 September	<i>United Nations</i>	Report of the Secretary General on UN Support Mission Libya
65	3 September	<i>Amnesty International</i>	Latest abduction highlights 'dysfunctional' justice system
66	28 August	<i>AJIDIL project</i>	Searching for Justice in post Gaddafi Libya
67	25 August	<i>Al Jazeera</i>	Tribal groups clash in Libya's Az Zawiya
68	20 August	<i>Libyan Intelligence Group</i>	The no.27 law: a renewed public order?
69	13 August	<i>Foreign and Commonwealth Office</i>	Travel Advice
70	13 August	<i>Foreign and Commonwealth Office</i>	Security Situation
71	8 August	<i>Human Rights Watch</i>	Wave of political assassinations
72	4 August	<i>Libya Herald</i>	Gunmen at Tripoli Airport prevent plane landing
73	2 August	<i>Amnesty International</i>	Al-Gaddafi loyalists at risk of 'revenge' death sentences
74	30 July	<i>United Nations</i>	United Nations Support Mission in Libya
75	27 July	<i>CBC News</i>	More than 1000 escape in Libya prison break



76	21 July	<i>Magharebia</i>	Air officers killed in eastern Libya
77	20 July	<i>Libya Herald</i>	Clashes leave two dead and four injured
78	12 July	<i>Jamestown Foundation</i>	Terrorism Monitor Vol XI
79	11 July	<i>Action on Armed Violence</i>	The Libyan revolution in the protection of victims of rape in war
80	5 July	<i>Asylum Research Consultancy</i>	Libya Country Report
81	27 June	<i>Human Rights Watch</i>	Libya displaced people Tawergha barred return
82	25 June	<i>Magharebia</i>	Fighting resumes in Kufra
83	21 June	<i>Foreign Policy Website</i>	Libya's judges confront the past
84	20 June	<i>Amnesty International</i>	Scapegoats of Fear
85	20 June	<i>Amnesty International</i>	Refugees and migrants held in deplorable conditions
86	19 June	<i>Lawyers for Justice in Libya</i>	Lawyers for Justice in Libya concerned by attacks on judges
87	18 June	<i>Australian Refugee Review Tribunal</i>	Magharebia
88	13 June	<i>Libya Herald</i>	Qatar Airways suspends Benghazi flights
89	11 June	<i>Training</i>	Rule of law and Transitional Justice for Libyan Judges
90	10 June	<i>Libya Herald</i>	Being Hashim Bishr
91	9 June	<i>BBC News</i>	Libya army chief resigns after deadly clashes
92	3 June	<i>Society for Threatened Peoples</i>	Victims of Racism in Tawergha need special protection
93	23 May	<i>Amnesty International</i>	Annual Report 2013
94	22 May	<i>Temehu</i>	Libya Tourism News
95	12 May	<i>Libya Herald</i>	BP pulls out international staff
96	10 May	<i>BBC News</i>	UK withdraws some embassy staff from Libya
97	8 May	<i>Home Office</i>	Operational Guidance Note: Libya (v

			9.0 May 2013)
98	5 May	<i>Voice of America</i>	Libya MPs pass law barring Gadhafi-era officials
99	1 May	<i>BBC News</i>	Why Libya's militias are up in arms
100	30 April	<i>BBC News</i>	Libyan gunmen surround justice ministry in Tripoli
101	25 April	<i>BBC News</i>	Jordan begins Libya police training programme
102	19 April	<i>US Department of State</i>	Libya; Country Report on Human Rights Practices
103	16 April	<i>UK Government Website</i>	New UK boost to economy and policing in Libya
104	13 April	<i>International Crisis Group</i>	Trial by error: Justice in Post-Qadhafi Libya
105	11 April	<i>Institute for War and Peace Reporting</i>	Prosecuting Gaddafi era crimes in Libya
106	8 April	<i>Amnesty International</i>	Amnesty International welcomes the release of Hisham Ben Khayal
107	2 April	<i>Integrated Regional Information Networks</i>	Thousands of Libyan families displaced in Nafusa Mountains
108	26 March	<i>Magharebia</i>	Libya jails Kadhafi officials
109	20 March	<i>Human Rights Watch</i>	Stop revenge crimes against displaced persons
110	20 March	<i>Sky News</i>	Libya: Legacy of the Uprising Two Years On
111	18 March	<i>Noref Report</i>	Longing for a State
112	8 March	<i>Amnesty International</i>	Media attacked as tensions rise over Political Isolation Law
113	1 January	<i>UNHCR</i>	2013 UNHCR Country Operations Profile – Libya
<b><u>2012</u></b>			
114	19 December	<i>Home Office</i>	Country of Information Report December 2012
115	13 December	<i>All Africa</i>	Rocky Road ahead of Tawergha Minority

116	7 December	<i>Immigration and Refugee Board of Canada</i>	Situation and treatment of those perceived to be loyal to Gadaffi
117	28 November	<i>Refugee World</i>	Australia: Refugee Review Tribunal
118	2 November	<i>Libya Herald</i>	Malaysia student protests highlight problems in Libyan Government
119	31 October	<i>Amnesty International</i>	Safety concerns for loyalist's daughter: Anoud Abdallah Al-Sanussi
120	28 October	<i>Human Rights Watch</i>	The Murder Brigades of Misrata
121	22 October	<i>Refugee World</i>	Australia: Refugee Review Tribunal
122	18 October	<i>Magharebia</i>	Libyan forces clash with Kadhafi diehards
123	12 October	<i>Amnesty International</i>	Libyan authorities urged to protect Bani Walid
124	17 September	<i>Amnesty International</i>	Libyan authorities must protect two sisters from harassment
125	14 September	<i>International Crisis Group</i>	Divided we stand: Libya's Enduring Conflicts
126	14 August	<i>Inter Press Service</i>	Gadaffi loyalists up in arms
127	5 July	<i>Amnesty International</i>	Libya: Rule of Law or rule of Militias?
128	1 July	<i>International Institute for Strategic Studies</i>	Armed conflict database
129	27 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
130	26 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
131	25 June	<i>New York Times</i>	List of unexploded arms in Libya is seen as limited
132	24 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
133	22 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
134	21 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
135	20 June	<i>International Institute for Strategic Studies</i>	Armed conflict database

136	19 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
137	18 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
138	16 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
139	15 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
140	12 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
141	11 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
142	10 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
143	09 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
144	08 June	<i>Amnesty International</i>	We are not safe anywhere.' Tawarghas in Libya
145	08 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
146	04 June	<i>International Institute for Strategic Studies</i>	Armed conflict database
147	June	<i>Norwegian Peace building Resource Centre</i>	Rivalries for Authority in Libya
148	24 May	<i>Integrated Regional Information Networks</i>	Analysis: Libyan minority rights at a crossroads
149	14 May	<i>Integrated Regional Information Networks</i>	Libya: Uneasy calm in Sebha after clashes
150	3 May	<i>Home Office</i>	Operational Guidance Note: Libya
151	1 May	<i>Integrated Regional Information Networks</i>	Libya: Thousands still afraid to return home
152	19 April	<i>Amnesty International</i>	Central government must protect Kufra resident from militia clashes
153	19 April	<i>Al Akhbar</i>	Black Libyan tortured to death during detention
154	19 April	<i>Amnesty International</i>	NTC must investigate death of another

			Tawergha man
155	January – March	<i>International Institute for Strategic Studies</i>	Armed conflict database
156	23 March	<i>International Committee of the Red Cross</i>	Libya: unexploded munitions scar bodies and minds
157	09 March	<i>OCHR</i>	War crimes committed by both sides
158	7 March	<i>Home Office</i>	Libya: Country of Origin Information Report
159	6 March	<i>Foreign Policy in Focus</i>	Risks for dark skinned Libyans
160	5 March	<i>COI Response</i>	Forced army conscription from the Al-Mesheshia/Muishashya tribe
161	28 February	<i>OCHR</i>	Statement of the Society for Threatened Peoples
162	27 February	<i>UN News Service</i>	Tense conditions prevail in Libyan town after deadly ethnic clashes
163	23 February	<i>Jamestown Foundation</i>	The battle for Kufra Oasis and Ongoing war in Libya
164	21 February	<i>BBC News</i>	Libya crisis: what role to tribal loyalties play?
165	16 February	<i>Amnesty International</i>	Militias threaten hopes for new Libya
166	14 February	<i>BBC News</i>	Timeline: Libya
167	13 February	<i>Fox News</i>	New Libyan leadership takes harsh stance at UN against gays
168	9 February	<i>Associated Press</i>	Libya issues election law for national congress
169	7 February	<i>Magharebia</i>	Black Libyan refugees killed near Tripoli
170	7 February	<i>International Centre for Prison Studies</i>	World Prison Brief
171	5 February	<i>AFP</i>	Libya opens trial of 41 Kadhafi loyalists
172	3 February	<i>Human Rights Watch</i>	Press Release 3 February 2012
173	3 February	<i>Reuters</i>	Libya enjoys political flowering ahead of elections
174	2 February	<i>OCHR</i>	Report of the International Commission

			of Inquiry
175	31 January	<i>Libyan Human Rights Commission</i>	Libyan Human Right's Commission: Our History
176	28 January	<i>BBC News</i>	Libya's prisoners make new torture allegations
177	25 January	<i>Reporters without Borders</i>	Press Freedom Index
178	25 January	<i>The Guardian</i>	A guide to Libya's new political landscape
179	24 January	<i>World Health Organisation</i>	Health System Profile: Libya
180	23 January	<i>Freedom House</i>	Women's Rights in the Middle East and North Africa
181	23 January	<i>Medea Institute</i>	Libya, elections and Parliament
182	23 January	<i>The Telegraph</i>	British Airways is to resume flights to Libya
183	22 January	<i>Human Rights Watch</i>	Libya: Lagging Effort to Build Justice System
184	19 January	<i>The Independent</i>	Nato accused of war crimes in Libya
185	18 January	<i>Shabab</i>	Unofficial list of Political Parties in Libya
186	17 January	<i>Handicap International</i>	Libya Page
187	17 January	<i>The Social Institutes and Gender Index</i>	The Social Institutes and Gender Index, Libya
188	15 January	<i>Reuters</i>	Slow start for Libya drive to disband militias
189	13 January	<i>Reuters</i>	Libyan central bank starts withdrawing old currency
190	13 January	<i>United Nations Security Council</i>	Conflict related sexual violence
191	12 January		COI Response – People returning to Libya from west
192	11 January	<i>Freedom House</i>	Countries at the Crossroads 2011: Libya
193	09 January	<i>Amnesty International</i>	Year of Rebellion
194	07 January	<i>BBC News</i>	Libya's ex rebels reluctant to down

			arms
195	06 January	<i>Foreign and Commonwealth Office</i>	Travel Advice to Libya
196	06 January	<i>Foreign and Commonwealth Office</i>	Travel and Living Abroad
197	06 January	<i>UNICEF</i>	1.2 million children return to school in Libya
198	05 January	<i>Reuters</i>	Libyan Soldiers Demand Salaries
199	05 January	<i>Tripoli Post</i>	Libya's New Leaders Legalise Political Parties
200	04 January	<i>Think Progress</i>	Liberated Libya might not improve life for gay community
201	03 January	<i>Feb 17 Information</i>	Former Colonel appointed chief of Libya new army
<b>2011</b>			
202	2011	<i>Wikipedia</i>	2011 Libyan War
203	2011	<i>Libyan Crisis Group</i>	Reports of forced recruitment by Gadaffi
204	2011	<i>Wikipedia</i>	Az Zawiyah
205	2011	<i>Wikipedia</i>	Libyan Uprising
206	30 December	<i>Human Rights Watch</i>	In Libya: Building the Rule of Law
207	29 December	<i>Integrated Regional Information Networks</i>	Libya's long road to disarmament
208	22 December	<i>Voice of America</i>	Growth of Civil Society Groups
209	21 December	<i>Human Rights Watch</i>	Libya: Ensure Gadaffi Son's Access to Lawyer
210	21 December	<i>UN Treaty Collection</i>	Convention on the Elimination of Discrimination against Women
211	21 December	<i>UN Treaty Collection</i>	Convention on the rights of the Child
212	20 December	<i>UN News Centre</i>	Libya: UN Panel encouraged by commitment to tackle rights abuses
213	17 December	<i>International Medical Corps</i>	Libya Response External Situation
214	16 December	<i>Reuters</i>	Libyan Rapper finds his voice

215	16 December		COI Response – Senior military figures under Gaddafi Regime
216	14 December	<i>Women on the Web</i>	Abortion laws worldwide
217	13 December	<i>BBC News</i>	Libyan women battle for empowerment
218	12 December	<i>IRCC Libya</i>	Libya: over a hundred surgeons to hone skills
219	11 December	<i>CBS News</i>	Libyan army, militia clash, leaving 1 dead
220	07 December	<i>The Telegraph</i>	Libyan authorities give rebel militias two weeks to hand in weapons
221	04 December	<i>UN Office for Coordination of Humanitarian Affairs</i>	Libyan Response, Situation Report 67
222	01 December		COI Response – Dark Skinned Libyans
223	01 December		COI Response – Internal Security Service (family members)
224	01 December	<i>USA Today</i>	Women frustrated about lack of representation in Libya
225	28 November	<i>UN News Service</i>	Most pressing task for Libya is consolidation of Security
226	26 November	<i>Economist</i>	Hard to control the cocky gunmen
227	24 November	<i>Human Rights Watch</i>	The Women’s Libya movement in Libya sees surprising twist
228	22 November	<i>BBC News</i>	Libya’s Interim PM unveils new government lineup
229	22 November	<i>Reuters</i>	Libya’s NTC unveils new government lineup
230	22 November	<i>UN Security Council</i>	UN Report on the United Nations Support Mission in Libya
231	21 November	<i>New York Times</i>	Libya tries to build an army that can march straight
232	19 November	<i>BBC News</i>	Gaddafi’s son Saif al-Islam captured in Libya
233	17 November	<i>Defense News</i>	Libya’s old army appoints new chief
234	12 November	<i>The Huffington Post</i>	New Radio Stations bring Voices of Freedom to Libyan People



235	12 November	<i>The Huffington Post</i>	Armed clashes intensify in divided Tripoli
236	10 November	<i>Freedom House</i>	Countries at the Crossroads 2011 – Libya
237	10 November	<i>UNICEF</i>	Libya UNICEF provides support to Libyan Youth
238	09 November	<i>NPR Radio</i>	In post Ghadafi Libya, Enmities Continue to Smoulder
239	09 November	<i>Reuters</i>	Tense reconciliation begins with Libya's Saharan Tribes
240	08 November	<i>Refugee Documentation Centre (Legal Aid Board, Ireland)</i>	Information on those who now wish to return to Libya
241	08 November	<i>Euromonitor International</i>	Libyan Economic Prospects Strong following Civil War
242	04 November	<i>UN Department of Public Information</i>	Activities of Secretary General in Libya
243	03 November	<i>International Media Support</i>	Libya's new found freedoms explored
244	02 November	<i>International Criminal Court</i>	Second Report of the Prosecutor of the ICC to the UNSC
245	01 November	<i>The Wall Street Journal</i>	Libya chooses a new Prime Minister
246	31 October	<i>Reuters</i>	In Tripoli, NATO chief hails 'free Libya'
247	30 October	<i>Human Rights Watch</i>	Libya: Militias terrorizing residents of 'loyalist' town
248	26 October	<i>Reuters</i>	Gadaffi killed in hometown, Libya eyes future.
249	26 October	<i>UN News Service</i>	After liberation, election and security top priorities Libya
250	25 October	<i>Women Living Under Muslim Laws</i>	Statement on Libya
251	23 October	<i>Reuters</i>	Newspapers multiply as Libya enjoys press freedom
252	23 October	<i>UN News Centre</i>	UN renews commitment to support Libya

253	18 October	<i>Office for the High Commissioner of Human Rights</i>	Rebuilding Libya
254	13 October	<i>Amnesty International</i>	Detention abuses staining the new Libya
255	13 October		COI Response – Ex employees of Gadaffi regime
256	10 October	<i>World Health Organisation</i>	Partners supporting provision of essential health care in Libya
257	29 September	<i>UN News Centre</i>	UN Human Rights Council recommends reinstating Libya
258	28 September	<i>BBC News</i>	Libyan 'prison massacre grave' revives painful memories
259	23 September	<i>Freedom House</i>	Freedom of the Press 2011
260	20 September	<i>LGBT Asylum News</i>	In Libya, mistreatment of black migrants includes gays
261	13 September	<i>United States Department of State</i>	July-December 2010 International Religious Freedom Report
262	04 September	<i>Human Rights Investigations</i>	Human Rights Watch and the persecution of black people
263	03 September	<i>Gay World News</i>	Libya; What about the LGBT Rights Now?
264	01 September	<i>Associated Press</i>	Libyan rebels round up black Africans
265	31 August	<i>HJT Research</i>	African Union warns Libyan rebels
266	31 August	<i>Bloomberg</i>	Black Libyans and Africans targeted by rebels
267	30 August	<i>Amnesty International</i>	Fears for detainees held by anti-Gadaffi forces
268	30 August	<i>Guardian</i>	Libya's spectacular revolution has been disgraced by racism
269	30 August	<i>Radio Free Europe Radio Liberty</i>	Qaddafi family members turn up in Algeria
270	24 August	<i>All Africa</i>	Will a new Libya bring racial violence against black Africans
271	22 August	<i>BBC News</i>	Libya starts to reconnect to Internet
272	19 August	<i>Human Rights Watch</i>	Stop Arbitrary assets of Black Africans

273	19 August	<i>Human Rights Watch</i>	10 protestors apparently executed
274	16 August	<i>Voice of America News</i>	NATO condemns Libya's use of Scud missile
275	11 August	<i>Institute for War and Peace Reporting</i>	Opposition leadership under strain
276	11 August	<i>Tunisia Live</i>	NTC announces constitutional declaration
277	10 August	<i>Amnesty International</i>	NATO urged to investigate civilian deaths
278	01 August	<i>Foreign and Commonwealth Office</i>	Geographical names and information
279	01 August	<i>Minority Rights Group International</i>	World Directory of Minorities and Indigenous Peoples
280	01 August	<i>Minority Rights Group International</i>	Libya Overview
281	01 August	<i>Save the Children Sweden</i>	Children's Rights situation analysis Middle East
282	01 August	<i>United States Social Security Administration</i>	Social Security problems throughout the world
283	25 July	<i>Home Office</i>	Country of Origin Information Report Libya
284	25 July	<i>United Nations News Centre</i>	UN mission to Tripoli finds areas in urgent need of aid
285	25 July	<i>Telegraph</i>	On the front line during the bloody battle for Zawiya
286	23 July	<i>Al Jazeera</i>	Central Tripoli 'rocked by five explosions'
287	22 July	<i>The Hindu</i>	US not to insist on Qadhafi's departure
288	20 July	<i>Magharebia</i>	Armed civilians raise concerns in Libya
289	20 July	<i>Home Office</i>	Advice to Libyan Visa Holders
290	2011	<i>Associated Press</i>	Libya City torn by tribal feud
291	20 July	<i>Voice of America News</i>	Deadly clashes continue in Brega

292	20 July	<i>Magharebia</i>	Armed civilians raise concerns in Libya
293	18 July	<i>The World Health Organisation</i>	Country Cooperation Strategy for WHO
294	17 July	<i>Voice of America News</i>	Street fighting engulfs Brega
295	17 July	<i>Inter Press Service News Agency</i>	Hidden bombs hit Libyans
296	13 July	<i>Voice of America News</i>	Rights group calls on Libyan rebels to protect civilians
297	13 July	<i>Human Rights Watch</i>	Opposition forces should protect civilians and hospitals
298	12 July	<i>UNICEF</i>	2 million children at physical and emotional risk as conflict drags on
299	07 July	<i>United States Department of State</i>	Background Note – Libya
300	01 July	<i>Medecins San Frontieres</i>	Trapped in conflict – The neglected victims of the war in Libya
301	01 July	<i>Medecins San Frontieres</i>	Between a rock and a hard place: neglected victims of war in Libya
302	29 June	<i>Human Rights Watch</i>	Gaddafi forces occupy hospital
303	29 June	<i>Temehu</i>	International and Internal Flights and Schedules in Libya
304	29 June	<i>Temehu</i>	Libyan Sea Ports
305	27 June	<i>United States Department of State</i>	Trafficking in persons report, Libya.
306	26 June	<i>Voice of America News</i>	Libyan rebels claim advances in western mountains
307	24 June	<i>Amnesty International</i>	Renewed rocket attacks target civilians in Misratah
308	21 June	<i>New York Times</i>	Blacks in Libya face danger from rebels
309	21 June	<i>Black Star News</i>	Ethnic cleansing of black Libyans
310	20 June	<i>Shabab Libya</i>	Fierce fighting near to Tripoli
311	16 June	<i>Radio Free Europe Radio Liberty</i>	Qaddafi's options narrow as Libyan stalemate continues
312	14 June	<i>Child Soldiers</i>	The Coalition to stop the use of child

		<i>International</i>	soldiers
313	13 June	<i>BBC News</i>	Libya 'repulses rebels' in Zawiyah
314	13 June	<i>Ethnologue</i>	Language map of Libya and Egypt 2009
315	13 June	<i>Ethnologue</i>	Languages of the World 2009
316	11 June	<i>Reuters</i>	Fighting in Zawiyah shuts Libya road to Tunisia
317	09 June	<i>The UN News Service</i>	Ban calls for continued aid to Libyan civilians as crisis continues
318	08 June	<i>UN News Service</i>	Evidence emerging of use of rape as tool of war in Libya
319	05 June	<i>Human Rights Watch</i>	Libya: Opposition Arbitrarily detaining suspected Gadhafi Loyalists
320	01 June	<i>Temehu</i>	Libyan People
321	01 June	<i>UN News Service</i>	Libyan Government forces and opposition committed war crimes
322	31 May	<i>France 24 International News</i>	Libyan rebels rename themselves National Liberation Army
323	18 May	<i>NBC News</i>	Gadhafi rebels vie for loyalty of Libyan tribes
324	13 May	<i>Amnesty International</i>	Amnesty International Annual Report 2011
325	12 May	<i>Freedom House</i>	Annual Report Libya 2011
326	12 May	<i>Freedom House</i>	Freedom in the World Libya 2011
327	12 May	<i>Foreign and Commonwealth Office</i>	Head of the Libyan National Transitional Council visits UK
328	11 May	<i>Amnesty International</i>	Annual Report 2011 Libya
329	11 May	<i>BBC News</i>	Key Maps of Libya
330	11 May	<i>Maps of World</i>	Libya Political Map
331	07 May	<i>Reuters</i>	Fear of crackdown, conscription haunts Libyan capital
332	06 May	<i>Amnesty International</i>	Detainees, disappeared and missing
333	06 May	<i>Amnesty International</i>	Attacks against Misratah resident point to war crimes

334	06 May	<i>WHO</i>	Sit Report 19
335	05 May	<i>International Lesbian and Gay Association</i>	State Sponsored Homophobia
336	03 May	<i>CIA World Factbook</i>	Libya
337	20 April	<i>OHCHR</i>	Indiscriminate attacks on civilians in Misrata
338	17 April	<i>Human Rights Watch</i>	Indiscriminate attacks kill civilians
339	15 April	<i>Guardian</i>	With Tripoli's rebel underground
340	15 April	<i>Telegraph</i>	Gaddafi using schoolboy conscripts on front line
341	12 April	<i>Voice of America</i>	Libyan conflict seen as stalemate
342	09 April	<i>Al-Jazeera</i>	Migrants forced to fight for Gaddafi
343	08 April	<i>The United States Department of State</i>	Country Report on Human Rights Practices 2010 Libya
344	04 April	<i>The New Yorker</i>	Who are the Rebels?
345	10 March	<i>Guardian</i>	Zawiya town centre devastated and almost deserted
346	29 March	<i>Amnesty International</i>	Campaign of disappearances must end
347	31 March	<i>The Foreign and Commonwealth Office</i>	Human Rights and Democracy: Libya
348	29 March	<i>UNHCR</i>	Protection considerations with regard to people fleeing Libya
349	28 March	<i>Inter Press Service News</i>	Rebels facing tough fight for Sirte
350	28 March	<i>Amnesty International</i>	Death Sentences and Executions in 2010
351	28 March	<i>BBC News</i>	Key Figures in Libya's Rebel Council
352	24 March	<i>OHCHR</i>	Wave of enforced disappearances
353	21 March	<i>Inter Press Service News Agency</i>	Uprising revives entrenched racism towards black Africans
354	20 March	<i>FT</i>	Q&A Who are the Libyan Rebel Fighters?
355	18 March	<i>Foreign and Commonwealth Office</i>	Prime Ministers Statement on Libya

356	17 March	<i>United Nations</i>	Security Council Approves 'no fly zone' over Libya
357	17 March	<i>UN Security Council</i>	UN approve 'no fly zone' over Libya
358	15 March	<i>Hansard</i>	House of Commons Questions
359	13 March	<i>Human Rights Watch</i>	End violent crackdown in Tripoli
360	11 March	<i>Reporters without Borders</i>	Internet Enemies 2011: Countries under surveillance – Libya
361	10 March	<i>Reuters</i>	Zawiya town centre devastated and almost deserted
362	10 March	<i>BBC News</i>	Q&A: Libyan National Council
363	10 March	<i>FIDH</i>	Colonel Qaddafi forces enrolment of African migrants in army
364	10 March	<i>International Federation for Human Rights</i>	Colonel Qaddafi forces enrolment of African migrants in army
365	10 March	<i>The Foreign and Commonwealth Office</i>	Country Profile of Algeria
366	05 March	<i>Reuters</i>	Gaddafi 'tightens grip' on Zawiya
367	03 March	<i>Jamestown Foundation</i>	Special report from inside Libya: Assessing Libyan Rebel Forces
368	28 February	<i>Al-Jazeera</i>	African migrants targeted in Libya
369	28 February	<i>The International Centre for Prison Studies</i>	Report of 28 February 2011
370	24 February	<i>The Foreign Desk</i>	Is Al-Jazeera TV complicit in the vilification of Libya's Blacks
371	23 February	<i>Magharebia</i>	Libya lashes out at demonstrators
372	22 February	<i>Asharq Alawsat</i>	Network of loyalties that will determine Gadhafi's fate
373	17 February	<i>Human Rights Watch</i>	Security forces fire on 'Day of Anger' demonstrations
374	24 January	<i>Human Rights Watch</i>	World Report 2011: Libya
375	18 January	<i>United States Office of Personnel Management</i>	Citizenship Laws of the World
376	04 January	<i>The Libyan-European</i>	2008 Document

		<i>Partnership for Infectious Disease Control</i>	
<b><u>2010</u></b>			
377	14 December	<i>Amnesty International</i>	Seeking Safety, finding fear. Asylum seekers in Libya and Malta
378	13 September	<i>The International Federation for Human Rights</i>	Annual Report 2010 North Africa/Middle East
<b><u>2009</u></b>			
379	12 November	<i>Immigration and Refugee Board of Canada</i>	Libya: Process for Libyan citizen wanting to exit airport in Tripoli
<b><u>2007</u></b>			
380	01 January	<i>UNDOC</i>	Penal Code (2007) Libyan Arab Jamahiriya
<b><u>2005</u></b>			
381	01 April	<i>The Library of Congress</i>	Country Profile – Libya
<b><u>2002</u></b>			
382	19 September	<i>Right to Education Project</i>	National Law and policies on minimum ages
<b><u>1998</u></b>			
383	07 August	<i>War Resisters International</i>	Libya – Conscription