Protection Sector Update on the Protection of Civilian Situation in Libya, 24 August 2019

Highlights:

- So far in 2019, there have been over 37 registered attacks on health facilities and workers; 11 deaths and 33 injured;
- Since April, over 218 civilians have been killed and over 289 civilians have been injured;
- 4,933 migrants and refugees are estimated remain arbitrarily detained in 20 detention centres across Libya, including some 3,133 individuals in detention facilities in conflict-affected areas around Tripoli
- They are nearly 270,000 internally displaced persons, as of 20 August 2019, 135,000 were newly displaced in 2019, which is 305 per cent increase in new displacement from 2018.

Background:

Conflict between the Government of National Accord (GNA) and the Libyan National Army (LNA) has been ongoing since 2014 to the detriment of the civilian population. Particularly vulnerable civilians, including women and children, are often disproportionality affected by armed conflict, and have continued to be impacted by the conflict in Libya. Armed actors are obligated to protect civilians, and it is with this premise that this update on the situation of the protection of civilians in Libya rests. This update is meant to inform protection actors and the wider humanitarian community about the protection of civilian needs and gaps in the Libyan operation, and the encourage international commitments to the protection of civilians in Libya.

Increase of internal displacement:

As of May 2019, there were nearly 270,000 internally displaced persons (IDPs) and 445,000 IDP returnees in Libya.[1] As of 20 August 2019, nearly 135,000 were newly displaced this year, including 5,000 due to flooding in Ghat. Over half of displacement in Libya occurred in 2014-2015, while 2019 represented the highest level of displacement since, with a 305 per cent increase in new displacement from 2018. The majority of IDPs live in rented accommodation, 7 per cent are estimated to live in public buildings, schools, hospitals or religious buildings. 6% are estimated in informal settlements, and 4 per cent in other shelter arrangements.

Civilian casualties

Since the onset of the Tripoli conflict in April 2019, over 218 civilians have been killed and over 289 civilians have been injured due to the ongoing conflict from attacks that use indiscriminate weaponry, being directly targeted, or being casualties to Explosive Remnants of War in conflict-affected areas including Tripoli and Murzuq.[2]

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[1] IOM DTM's most recent country-wide IDP and Returnee Report, May 2019

[2] Raghavan, Sudarsan (2019). 'In a city of ever-shifting front lines, Libyans confront their worst fighting in years.' *The Washington Post.* 4 June 2019. https://www.washingtonpost.com/world/in-a-city-of-ever-shifting-front-lines-libyans-confront-their-worst-fighting-in-years/2019/06/04/70425ac4-2ee7-4e6b-bda2-42a4fef12993_story.html; Al Jazeera (2019). 'WHO: More than 1,000 killed in battle for Libya's Tripoli: Total of 1,048, including civilians, dead

Civilian casualties have increased dramatically since 2018. An estimated 188 civilians were killed and 356 civilians injured due to the conduct of hostilities the entire year of 2018, as estimated by the UNSMIL Human Rights civilian casualty reports from 2018.[3] This dramatic increase in 2019 is due to the renewal of hostilities in Tripoli due to the proximity of the hostilities to civilian populations.

Arbitrary detention, enforced disappearances, torture and ill-treatment:

Detention of migrants and refugees[4]

As of 20 August 2019, 4,933 migrants and refugees are estimated remain arbitrarily detained in 20 detention centres across Libya, including some 3,133 individuals in detention facilities in conflict-affected areas around Tripoli[5].

Migrants and refugees are held in undignified and inhumane conditions. Detainees have no access to adequate and specialized medical care, including sexual and reproductive health care. Detainees lack access to sufficient quantities and nutrient-sufficient food and safe and adequate drinking water. Detainees have inadequate access to washing and sanitation facilities, and no access to basic necessities including clean bedding, clothing and items of personal hygiene[6].

Many vulnerable individuals are detained in these centres including children, particularly unaccompanied or separated families, pregnant and nursing women, survivors of trafficking, torture and rape, persons with specific physical or mental needs, and persons living with disabilities. Despite the closer of the AL Khoms detention centre by the Directorate for Combatting Illegal Migration (DCIM), the Libyan Coast Guard continues to send refugees and migrants rescued at sea to detention centres. Protection actors reported the disappearance of hundreds of rescued migrants. The disappearance of refugees and migrants has also been reported in detention centres in Libya.

Arrest, kidnapping, and detention of Libyan nationals

Several reports from Protection Sector partners confirm widespread arbitrary detention throughout the country, with reports of ill-treatment and torture in some facilities. In most cases, detainees were not informed of the reasons for their arrest, were not charged, were denied access to lawyers or a judge, and were held incommunicado for prolonged or indefinite periods. There are an estimated 9,000 individuals currently imprisoned in 28 official prisons under the Ministry of Justice[7], including an estimated 60 per cent of them in pre-trial detention. As of June 2019, 278 women were detained, 184 of whom are non-Libyans, and 109 youths and children were in the custody of the Judicial Police prisons. According Protection Sector partners, the situation in the Mitiga prison in Tripoli has serious human rights violations, including women and children held without trial and imprisoned for perceived political affiliation. Arbitrary detention contravenes both International Humanitarian Law and International Human Rights Law.

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and 5,558 wounded in three months of clashes for the capital, UN agency say.' *Al Jazeera News.* https://www.aljazeera.com/news/2019/07/1000-killed-battle-libya-tripoli-190708191029535.html; Global Centre for the Responsibility to Protect. *Atrocity Alert: War Crimes in Libya.* http://createsend.com/t/j-AEB067BF038F995B2540EF23F30FEDED.UNSMIL Civilian Casualty reports from January through March 2019.

[3] UNSMIL Civilian Casualty reports from January through December 2018.

[4] For the purpose of this paper, 'refugee' refers to refugees and asylum-seekers.

[5] UNHCR

[6] Protection Sector Joint Rapid Assessment, Tripoli, Libya - May 2019, https://reliefweb.int/report/libya/protection-sector-joint-rapid-assessment-tripoli-libya-may-2019

[7] OHCR

Since the renewal of hostilities in the current conflict, there has been a reported increase of arbitrary arrest of activists and civilians who publicly criticize or contradict the Libyan National Army (LNA) or Government of National Accord's (GNA) narrative. In June, seven civilians belonging to the Mugharba tribe were arrested by Ajdabiya and were accused of criticizing the LNA. On 17 July 2019[8], Seham Sergewa, a member of parliament was abducted in Benghazi. Seham was abducted one day after an interview with a TV station where she criticized the military intervention in Tripoli. On 11 August, two civilians were kidnapped and disappeared from the city centre of Sirte. In a recent protection assessment carried out by the Protection Sector, kidnapping and arrest was highlighted as one of the major protection risk and concerns for the Libyan and no Libyans.[9]

Presence of explosive hazards

Explosive hazards impact the ability of displaced Libyans to return to their homes, return to their livelihoods, and pose a serious safety risk to children. Explosive hazard contamination impacting civilian infrastructure, particularly schools and hospitals can impede civilian access to services. The level of country-wide explosive hazard contamination is unknown in Libya, however Libya has a history of mine contamination dating back to World War II and other armed conflicts with Egypt and Chad, when borders with their neighbouring countries were mined. Additionally, numerous types of mines were identified as being used in the 2011 conflict by both government and opposition forces including both antipersonnel landmines and antivehicle landmines and cluster munitions.[10] Improvised explosive-devices and unexploded ordnances continue to contaminate conflict-affected parts of Libya, both from the current conflict and from previous conflicts.[11] The use of indiscriminate weapons, including cluster munitions is prohibited by customary International Humanitarian Law, as is the obligation to remove or neutralize landmines after the cessation of hostilities.[12]

Libya is not a party to the Convention on Cluster Munitions or the Ottawa Treaty on Landmines, and does not have comprehensive national legislation,[13] necessitating reform in the legal framework and obligations of the Libyan state to ensure the protection of civilians and to mitigate their exposure to harm during and after times of armed conflict.

Civilian infrastructure

During the conflict in Derna early this year there were reports of widespread destruction, looting, burning and confiscation of property belonging to the displaced relatives of Derna Security Forces, families accused of not supporting LNA forces, and families originally from west Libya[14]. There has also been a pattern of looting in the current conflict in Murzuq in south Libya, where there have been reports of displaced civilian homes, shops, and buildings being looted and burned. Protection Sector partners have received increasing reports of civilian houses and shops being looted in Khala, Salaheddin and Ayn Zara neighbourhoods of Tripoli.

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[8] Access working group, August report

[9] *Joint protection assessment, Tripoli May 2019*

[10] Human Rights Watch (2011). *Landmines in Libya: Technical Briefing Note.* 3 June 2011. https://www.hrw.org/news/2011/07/19/landmines-libya-technical-briefing-note.

[11] Landmine & Cluster Munition Monitor. 'Libya: Mine Action.' 19 November 2018. http://www.the-monitor.org/en-gb/reports/2019/libya/mine-action.aspx.

[12] Customary IHL Rules 71 and 83.

[13] Mine Action Review (2019). *Clearing Cluster Munition Remnants 2019: Libya.* http://www.mineactionreview.org/assets/downloads/Libya_Clearing_Cluster_Munition_Remnants_2019.pdf

[14] https://reliefweb.int/report/libya/libya-protection-sector-update-protection-situation-idps-derna-15-january-2019

In the current conflict in Tripoli, civilian infrastructure, upon which civilians are depending for survival, are at threat of being damaged or destroyed. Hospitals, schools, electricity systems, and religious sites are already among those that have been damaged in the fighting.

There have been reports of civilian homes in conflict-affected areas being requisitioned for military purposes by both LNA and GNA forces. These requisitions have reportedly taken the form of forced eviction by military forces and the occupation of homes of civilians who had previously displaced. Residential areas in Tripoli, south Libya, and Derna have repeatedly been hit by air strikes, often resulting in significant destruction of civilian objects and objects indispensable to the survival of the civilian population.

The fighting in urban areas puts thousands of civilians at risk, particularly where military operations take place in neighbourhoods where civilians reside, on roads heavily trafficked by civilian populations, at the Mitiga civilian airport, or around vital services. Safe routes for civilians to leave conflicted areas are not always available due to military positions, airstrikes, checkpoints, and landmines and unexploded ordnances (UXOs). Other protection risks impact civilian ability to escape the fighting including threats of kidnapping, arrest and harassment. Humanitarian access has been limited due to the insecurity.

In Tripoli since April, more than 12,000[15] students were unable to complete their studies. In many areas of western Libya, a number of schools were indiscriminately targeted as a result of the aggression on Tripoli[16]. Schools in Tripoli are also being used as collective shelters for displaced populations, further impeding access to education services.

Attacks on health facilities and workers

So far in 2019, there have been over 37 registered attacks on health facilities and workers, impacting at least 19 ambulances and 19 hospitals and resulting in 11 deaths and 33 injuries.[17] Attacks have included targeted airstrikes and mortar fire. Affected medical facilities include hospitals and ambulances that serve civilian populations as well as fighters of both parties to the conflict.[18] Intentional, targeted attacks on health care facilities and workers constitute violations of International Humanitarian Law.[19]

Medical facilities and workers have persistently been the intentional target of attacks, with 47 attacks on healthcare facilities and workers reported for all of 2018. Of those 47 attacks, five health facilities were damaged or destroyed, two health transports were damaged or destroyed, and 10 health workers were injured.[20] The targeting of health facilities and workers poses serious harm both for medical personnel and for civilian patients at risk of losing access to health services, and constitutes a violation of IHL.

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[15] OHCR

[16] *Confirmed report of 3 schools have been damaged including Al Kadsia school in Tajora , Al Alamien school in Tripoli - AL Hani and Al Zahour School in Ein Zara.*

[17] Special Representative for the Secretary General Ghassan Salame. 'SRSG Ghassan Salame strongly condemns attacks against health facilities and workers' [press release]. 15 August 2019. https://unsmil.unmissions.org/srsg-ghassan-salame-strongly-condemns-attacks-against-health-facilities-and-workers.

[18] Raghavan, Sudarsan. 'In battle for Tripoli, medical workers are becoming casualties' *The Washington Post.* 15 August 2019. https://www.washingtonpost.com/world/in-battle-for-tripoli-medical-workers-are-becoming-casualties/2019/08/15/defc4384-b48a-11e9-8e94-71a35969e4d8_story.html?noredirect=on.

[19] CIL Rule 25, 28, 30; Additional Protocol Article 15; Article 3 common to the Geneva Conventions; AP II, article 11(1)

[20] Safeguarding Health in Conflict (2019). *Impunity Remains: Attacks on Health Care in 23 Countries in Conflict.* https://reliefweb.int/sites/reliefweb.int/files/resources/SHCC2019final.pdf

Attacks on humanitarian personnel

Attacks on civilian personnel including medical personnel and humanitarian workers continues to present risks to the Libyan populations. In addition to the aforementioned attacks on health workers and facilities, humanitarian workers continue to face violence and threats to their security. On 10 August 2019, three United Nations staff members were killed and three more injured in a car bomb attack in Benghazi.[21] Attacks against United Nations or humanitarian workers threatens to impede the civilian population's access to critical services due to increased risk to the humanitarian community, and a corresponding decrease in service provision to the civilian populations most in need.

Attacks on humanitarian personal, including abductions and physical violence, are a persistent trend in Libya. There were four reported incidents of violence impacting humanitarian actors in 2018, impacting a total of five individuals. The reported incidents included the abduction of two staff, two humanitarians caught in crossfire incidents and subsequently injured, and one humanitarian abducted and subsequently dying from injuries sustained.[22]

IHL mandates that humanitarian relief personnel are to be protected and respected, thus targeted attacks against humanitarians contravene the Laws of War.[23] Studies on the impact of violence against humanitarians on the provision of assistance have determined that violence against humanitarians limits access to potentially insecure locations, securitization and bunkerization of humanitarian organizations, reliance on remote management, and inability to directly access, and thus assess and serve, populations in need.[24][25] The continued trend of violence against humanitarians in Libya is concerning for civilian populations in need of assistance, and targeted violence against humanitarians is a violation of IHL.

Recommendations:

To the international community:

1. Ensure the protection of civilians remains paramount by advocating for a political solution to the situation in Libya based on the rule of law and incorporating human rights protections to avoid further suffering.

2. The international community must call on all parties to the conflict to take immediate measures to protect civilians, including:

   a. Ensure that civilians, including particularly vulnerable populations such as women, elderly persons, and children, are able to physically move away from conflict areas. All parties must commit to providing warning and ensuring humanitarian corridors for women and girls and other civilians out of affected areas.
   b. Ensure that migrants and refugees in detention centers are not involved in directly participating in hostilities, in compliance with the Geneva Convention relative to the Protection of Civilian Persons.

[21] United Nations Secretary-General (2019). 'Secretary-General strongly condemns Libya car bomb attack that left 3 United Nations staff dead, 3 others among wounded' [press release]. SG/SM/19699. 10 August 2019. https://www.un.org/press/en/2019/sgsm19699.doc.htm.
[22] The Aid Worker Security Database, https://aidworkersecurity.org/incidents; https://aidworkersecurity.org/incidents/search?start=2018&end=2018&detail=1&country=LY.
[23] Customary IHL, Rule 31. https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule31
[24] Harmer, Adele and Czwarno, Monica (2017). 'The effects of insecurity on aid operations in South Sudan.' *Humanitarian Exchange: The Crisis in South Sudan.* Number 68, January 2017.
[25] Working Group on Protection of Humanitarian Action (2018). *Toolkit: Responding to Violence against Humanitarian Action on the Policy Level.* https://www.actionagainsthunger.org/sites/default/files/publications/Toolkit_-_Responding_to_Violence_Against_Humanitarian_Action.pdf

c. Guarantee humanitarian works safe access to ensure the delivery of lifesaving assistance, including health facilities and health workers.

3. The UN Security Council should adopt a resolution calling for the protection of civilians and accountability for serious violations of international human rights and humanitarian law. Member States should desist from exercising their veto powers to block resolutions intended to ensure compliance with international law.

4. The UN Security Council should unequivocally condemn violations of IHL and violations or abuses of IHRL by all parties to armed conflict in Libya. This should include consistently condemning direct and indiscriminate attacks on civilians, deliberate targeting of schools, hospitals and other civilian infrastructure, and arbitrary denial of humanitarian access. Ensure that there are consequences for state and non-state actors who deliberately violate or disregard their obligations, including through accountability mechanisms.

5. The UN Security Council should consistently support the creation of international, independent investigative mechanisms in Libya when there are significant increases of violations of protection of civilians. Encourage parties to the conflict to decisively and transparently investigate allegations of civilian harm committed by their forces.

6. Donors should urgently provide funding to protection actors to support humanitarian coordination, protection response activities, and to ensure accountability to affected populations. In line with a conflict-sensitive approach, special attention should be given to supporting the response in under-resourced areas, especially areas outside Tripoli, to avoid the perception of political bias of assistance provided only to areas aligned with one party to the conflict, or to avoid further divisions within the Libyan society.

To parties involved in the conflict:

1. The distinction between combatants and civilians is a foundational principle of IHL[26]; intentional targeting of civilian populations, disproportionate or indiscriminate attacks[27] and attacks on civilian objects[28] are clear violations of IHL. All parties to the conflict are bound to the obligation to mitigate civilian harm during times of armed conflict and ensure the protection of civilian populations and objects[29].

2. The physical safety of civilians is threatened by indiscriminate attacks and shelling in dense urban areas: all parties to the conflict shall not target and take immediate measures to ensure the protection of civilians, civilian objects or humanitarian responders.

3. Ensure the safe and unrestricted access of all population groups affected by the fighting and displacement, including Libyans and non-Libyans, to access collective shelters without discrimination where they can enjoy safety, freedom of movement and access life-saving and essential services.

4. Facilitate access for humanitarian actors and service providers to mobilize assistance to conflict-affected households;

5. Hold militants accountable involved in perpetrating any forms of sexual violence against civilians.

To the humanitarian community including UN Mission in Libya:

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[26] Customary IHL Rule 1; AP II, article 13(2); Amended Protocol II to the Convention on Certain Conventional Weapons, Article 3(7); The Ottawa Treaty, preamble.
[27] Customary IHL Rule 11; AP II, article 13(2); Amended Protocol II to the CCW, Article 3(8).
[28] Customary IHL Rule 10; AP I, article 52(3); Amended Protocol II to CCW, Article 3(8)(a).
[29] Customary IHL Rule 22;

1. Protection actors to increase protection monitoring activities in order to collect and share data for analysis and deeper understanding of protection issues and to identify persons with specific needs and provide them with the assistance; protection actors should increase their presence in conflict-affected areas, including locations outside of Tripoli.

2. The UN Mission in Libya should ensure effective communication and coordination mechanisms to provide a coordination framework for protection stakeholders, including protocols to liaise with external actors, in particular the Protection Sector to share information, identify needs and gaps, and coordinate responses when appropriate.

3. The HCT should continue efforts to develop the Centrality of Protection strategy (CoP)[30] that identifies high priority and critical protection issues that require collective advocacy and a common position by the leadership of the operation. The Strategy should be based on a strong analysis by the Protection Sector (including Child Protection, GBV, Mine Action) that is informed by a well-documented evidence-base that will give credibility to collective advocacy measures

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[30] The centrality of protection means more than protection mainstreaming. It includes ensuring that leadership, coordination, and engagement in protection and all sectors is more strategic, aligned and directed toward a stronger response. See Global Protection Cluster website.

For more information, please contact Protection Sector Coordinators

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