



# THE BATTLE FOR LIBYA

KILLINGS, DISAPPEARANCES  
AND TORTURE

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INTERNATIONAL



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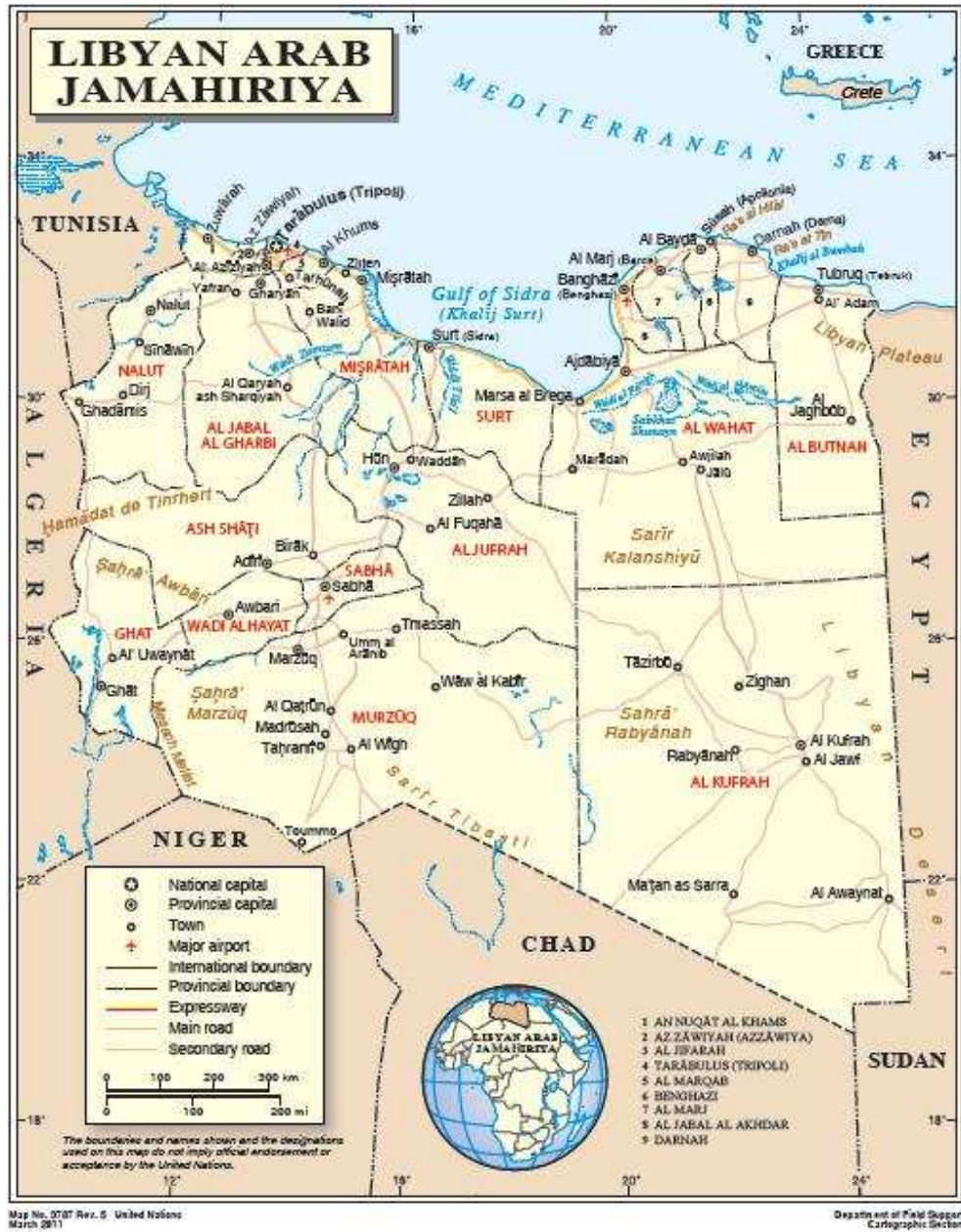
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*Cover photo:* Misratah, Libya, May 2011  
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# CONTENTS

Abbreviations and glossary .....	5
Introduction .....	7
1. From the “El-Fateh Revolution” to the “17 February Revolution” .....	13
2. International law and the situation in Libya .....	23
3. Unlawful killings: From protests to armed conflict .....	34
4. Enforced disappearances, detentions and torture.....	57
5. Abuses by opposition forces .....	70
6. Foreign nationals: Abused and abandoned .....	79
7. Conclusion and recommendations.....	91
Endnotes .....	96



Libyan Arab Jamahiriya, No. 3787 Rev. 4 June 2004 © UN Cartographic Section

# ABBREVIATIONS AND GLOSSARY

- **Al-Gaddafi forces** Military and security forces loyal to Colonel Mu'ammarr al-Gaddafi
- **General People's Committee for Foreign Liaison and International Co-operation** Libya's equivalent to a Ministry of Foreign Affairs
- **General People's Committee for Justice** Libya's equivalent to a Ministry of Justice
- **General People's Committee for Public Security** Libya's equivalent to a Ministry of the Interior
- **EU** European Union
- **Kata'ib** Popular name for Colonel al-Gaddafi's armed brigades
- **Kateeba** Popular name for the Kateeba al-Fodhil Bou 'Omar military barracks in Benghazi
- **ICC** International Criminal Court
- **ICCPR** International Covenant on Civil and Political Rights
- **IOM** International Organization for Migration
- **ISA** Internal Security Agency, an intelligence agency associated with some of the worst human rights violations under Colonel al-Gaddafi's rule
- **NATO** North Atlantic Treaty Organization
- **NTC** National Transitional Council, the Benghazi-based leadership of the opposition
- **Revolutionary Committees** Bodies created by Colonel al-Gaddafi to "protect" the 1969 "El-Fateh Revolution"
- **Revolutionary Guards** Security militia under Colonel al-Gaddafi's rule
- **RPG** Rocket-propelled grenade
- **Thuwwar** Popular name for opposition fighters, literally meaning "revolutionaries"

6 The battle for Libya  
Killings, disappearances and torture

# INTRODUCTION

Inspired and emboldened by anti-government protests sweeping across the Middle East and North Africa region, Libyans called for 17 February 2011 – the fifth anniversary of a brutal crackdown on a public protest in Benghazi – to be their “Day of Rage” against Colonel Mu’ammār al-Gaddafi’s four-decade long repressive rule. Until opposition forces finally stormed the capital, Tripoli, in late August, Colonel al-Gaddafi had controlled Libya for over four decades.

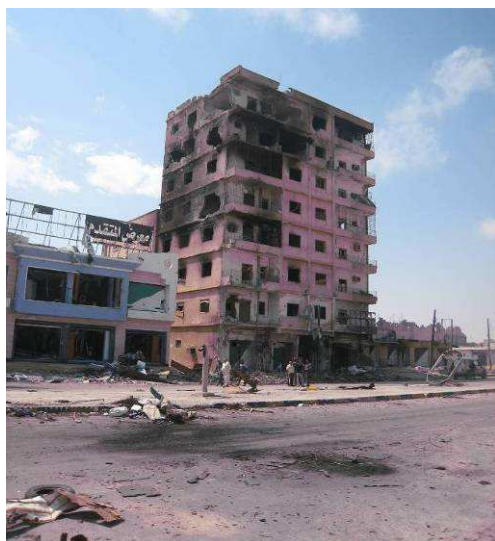
Desperate to maintain their grip on power in the wake of the uprisings in neighbouring Tunisia and Egypt which led to the toppling of long-standing presidents, the Libyan authorities arrested a dozen activists and writers in the lead-up to the “Day of Rage.” However, the arrest of prominent activists in Benghazi and al-Bayda had the opposite of the intended effect – it triggered a public outcry of anger and prompted demonstrations in eastern Libya ahead of the scheduled date.

Security forces greeted the peaceful protests in the eastern cities of Benghazi, Libya’s second city, and al-Bayda with excessive and at times lethal force, leading to the deaths of scores of protesters and bystanders. When some protesters responded with violence, security officials and soldiers flown in from other parts of the country failed to take any measures to minimize the harm they caused, including to bystanders. They fired live ammunition into crowds without warning, contravening not only international standards on the use of force and firearms, but also Libya’s own legislation on the policing of public gatherings.

The crackdown in eastern Libya did not discourage people in other regions from joining the uprising. Protests flared up across the country from Nalut and Zintan in the Nafusa (western) Mountain region, and al-Zawiya and Zuwara in the west; to Tripoli; to Kufra in the south-east. Such protests were met with tear gas, batons and live ammunition. In the face of government brutality, the protesters’ determination to topple Colonel al-Gaddafi grew. Anti-government protests quickly escalated into armed clashes with Colonel al-Gaddafi’s security forces (al-Gaddafi forces).

In some areas, opponents of Colonel al-Gaddafi’s rule quickly overpowered the security forces and seized abandoned weapons. They burned many public buildings associated with state repression, including premises of the Revolutionary Committees, a body entrusted with “protecting” the principles of the “El-Fateh Revolution” that brought Colonel al-Gaddafi to power in 1969; and the Internal Security Agency (ISA), an intelligence body implicated in gross human rights violations in past decades. By late February, most of eastern Libya, parts of the Nafusa Mountain and Misratah (Libya’s third city, located between Benghazi and Tripoli) had fallen to the opposition. The unrest rapidly evolved into an armed conflict, and the civilian population increasingly suffered as the battle for Libya raged on.

In the unrest and ongoing armed conflict, al-Gaddafi forces committed serious violations of international humanitarian law (IHL), including war crimes, and gross human rights violations, which point to the commission of crimes against humanity. They deliberately killed and injured scores of unarmed protesters; subjected perceived opponents and critics to enforced



Tripoli Street, Misratah © Amnesty International

disappearance and torture and other ill-treatment; and arbitrarily detained scores of civilians. They launched indiscriminate attacks and attacks targeting civilians in their efforts to regain control of Misratah and territory in the east. They launched artillery, mortar and rocket attacks against residential areas. They used inherently indiscriminate weapons such as anti-personnel mines and cluster bombs, including in residential areas. They killed and injured civilians not involved in the fighting. They extra-judicially executed people who had been captured and restrained. They concealed tanks and heavy military equipment in residential buildings, in a deliberate attempt to shield them from possible air strikes by the North Atlantic Treaty Organization (NATO) forces.<sup>1</sup>

The siege by al-Gaddafi forces of opposition-held territory, notably Misratah but also areas such as Zintan in the Nafusa Mountain, aggravated humanitarian crises there as residents were living without or with only limited access to water, electricity, fuel, medicine and essential foodstuffs. As al-Gaddafi forces shelled opposition-held areas, civilians had nowhere safe to hide.

Those who could flee from Ajdabiya, 160km west of Benghazi, and the Nafusa Mountain did so. Others, such as residents of Misratah, particularly from late March to early May, were trapped as the city was besieged from all sides but the sea and relentlessly shelled. Even Misratah's port came under fire by al-Gaddafi forces in a clear attempt to cut the city's only remaining escape route and lifeline for humanitarian supplies.

Al-Gaddafi forces also engaged in an extensive campaign of enforced disappearances of perceived opponents across the country, including journalists, writers, on-line activists and protesters. Thousands of Libyans were abducted from their homes, mosques and streets, or captured near the front line, frequently with the use of violence. Among the disappeared were children as young as 12. The fate and whereabouts of many of those abducted remained unknown until detainees escaped, or were freed, by opposition forces in Tripoli, and their families' anguish continued for months. Earlier this year, some of the disappeared appeared in broadcasts "confessing" to carrying out activities against Libya's best interests or belonging to al-Qa'ida.

Testimonies of some of those released from detention in Tripoli and Sirte, which throughout the conflict were strongholds of Colonel al-Gaddafi, confirm fears that the disappeared and other individuals abducted and detained by al-Gaddafi forces have been tortured or even extra-judicially executed. The most frequently-reported methods of torture and other ill-



treatment include beatings with belts, whips, metal wires and rubber hoses on all parts of the body; suspension in contorted positions for prolonged periods; and the denial of medical treatment, including for injuries sustained as a result of torture or shooting.

Such violations took place against the backdrop of the al-Gaddafi authorities' severe restrictions of independent reporting in territories under their control; and violent attacks and assaults on Libyan and international media workers. Dozens of journalists have been detained during the unrest and at least seven have been killed near the front line. The government of Colonel al-Gaddafi also severely disrupted telephone communications and Internet access, in a vain attempt to halt the spread of information about the uprising and the government crackdown.

Members and supporters of the opposition, loosely structured under the leadership of the National Transitional Council (NTC), based throughout the conflict in Benghazi, have also committed human rights abuses, in some cases amounting to war crimes, albeit on a smaller scale. In the immediate aftermath of taking control in eastern Libya, angry groups of supporters of the "17 February Revolution" shot, hanged and otherwise killed through lynching dozens of captured soldiers and suspected foreign "mercenaries" – and did so with total impunity. Such attacks subsequently decreased, although Sub-Saharan African nationals continued to be attacked on what have proved to be largely unfounded suspicions that they were foreign "mercenaries" hired by Colonel al-Gaddafi.

Opposition supporters targeted suspected al-Gaddafi loyalists and former members of some of the most repressive security forces. Between April and early July, for example, more than a dozen such individuals were unlawfully killed in Benghazi and Derna (including at least three members of the ISA in Benghazi). They also tortured and ill-treated captured soldiers, suspected "mercenaries" and other alleged al-Gaddafi loyalists.

Foreign nationals, particularly from Sub-Saharan Africa, have been particularly vulnerable to abuses by both al-Gaddafi and opposition forces, including arbitrary detention and torture, and found themselves caught in the crossfire. In a climate of racism and xenophobia stirred up by both sides, they have also been increasingly targeted for violent attacks, robbery and other abuses by ordinary Libyans across the country. As a result, many have fled across the nearest border or have been evacuated. While neighbouring countries, most notably Tunisia and Egypt, have received hundreds of thousands of third-country nationals fleeing Libya, member states of the European Union (EU) continued to enforce their border control policies and failed to guarantee safety for those escaping conflict. Since March, more than 1,500 fleeing men, women and children have perished at sea trying to cross the Mediterranean to Europe.<sup>2</sup>

As the violence in Libya escalated, the international community responded by setting-up a United Nation (UN) Human Rights Council Commission of Inquiry, referring the situation in Libya to the International Criminal Court (ICC) and authorizing "all necessary measures" – including the use of force, but short of a ground invasion – to "protect civilians". Colonel al-Gaddafi's government accused the international coalition (and then NATO after it took control of military operations in late March) of killing over 800 civilians, although there is little evidence available to corroborate such claims. NATO did admit to committing a number of fatal mistakes, including one on 19 June in Tripoli that led to civilian deaths. Like all parties

to the conflict, NATO is bound by IHL and must take all necessary precautions to spare civilians and civilian objects.

On 27 June, ICC judges approved arrest warrants for Colonel al-Gaddafi and two of his close associates, his son Saif al-Islam al-Gaddafi and his intelligence chief Abdallah al-Senussi for alleged crimes against humanity, including murder and persecution. This is an important step in the fight against impunity in Libya and throughout North Africa and the Middle East.

It is crucial that impartial and thorough investigations are carried out into all allegations of serious human rights violations and violations of IHL. Wherever there is sufficient admissible evidence, suspected perpetrators should be prosecuted in proceedings that fully respect international fair trial standards and with no imposition of the death penalty.

Steps to prosecute those responsible are essential, not only to secure justice for victims and their families, but also to halt the repetition of such crimes in Libya and beyond. All victims must obtain redress, including reparation proportional to the gravity of the violation and harm suffered.

In order to build a new Libya on the basis of respect of human rights and the rule of law, all suspected perpetrators must be brought to justice, regardless of their rank or affiliation – both supporters and opponents of Colonel al-Gaddafi. Those who have been found to be responsible for abuses must not be allowed to hold positions from which they can again violate human rights. Furthermore, comprehensive legal and institutional reforms must be introduced to ensure respect for all human rights in law and in practice. Such reforms must enshrine safeguards against human rights violations, such as arbitrary detention, torture and

Photos of the disappeared outside Benghazi North Court © Amnesty International



enforced disappearances. They must also put in place mechanisms to ensure independent, non-partisan oversight and accountability of the security forces.

To combat the legacy of four decades of human rights violations and abuse of power, guarantees must be introduced to build an independent judiciary that ensures that no one is above the law and that no one is beyond its protection. Only then will Libyans be able to regain trust in national institutions and believe that the page has truly been turned on more than four decades of repression and abuse.

## ABOUT THIS REPORT

The bulk of the findings in this report cover developments up to late July 2011, when the conflict was still tightly contested between al-Gaddafi and opposition forces. They are largely based on an Amnesty International fact-finding visit to Libya between 26 February and 28 May 2011, including to the cities of al-Bayda, Ajdabiya, Brega, Benghazi, Misratah and Ras Lanouf. During the visit, the organization's delegates interviewed victims and victims' families, eyewitnesses, medical professionals, lawyers, media workers, prosecutors, opposition fighters and others. They visited hospitals, morgues and areas affected by the fighting, including the front lines. They met several officials of the NTC and local councils, including NTC Chairman Mostafa Abdeljalil. They also visited several detention centres administered by opposition authorities in al-Bayda, Benghazi and Misratah, where they interviewed detainees in private and detention officials.

The report also draws on information collected by Amnesty International's fact-finding visits between 6 and 20 April and 12 and 20 June to Tunisia near the Ras Jdir and Dhehiba border crossings into Libya. There, the organization's delegates met individuals who had fled Libya, including third-country nationals and Libyans from the Nafusa Mountain area. In addition, the delegates interviewed people receiving medical treatment in Tunisia for injuries sustained as a result of fighting in Misratah, the Nafusa Mountain region, al-Zawiya and elsewhere. The report also draws from testimonies of third-country nationals who fled eastern Libya to Egypt, collected during a fact-finding visit to Saloum in July 2011.

From 25 March, Amnesty International repeatedly requested to visit areas then under the control of Colonel al-Gaddafi's forces, including Tripoli and al-Zawiya. The organization had hoped to assess the human rights situation there and to investigate alleged violations of IHL by all parties to the conflict, including NATO forces. The last such request was sent to the General People's Committee for Foreign Liaison and International Co-operation on 28 July. Amnesty International's requests went unanswered. Amnesty International was therefore unable to monitor and document in detail human rights violations and other crimes committed in areas controlled by al-Gaddafi forces, including Tripoli and much of western Libya.

This report documents serious and widespread human rights violations committed by al-Gaddafi forces, including extrajudicial executions and excessive use of force against anti-government protesters; torture and other ill-treatment; and the enforced disappearances of perceived opponents. It presents prima facie evidence of war crimes, including deliberate attacks against civilians and indiscriminate attacks. The report also documents abuses committed by opposition forces and their supporters, including unlawful killings, torture and

other violent attacks against captured soldiers, Sub-Saharan Africans suspected of being mercenaries, and former members of the security forces.

The report does not include information on allegations of sexual violence against women during the Libyan conflict. To gather information on such violations, Amnesty International delegates interviewed Libyan and foreign women in opposition-controlled territories, as well as women who fled to Tunisia and Egypt; medical professionals, including gynaecologists and psychologists; women's groups activists and others; and reviewed some documentary evidence, including video footage of women being subjected to sexual abuse. The organization was not able to collect first-hand testimonies and other evidence to verify the claims, and is continuing its investigations.

Amnesty International delegates returned to Libya in late August, days before opposition forces stormed Tripoli. In al-Zawiyah, now under opposition control, they collected testimonies of people who had been injured in the battle for Tripoli and former detainees freed from military camps and other detention centres controlled by al-Gaddafi forces. They also visited detention centres where those believed to be members of the al-Gaddafi forces and suspected foreign mercenaries were being held.

Cases highlighted in this report provide emblematic examples of wider patterns of abuses committed since mid-February in Libya. Names of some individuals whose cases are included have been withheld to protect them and their families from reprisals, or on their request.

# 1. FROM THE 'EL-FATEH REVOLUTION' TO THE '17 FEBRUARY REVOLUTION'



Women demonstrate in Benghazi © Amnesty International

Inspired by the toppling of long-standing presidents in neighbouring Tunisia and Egypt, Libyans used social-networking websites to call for anti-government protests on 17 February 2011. The significance of the date goes back to 17 February 2006, when security forces killed at least 12 people and injured scores more in a protest in Benghazi, a protest that was not calling for political change, but simply expressing anger over cartoons of the Prophet Muhammad printed in Europe.

A year later, in 2007, about a dozen activists announced plans for a peaceful demonstration in Tripoli to commemorate the tragic event. The authorities arrested them and the protest did not take place. After months in incommunicado detention, the activists were eventually sentenced to prison terms ranging from six to 25 years for “attempting to overthrow the political system”, “spreading false rumours about the Libyan regime” and “communicating with enemy powers”.<sup>3</sup>

The crackdown on the 17 February 2006 protest, the silencing of any criticism of the actions of the security forces, and the failure to bring those responsible for the deaths of protesters to justice, typified the al-Gaddafi government’s record of repression of dissent, bans on any gatherings unless sanctioned by the government, and impunity for serious human rights violations.



In power since 1969, Colonel Mu'ammarr al-Gaddafi portrayed himself as the country's guide rather than ruler.<sup>4</sup> Yet he relied on severe reprisals against any perceived opponents, through political killing – including of Libyans in exile – imprisonment, torture and other ill-treatment, harassment and intimidation, not only of his perceived critics but also of their families. Such violations were among the reasons for the 2011 revolt and calls for political reform.



Despite Libya's relative economic security compared to other restive North African countries, unemployment and other socio-economic grievances also propelled the "17 February Revolution" and helped to rally Libyans en masse. Protesters and other opposition supporters say that corruption, unemployment and inequality were among the key triggers of the uprising. Many told Amnesty International delegates that "the country is rich, but its people are poor" because under Colonel al-Gaddafi the country's wealth had been distributed to the benefit of his supporters. Many also pointed to the poor state of the country's infrastructure, education and health services, standing in stark contrast to its oil wealth.



Serious human rights violations were a hallmark of Colonel al-Gaddafi's rule. Certain groups were particularly targeted, including individuals seen as critics of the authorities or the principles of the "El-Fateh Revolution"; those deemed to be a security threat; and foreign nationals in an irregular situation, particularly from Sub-Saharan Africa. The violations were facilitated by the absence of adequate legal safeguards, particularly in cases deemed to be political. In such cases, the much-feared ISA, whose remit, mandate and structure were opaque and unclear, acted above the law and was implicated in the worst violations. The ISA controlled two major prisons, Abu Salim and Ain Zara,<sup>5</sup> in

Top: ISA facility in Benghazi, including details of graffiti on cell doors; Above: Families of those killed in 1996 in Abu Salim Prison protest in Benghazi © Amnesty International

addition to a number of unrecognized places of detention outside the remit of any judicial authority. Those detained by the ISA were frequently held incommunicado for long periods in conditions sometimes amounting to enforced disappearance, exposing them to the risk of torture or other ill-treatment.

Colonel al-Gaddafi's rule was also characterized by repressive legislation outlawing political parties and independent organizations, and heavy-handed reprisals against anyone who dared to criticize the authorities or to organize anti-government protests. The space for civil society and independent media was virtually non-existent, although in recent years the authorities had shown more tolerance to some dissenting voices, as long as they did not cross certain "red lines", such as direct criticism of Colonel al-Gaddafi or the ideological foundation of his political system. Neither political parties nor independent human rights organizations were allowed. The Gaddafi International Charity and Development Foundation (Gaddafi Development Foundation, GDF), headed by the leader's son Saif al-Islam al-Gaddafi, was the only organization permitted to address human rights issues, but clearly lacked independence.

While Libyan law guaranteed peaceful freedom of assembly, in practice public meetings and demonstrations were generally tolerated only when the participants were supporting the government. However, public protests had been held in Benghazi since 2008 by families of victims of the Abu Salim Prison killings, where up to 1,200 detainees were extra-judicially executed in 1996 by security forces following a riot by detainees protesting against appalling prison conditions.<sup>6</sup>

In June 2008, the Benghazi North Court of First Instance ruled that the authorities must reveal the whereabouts and fate of 33 individuals believed to have died in Abu Salim or elsewhere in custody. Encouraged by the ruling, families then gathered almost every Saturday outside the People's Leadership<sup>7</sup> premises in Benghazi holding pictures of their loved ones



Destroyed "Green Book" statue in Misratah © Amnesty International

and posters calling for the end of their suffering. Several were harassed as a result.<sup>8</sup>

The relatives' persistence no doubt helped to break the wall of silence and contributed to the "17 February Revolution". Indeed, the arrest on 15 February of Fathi Terbil and Faraj al-Sharani, both prominent members of the Organizing Committee of Families of Victims of Abu Salim in Benghazi, was a catalyst for anti-government protests in Benghazi in the run-up to the scheduled "Day of Rage" on 17 February.

The authorities dispersed the protesters using non-lethal weapons, injuring scores of people, but nonetheless swiftly released the two men. Neither strategy worked as protests swelled in Benghazi on 17 February and then spread to other cities, including Zintan in the Nafusa Mountain; the remote Kufra in the south-east; al-Zawiya and Zuwara in the west; and al-Bayda, Derna and Tobruk in the east.

Within days, protesters across eastern Libya overpowered the security apparatus, burned down public buildings associated with the government, and seized weapons abandoned by fleeing security officials. In Benghazi alone, at least 109 people died as a result of gunshot wounds sustained during anti-government protests and clashes with security forces, according to local medical sources, including peaceful protesters and others not posing a threat to the security forces.

The use of excessive force and firearms by al-Gaddafi forces in eastern Libya inflamed anger and triggered protests elsewhere in the country, including Tripoli, Misratah and the Nafusa Mountain. For instance, Misratah residents told Amnesty International that they initially took to the streets on 19 February in solidarity with the victims in Benghazi and that they only started calling for the "fall of the regime" during the funeral of Misratah's first victim, Khaled Abu Shahma, shot by security forces on 19 February.

The protest movement in Tripoli lagged behind that in other cities. It culminated in the convergence of several marches on 20 February in the central Green Square – the symbolic seat of power adorned by huge posters of Colonel al-Gaddafi. According to witnesses, security forces waited for the protesters to reach the square before opening fire, reportedly causing many deaths and injuries. Smaller protests erupted elsewhere in Tripoli, including in Souq El-Jum'a, Fashloum and Tajoura, in the following days, and were also reportedly met by live ammunition.

In his first public speech after the unrest started, Colonel al-Gaddafi appeared on state television on 22 February and described the protesters as "rats" manipulated by foreigners wishing to harm Libya's interests. He threatened to use all means necessary to "purge Libya inch by inch, room by room, household by household, alley by alley, and individual by individual until the country is purified".<sup>9</sup>

Two days earlier, his son Saif al-Islam al-Gaddafi, who despite not having an official role was widely seen as influential and dubbed by some as a "reformer", had also made a televised speech. He blamed Libyans living in exile for instigating anti-government protests and admitted that the authorities had sought to prevent the demonstrations by carrying out arrests.

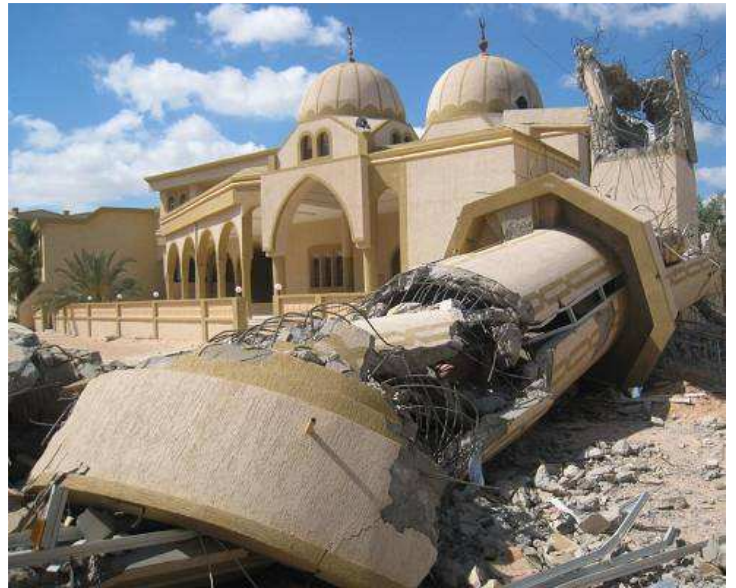


He lamented the evolution of “small protests” into “a separatist movement... and a threat to the country’s unity”.<sup>10</sup> Maintaining that the reports of the casualty toll were exaggerated, Saif al-Islam al-Gaddafi admitted that protesters had been killed. He partly blamed soldiers poorly trained in crowd control, but also said that protesters were intoxicated when they violently attacked public buildings. He alleged that armed Islamist groups and individuals were driving the uprising. He presented two options to Libyans: either stand behind the current political system, which would lift restrictions on freedoms and introduce other reforms; or be prepared for a protracted war in which “we will fight to the last man, woman and bullet”.<sup>11</sup>

Government opponents vehemently denied the involvement of foreigners or the influence of Islamist armed groups, maintaining that the movement was a popular uprising. On 2 March, opposition forces announced the establishment of the NTC headed by Mostafa Abdeljalil, former Secretary of the General People’s Committee for Justice (equivalent to the Justice Minister), who had defected on 21 February in protest over the use of lethal force against protesters by security forces. The NTC declared itself to be the “sole legitimate representative of the Libyan people” and presented its vision of a “democratic Libya” built on the foundations of good governance and the respect of the rule of law and human rights.<sup>12</sup> The NTC also vowed to abide by Libya’s obligations under international human rights law.

By late February, violence escalated as anti-government protesters took up arms and clashed with al-Gaddafi forces. At alarming speed, the unrest evolved into a fully-fledged armed conflict, and confrontations intensified as al-Gaddafi forces attempted to regain control of cities that had fallen to the opposition forces, while the latter tried to gain new ground.

In response to the escalating violence and persistent reports of widespread human rights violations, on 26 February the UN Security Council passed Resolution 1970 referring the situation in



Top: A destroyed minaret in Misratah; Above: A display of munitions in Misratah © Amnesty International

Libya to the Prosecutor of the ICC, imposed sanctions and an arms embargo, and ordered the freezing of assets of the country's leaders.

Colonel al-Gaddafi's government became increasingly isolated diplomatically. In addition to defections by members of his inner circle, it was abandoned by former regional and international allies. Governments that had not long ago ignored the Libyan government's appalling human rights record to seek its collaboration in the control of migration and counter-terrorism and to exploit lucrative business opportunities in the country, suddenly turned on it, damning its human rights record and in some cases recognizing the NTC as the sole government authority in Libya.<sup>13</sup>

On 17 March, as fighting intensified in eastern Libya as well as in Misratah, the UN Security Council adopted Resolution 1973 authorizing the establishment of a no-fly zone over Libya and the implementation of all necessary measures, short of foreign occupation, to protect civilians. On 19 March, the international alliance<sup>14</sup> launched its first military attacks against al-Gaddafi forces, which had by then reached the opposition stronghold of Benghazi. This meant that there was now an international armed conflict (between the Tripoli government and the UN-mandated international alliance) alongside the non-international armed conflict that had begun in late February.

NATO assumed control of international military operations in Libya on 27 March.<sup>15</sup> By the end of August, it had carried out over 7,500 strike sorties. Colonel al-Gaddafi's government alleged that NATO strikes killed over 800 civilians, but such allegations are impossible to independently verify (see About This Report).

NATO did, however, admit that a "weapons systems failure" on 19 June might have caused the loss of "innocent civilian" life and expressed its regret over the incident, confirming its intention to take all necessary precautions to avoid civilian casualties.<sup>16</sup> In letters sent on 11 April and 2 August, Amnesty International urged NATO to take the utmost care to avoid civilian casualties, including in their choice of means and methods of attack. The organization called for full and impartial inquiries into any incidents that led to civilian casualties, the publication of their results, and adequate reparation for victims.

At the time of writing, NATO strikes and fighting between al-Gaddafi forces and opposition fighters were ongoing. The battle for Tripoli, which opposition forces entered on the night of 20/21 August, was continuing, with large parts of the city reportedly falling under opposition control. However, the armed conflict did not directly affect the whole country. Fighting was focused in particular areas, including between Ajdabiya and Ben Jawad in the east; and the Nafusa Mountain area, al-Zawiya (now in opposition control), Misratah and Zliten in the west. Some areas experienced few battles until cities fell under the control of the opposition, as was the case in Kufra in the south-east, or were quickly retaken by al-Gaddafi forces, as was the case in Zuwara in the west. Other areas witnessed protracted battles as opposition forces resisted attacks launched by al-Gaddafi forces in early March. In particular, Misratah's population lived under siege and under fire for nearly two months, until the front lines moved further to the east and west, away from densely-populated residential areas.

The fighting led to the internal displacement of tens of thousands of civilians, many fleeing Ajdabiya and surrounding areas. There was also a large exodus of Libyans and foreign nationals to neighbouring states. At the time of writing, over 672,000 foreign nationals had fled Libya and not returned, including over 337,000 who fled home to neighbouring countries and over 304,000 third-country nationals.<sup>17</sup> Also at the time of writing, an estimated 4,500 Libyans had crossed into, and remained in, Egypt and a further 187,000 were in Tunisia, many of the latter having fled fighting in the Nafusa Mountain.

Colonel al-Gaddafi's government also clamped down on the media and communication channels. On 18 February, it blocked access to Facebook and Twitter, and soon after disrupted Internet access across Libya, leaving the vast majority of people without satellite technology, in both government- and opposition-controlled territory, with no Internet services.<sup>18</sup> In the third week of February, the authorities severely disrupted telephone communications. People in opposition-controlled territory could not place international calls or calls to other parts of Libya. People in Tripoli and other territories at the time controlled by al-Gaddafi forces could receive international calls or calls from satellite phones, but few did so with ease as they suspected that the authorities could monitor their discussions. The arrest of Syrian journalist Rana al-Aqbani on 28 March on accusations of "communicating with enemy bodies during wartime", based on bugged phones conversations she had with people in eastern Libya and abroad, served as a cautionary tale.<sup>19</sup> The al-Gaddafi authorities' campaign of harassment of, and attacks against, journalists and restrictions on their freedom of movement in the government stronghold of Tripoli, coupled with the isolation of residents of areas under the control of Colonel al-Gaddafi's forces, meant that little was known about violations committed in such areas.



Displaced residents of Ajdabiya stranded in the desert for weeks © Amnesty International



Mohamed Nabus © Amnesty International

## JOURNALISTS UNDER FIRE

From the onset of the unrest, Colonel al-Gaddafi's government waged a media war aimed at discrediting opponents and impeding negative coverage of its conduct. It sought to control the content of the coverage and block regular access to damning information, and attacked global media for inciting violence and spreading "rumours and false information".<sup>20</sup> At the same time, it welcomed international journalists into Tripoli to transmit the "truth", as long as they did not venture beyond government-sanctioned excursions or the Rixos Hotel in Tripoli, where they were housed. Those who defied these rules were expelled, detained, assaulted or worse. From mid-February, dozens of journalists – Libyan and foreign – suffered reprisals for attempting to independently monitor and report events in Libya. According to the Committee to Protect Journalists, at least 50 journalists were detained.<sup>21</sup> Many were seized in areas close to fighting, particularly near Brega, or in western parts of Libya controlled by al-Gaddafi forces.

On 23 February, the Libyan authority for External Communications, a body belonging to the al-Gaddafi authorities responsible for dealing with foreign media, warned that the authorities were not responsible for the safety of journalists working "without supervision" or entering illegally. At the same time, the al-Gaddafi government spokesman, Moussa Ibrahim, justified restrictions on journalists' freedom of movement in Tripoli and other parts of western Libya as necessary for their own protection against "armed gangs". Many foreign journalists were detained incommunicado. Several were beaten or otherwise ill-treated. **Lyndsey Addario**, a photographer with *The New York Times*, was captured near Ajdabiya with three colleagues on 15 March by al-Gaddafi soldiers. She said that several of her captors groped her and at least one threatened to kill her.<sup>22</sup> Three BBC crew members reported being beaten, insulted and subjected to mock executions after they were captured on 7 March near al-Zawiya.<sup>23</sup>

Others journalists continued to be detained by al-Gaddafi forces. US freelance journalist **Matthew VanDyke** was taken by al-Gaddafi forces after heading to Brega from Benghazi in mid-March. Some four months later, Matthew VanDyke's family finally received information that he was detained in Tripoli, at the time in the hands of the al-Gaddafi authorities. He was finally freed when Tripoli fell to opposition fighters.<sup>24</sup> While many foreign media workers have been released, the fate and whereabouts of at least six Libyan journalists and other Libyans assisting media crews remain unclear and there are great concerns for their safety.<sup>25</sup>

At least three Libyan and four foreign journalists or media workers have been killed near areas of fighting, some in unclear circumstances. They include Al Jazeera cameraman **Ali Hassan Al Jaber**, who was killed by gunfire in an ambush near Benghazi on 13 March, in what appeared to be a deliberate and targeted attack,<sup>26</sup> and **Mohamed Nabus**, who from the beginning of the protests became "the face of citizen journalism", setting-up the first independent TV station on-line, bypassing the Internet shutdown by the Libyan authorities and sending raw information about the repression of the protests to the outside world.<sup>27</sup> He was shot dead on 19 March in Benghazi, reportedly by al-Gaddafi forces, in an area where armed clashes had taken place between al-Gaddafi forces and opposition fighters.

South African photojournalist **Anton Hammerl** was killed on 5 April by al-Gaddafi forces at the front line near Brega. News of his fate only emerged when the Libyan authorities released on 18 May three other foreign journalists captured during the same incident. Two photographers, UK national **Tim Hetherington** and US national **Chris Hondros**, were both killed, by what appeared to be a projectile fired by al-Gaddafi's forces on 18 April while covering heavy fighting between opposition fighters and al-Gaddafi's forces in the centre of Misratah. Two of their colleagues were injured in the same incident.

## INTERNATIONAL MECHANISMS

The deteriorating human rights situation in Libya prompted the UN Human Rights Council to unanimously adopt on 25 February a resolution condemning the “recent gross and systematic human rights violations committed in Libya, including indiscriminate armed attacks against civilians”, and establishing a commission of inquiry to investigate all alleged violations of international human rights law in Libya.<sup>28</sup> Within days, the UN General Assembly suspended Libya’s membership of the UN Human Rights Council.

This followed the UN Security Council’s referral of the situation in Libya to the ICC on 26 February.<sup>29</sup> On 27 June the Pre-Trial Chamber of the ICC issued arrest warrants for Colonel al-Gaddafi, his son Saif al-Islam al-Gaddafi and his head of military intelligence Abdallah al-Senussi for “crimes against humanity (murder and persecution) allegedly committed across Libya from 15 February 2011 until at least 28 February 2011, through the State apparatus and Security Forces”.<sup>30</sup>

On 9 June, the UN Human Rights Council discussed the Commission of Inquiry’s report. The Commission found evidence that the crackdown on protests in the first days of the unrest amounted to “a serious breach of a range of rights under international human rights law, including the right to life, the right to security of person, the right to freedom of assembly and the right to freedom of expression”. The Commission also found that the authorities carried out widespread arbitrary arrests and engaged in a campaign of enforced disappearances.

After the situation in Libya developed into an armed conflict, the Commission interpreted its mandate more broadly to additionally consider breaches of IHL by all parties to the conflict. The Commission found that:

*“[T]here have been many serious violations of IHL committed by Government forces amounting to “war crimes”. Under the listing of “war crimes” in the Rome Statute applicable to non international armed conflict, the commission has identified violations involving violence to life and person, outrages upon personal dignity in particular humiliating and degrading treatment, intentionally directing attacks against protected persons and targets including civilian structures, medical units and transport using the distinctive emblems of the Geneva Conventions.”*

The Commission also noted that while it had registered fewer cases that would amount to crimes under international law by opposition forces, it nonetheless had concerns about the torture and other ill-treatment of captured soldiers and foreign nationals suspected of being mercenaries.

The Commission requested the extension of its mandate by a year given the large scope of the work, the ongoing violations in Libya, and the need to further delve into certain allegations it had not yet been able to confirm, such as the use of sexual violence and rape on a large scale.<sup>31</sup>

Various regional mechanisms also raised their concerns regarding the conduct of the Libyan authorities. For instance, the African Court on Human and Peoples’ Rights unanimously ordered provisional measures against Libya on 25 March. The Court described the situation in

Libya as one of “extreme gravity and urgency”, and called on the al-Gaddafi authorities to immediately cease any actions leading to the loss of life or violations of “physical integrity”.<sup>32</sup> The case against Libya was referred to the Court by the African Commission, which qualified the violations in Libya as “serious and widespread”. On 22 February, the League of Arab States suspended Libya from its sessions because of the crackdown on anti-government protests.<sup>33</sup>

## 2. INTERNATIONAL LAW AND THE SITUATION IN LIBYA

### Several bodies of international law apply to the situation in Libya.

- International human rights law, including on civil, cultural, economic, political and social rights, applies both in peacetime and during armed conflict and is legally binding on states, their armed forces and other agents. It establishes the right of victims of serious human rights violations to remedy, including justice, truth and reparations.
- IHL, also known as the law of armed conflict, is a special body of international rules that apply alongside human rights law to provide additional protection in situations of armed conflict. IHL includes rules protecting civilians and other individuals who are not taking part in combat (*hors de combat*), as well as rules regulating the means and methods of warfare. It also includes rules imposing obligations on states or other entities militarily occupying a territory. IHL binds all parties to an armed conflict, including non-state armed groups.
- International criminal law establishes individual criminal responsibility for certain violations and abuses of international human rights and IHL, such as war crimes, crimes against humanity and genocide, as well as torture, extrajudicial executions and enforced disappearance.

### 2.1. OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW AND LIBYAN LAW

Libya is a state party to some of the major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); and the African Charter on Human and Peoples' Rights. Libya is legally bound by its obligations under these international treaties, as well as by relevant customary international law.

International human rights law applies in time of armed conflict as well as peacetime; some (but not all) rights may be modified in their application, or “derogated from” or limited in situations of armed conflict, but only to the extent strictly required by the exigencies of the particular situation and without discrimination.<sup>34</sup> At the start of the unrest in Libya, there was no armed conflict, and the lawfulness of conduct of Libyan security forces under Colonel al-Gaddafi was to be assessed against human rights standards alone.

The NTC, which has been recognized by over 40 states as the government authority in Libya and is, at time of writing, increasingly the de-facto authority in Libya, has declared that it will respect “IHL and human rights declarations”. The NTC also declared: “We recognise without reservation our obligation to...guarantee and respect the freedom of expression through media, peaceful protests, demonstrations and sit-in and other means of communication”. The NTC has proclaimed that the state to which it aspire will respect “human rights, rules and principles of citizenship and the rights of minorities and those most vulnerable”.<sup>35</sup>

There is no doubt that the NTC is legally bound by applicable rules of IHL, including those on the treatment of prisoners, as a party to the non-international armed conflict in Libya (see section on IHL below).

Of particular relevance to this report are Libya's international human rights law obligations relating to the right to life, the prohibition of torture and other cruel, inhuman or degrading treatment ("other ill-treatment"), the prohibition of enforced disappearance, the prohibition of arbitrary detention and the right to freedom of assembly.<sup>36</sup> Certain violations, such as torture and enforced disappearance, amount to crimes under international law that states must criminalize in domestic legislation.<sup>37</sup> States must ensure that those responsible for these and other human rights violations of a criminal nature, including extrajudicial executions, are brought to justice.<sup>38</sup>

#### 2.1.1. ENFORCED DISAPPEARANCES AND OTHER VIOLATIONS OF THE RIGHT TO LIBERTY

Article 2 of the International Convention for the Protection of all Persons from Enforced Disappearance defines an enforced disappearance as "the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law". Libya is not party to the Convention, which came into force in December 2010; however, any act of enforced disappearance as defined in the Convention will violate a range of rights under the ICCPR and constitute a crime under international law.

As a state party to the ICCPR, Libya is under an obligation to prevent arbitrary arrest and detention and to allow anyone deprived of liberty an effective opportunity to challenge the lawfulness of their detention before a court (Article 9). It must ensure that those arrested are promptly informed of any charges against them, and that those charged are brought before the judicial authorities within a reasonable time. Enforced disappearances also violate the right to humane treatment of detainees and the prohibition of torture and other ill-treatment (articles 7 and 10 of the ICCPR); and can violate the right to life (Article 6 of the ICCPR) and the right to recognition as a person before the law (Article 16 of the ICCPR).

Libyan legislation includes some safeguards against enforced disappearance and arbitrary detention. For instance, Law No. 20 of 1991 on the Promotion of Freedom includes a number of principles intended to guarantee the protection of human rights in the administration of justice, such as Article 14 which stipulates that: "No one can be deprived of his freedom, searched or questioned unless he has been charged with committing an act that is punishable by law, pursuant to an order issued by a competent court, and in accordance with the conditions and time limits specified by law". According to the same article: "Accused persons must be held in custody at a known location, which shall be disclosed to their relatives, for the shortest period of time required to conduct the investigation and secure evidence".



When committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack, enforced disappearances constitute crimes against humanity.<sup>39</sup>

#### 2.1.2. TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Libya is a party to the ICCPR and the UNCAT. The authorities under Colonel al-Gaddafi failed to meet key obligations under these treaties regarding prevention, investigation, criminalization and reparations, when it comes to torture and other forms of ill-treatment.

The Libyan authorities under Colonel al-Gaddafi failed to amend domestic legislation to define torture in line with international law and to explicitly introduce an absolute prohibition of torture (particularly, to ensure defences such as superior orders or “necessity” or other exceptional circumstances are not available).

The authorities under Colonel al-Gaddafi also failed to uphold their obligations to investigate allegations of torture and other ill-treatment; to bring those responsible for torture to justice in proceedings meeting international standards of fair trial; and provide all victims of torture or other ill-treatment with redress including reparation.

The Libyan authorities are also required to take concrete measures to prevent the occurrence of torture and other ill-treatment, including by granting independent bodies the right to monitor, including by means of visits, the situation of detainees in all prisons and other places of detention. Some safeguards have been incorporated into Libyan laws. In addition to Article 14 of Law No. 20 of 1991, mentioned above, these include the need for security officers to hold a warrant from the competent authority when arresting or detaining a suspect (Article 30 of the Penal Code); the requirement to detain suspects only in “prisons designed for that purpose” (Article 31); and the right of detainees to challenge the legality of their detention (Article 33).

However, the limited safeguards that exist in national law have been routinely flouted by the al-Gaddafi authorities and security forces, particularly in cases deemed to be political – as witnessed in the crackdown against real or perceived government opponents and critics. If anything, the al-Gaddafi authorities increased their use of practices that facilitate torture and other ill-treatment, including secret detention, enforced disappearances, and prolonged incommunicado detention. Libya under Colonel al-Gaddafi strongly resisted international scrutiny and, despite repeated requests, did not extend an invitation to the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

#### 2.1.3. DEMONSTRATIONS AND EXCESSIVE USE OF FORCE

States have a duty to uphold the right to freedom of assembly. According to Article 21 of the ICCPR, any restrictions on the right to freedom of assembly must be in accordance with the law and strictly necessary to preserve national security or public safety, public order, public health or morals, or protect the rights and freedoms of others. Any such restrictions must be proportionate to a legitimate purpose and without discrimination, including on grounds of political opinion. Even when a restriction on the right to protest is justifiable under international law, the policing of demonstrations (whether or not they have been prohibited) must be carried out in accordance with international standards. These prohibit the use of force by law enforcement officials unless strictly necessary and to the extent required for the

performance of their duty, and require that firearms are only used when strictly unavoidable in order to protect life.

Article 1 of the Libyan Law on Public Assemblies and Demonstrations of 1956 stipulates: "Individuals have the right to meet peacefully. Policemen are not to attend their meetings and they do not need to notify the police about such gatherings".

The law also provides for the right to hold public meetings in accordance with the regulations set by the law. However, in practice, public assembly was never permitted during Colonel al-Gaddafi's rule, unless the protestors were demonstrating in support of the government's positions. Libyan legislation also severely constrains the right to freedom of expression, and prescribes harsh punishments for activities merely amounting to the exercise of that right including life imprisonment and the death penalty.<sup>40</sup>

While the Libyan authorities, like all governments, are responsible for ensuring public safety and maintaining public order, including through the use of force when necessary and justified, it is clear that the al-Gaddafi security forces went far beyond what is permissible under international law and standards; and even under Libyan legislation. Force may only be used by security forces in very limited and particular conditions, in response to activities that genuinely threaten lives and public safety. Even then, such force must be governed by the principles of necessity and proportionality as set out in international law and standards. In responding to anti-government demonstrations which started across Libya around 16 February, al-Gaddafi security forces used excessive force, in contravention of relevant international standards as described below.

#### 2.1.4. INTERNATIONAL STANDARDS ON THE USE OF FORCE BY LAW ENFORCEMENT OFFICIALS

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials are UN standards aimed at ensuring that police and security forces carry out their duties in a manner that respects human rights.<sup>41</sup>

The two documents specify obligations with respect to the right to life, the prohibition of torture and other ill-treatment.<sup>42</sup> The process of the standards' development and adoption involved a very large number of states and at least the substance of Article 3 of the Code of Conduct and Principle 9 of the Basic Principles reflects binding international law.<sup>43</sup>

Libyan security forces under Colonel al-Gaddafi did not meet these standards in the events covered by this report. Indeed, they failed even to comply with the more limited safeguards provided for under Libyan domestic standards (i.e. the Decision of the Minister of Interior in relation to the necessary procedures for security forces to undertake before using firearms, published in the Official Gazette on 15 September 1965), which themselves were not consistent with the UN Basic Principles. Under those domestic standards, security forces were supposed first to issue an audible verbal warning for protesters to disperse, using a loudspeaker if necessary. According to those domestic standards, the head of the security operation could order the use of tear gas or water cannon, and allow for the use of batons and rifle butts to disperse the crowd, only if protesters failed to disperse after two such warnings. The domestic standards authorized security forces to use firearms only if such measures

failed, or if protesters attacked persons or public property, in which case any use of firearms would initially be authorized only if aimed at the feet of protesters.

The al-Gaddafi security forces' unnecessary and excessive use of force in response to demonstrations violated the State's obligations to respect the right to life, to respect the prohibition of torture and other ill-treatment, and to respect the rights to freedom of assembly and expression.

## 2.2. APPLICABLE RULES OF INTERNATIONAL HUMANITARIAN LAW



Cluster bomb, Misratah, 15 April. Text on side reads: "SMM MAT-120 LOT 2-07" © Amnesty International

At time of writing there is in Libya a non-international armed conflict between al-Gaddafi forces and opposition fighters. There is also currently an international armed conflict between the NATO-led coalition forces and the al-Gaddafi forces. The overwhelming majority of violations documented by Amnesty International have occurred as part of the non-international armed conflict.

While international human rights law applies at all times, IHL applies only in situations of armed conflict. It contains the rules and principles that seek to protect anyone who is not actively participating in hostilities: notably civilians and anyone, including those who were previously participating in hostilities, who are wounded or surrender or are otherwise captured. It sets out standards of humane conduct and limits the means and methods of conducting military operations. Its central purpose is to limit, to the extent feasible, human suffering in times of armed conflict.

The four Geneva Conventions of 1949 and their two Additional Protocols of 1977 are among the principal IHL instruments. Libya is a state party to the 1949 Geneva Conventions and to Protocols I and II. Many of the specific rules included in these treaties, and all of those set out below, in any event also form part of customary IHL and are thus binding on all parties to any type of armed conflict, including on armed groups.<sup>44</sup> Violations of many of these rules can constitute war crimes. States are obliged to ensure that anyone responsible for war crimes is brought to justice.

### 2.2.1. CONDUCT OF HOSTILITIES RULES

A fundamental rule of IHL is that parties to any armed conflict must at all times “distinguish between civilians and combatants”, especially in that “attacks may only be directed against combatants” and “must not be directed against civilians.”<sup>45</sup> A similar rule requires parties to distinguish between “civilian objects” and “military objectives”. These rules are part of the fundamental principle of “distinction”.

For the purposes of distinction, anyone who is not a member of the armed forces of a party to the conflict is a civilian, and the civilian population comprises all persons who are not combatants.<sup>46</sup> Civilians are protected against attack unless and for such time as they take a direct part in hostilities.<sup>47</sup> (In this report, the term “civilians” is used to refer to civilians who are not taking a direct part in hostilities.)

Civilian objects are all objects (i.e. buildings, structures, places and other physical property or environments) which are not “military objectives”, and military objectives are “limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage”.<sup>48</sup> Civilian objects are protected against attack, unless and for such time as they become military objectives because all of the criteria for a military objective just described become temporarily fulfilled.<sup>49</sup> In cases of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling, or a school, is being used for military purposes, it is to be presumed not to be so used.<sup>50</sup>

Intentionally directing attacks against civilians not taking direct part in hostilities, or against civilian objects (in the case of non-international conflicts, medical, religious or cultural objects in particular), is a war crime.<sup>51</sup>

The principle of distinction also includes a specific rule that “acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited”.<sup>52</sup>

The corollary of the rule of distinction is that “indiscriminate attacks are prohibited”.<sup>53</sup> Indiscriminate attacks are those which are of a nature to strike military objectives and civilians or civilian objects without distinction, either because the attack is not directed at a specific military objective, or because it employs a method or means of combat that cannot be directed at a specific military objective or has effects that cannot be limited as required by IHL.<sup>54</sup> “Area bombardments”, meaning attacks by bombardment of any kind which treats as a single military objective a number of clearly separated and distinct military objectives

located in a city, town, village or other area containing a similar concentration of civilians or civilian objects, are particularly prohibited.<sup>55</sup> The use of inherently indiscriminate weapons such as anti-personnel land mines and cluster munitions violates the prohibition on indiscriminate attacks; the misuse of weapons that may have legitimate military purposes in appropriate circumstances, such as artillery, mortars and rockets, to attack objectives in civilian areas also is likely to violate the prohibition on indiscriminate attacks.

IHL also prohibits disproportionate attacks which are those “which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated”.<sup>56</sup> Intentionally launching an indiscriminate attack resulting in death or injury to civilians, or a disproportionate attack (i.e. knowing that the attack will cause excessive incidental civilian loss, injury or damage) constitutes a war crime.<sup>57</sup>

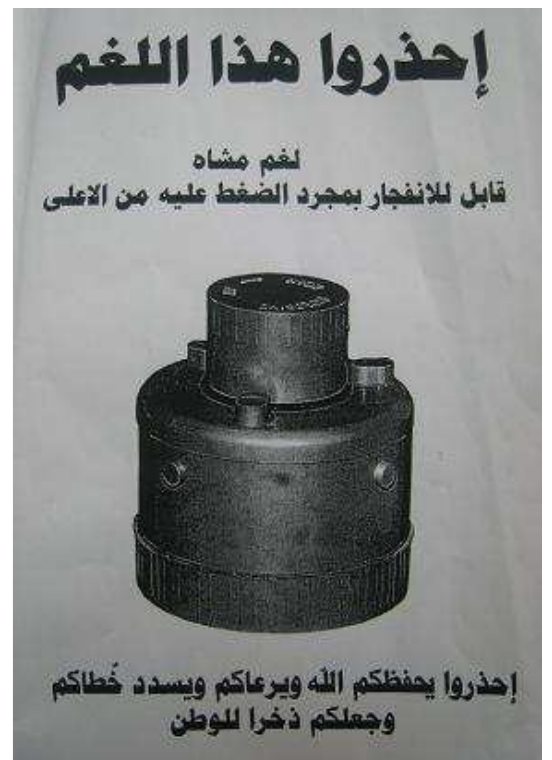
The protection of the civilian population and civilian objects is further underpinned by the requirement that all parties to a conflict take precautions in attack and in defence. In the conduct of military operations, then, “constant care must be taken to spare the civilian population, civilians and civilian objects”; “all feasible precautions” must be taken to avoid and minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.<sup>58</sup>

Everything feasible must be done to verify that targets are military objectives, to assess the proportionality of attacks, and to halt attacks if it becomes apparent they are wrongly-directed or disproportionate.<sup>59</sup> Parties must give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit.<sup>60</sup>

Forces must also take all feasible precautions in defence to protect civilians and civilian objects under their control against the effects of attacks by the adversary.<sup>61</sup> In particular, each party must to the extent feasible avoid locating military objectives within or near densely-populated areas, and remove civilian persons and objects under its control from the vicinity of military objectives.<sup>62</sup>

### 2.2.2. FUNDAMENTAL GUARANTEES

IHL also provides fundamental guarantees for civilians, as well as fighters or combatants who are captured, injured or otherwise rendered unable to fight (*hors de combat*). Between them, common Article 3 and other provisions of the 1949 Geneva Conventions, the 1977 Protocols and customary IHL include among others the following fundamental rules applicable to all sides in all types of armed conflict: humane treatment is required; discrimination in

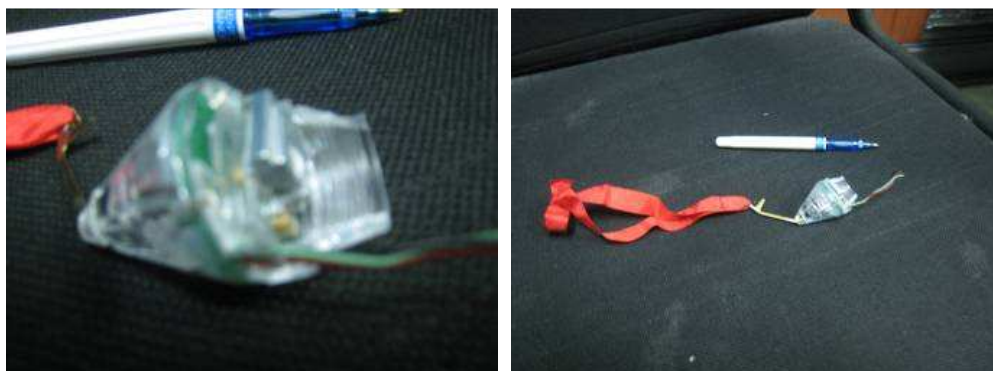


Anti-personnel mine found in the outskirts of Ajdabiya, and warning poster, March © Amnesty International

application of the protections of IHL is prohibited; torture, cruel or inhuman treatment and outrages on personal dignity (particularly humiliating and degrading treatment) are prohibited, as are enforced disappearance, murder, the taking of hostages, the use of human shields, and arbitrary detention; no one may be convicted or sentenced except pursuant to a fair trial affording all essential judicial guarantees; and collective punishments are prohibited.<sup>63</sup> Depending on the particular rule in question, many or all acts that violate these rules will also constitute war crimes.<sup>64</sup>

As noted above, IHL also prohibits the use of “human shields”. This means intentionally bringing civilians or other persons who are *hors de combat* into proximity with a military objective, or locating a military objective in proximity to civilians or other persons *hors de combat*, with the specific intent of trying to prevent the targeting of the military objective.<sup>65</sup> Use of human shields does not automatically immunize an otherwise valid military objective from attack, but the people being used as human shields must be taken into account in determining whether any attack is proportionate, and in the obligation to take precautions to minimize their death or injury.

## 2.3. INTERNATIONAL CRIMINAL LAW



Safe/arming devices for MAT-120 cluster munitions © Amnesty International

Individuals, whether civilians or military, can be held criminally responsible for certain violations of international human rights law and IHL. State officials must be particularly diligent in seeking to prevent and repress such crimes.

All states have an obligation to investigate and, where enough admissible evidence is gathered, to prosecute genocide, crimes against humanity and war crimes, as well as other crimes under international law such as torture, extrajudicial executions and enforced disappearances.

### 2.3.1. WAR CRIMES

Grave breaches of the Geneva Conventions and Additional Protocol I and most other serious violations of IHL are war crimes. Definitions of some of these crimes are included in the Rome Statute of the International Criminal Court (Rome Statute). The list of war crimes in Article 8 of the Rome Statute basically reflected customary international law at the time of

its adoption, although they are not complete and a number of important war crimes are not included. Additional war crimes are listed in the ICRC Customary IHL study.<sup>66</sup> States are obliged to investigate all alleged war crimes, and to bring prosecutions where the evidence allows.<sup>67</sup>

### 2.3.2. CRIMES AGAINST HUMANITY

According to the Rome Statute, certain acts committed as part of a widespread or systematic attack directed against any civilian population, where the attack is part of a state or organizational policy, constitute crimes against humanity if committed with knowledge of the attack. Such acts include murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, rape and other sexual crimes, and enforced disappearances.

Crimes against humanity can be committed in either time of peace or during an armed conflict.

### 2.3.3. OTHER CRIMES UNDER INTERNATIONAL HUMAN RIGHTS LAW

Whether or not committed in the context of an armed conflict, certain acts such as torture, extrajudicial executions and enforced disappearances constitute crimes under international law. For instance, the UNCAT requires that states investigate and prosecute (if they do not extradite for prosecution), anyone who commits, or who attempts, is complicit in, or otherwise participates in any act that falls within the treaty's definition of torture.

Extrajudicial executions and enforced disappearances are also recognized in international instruments as being crimes in respect of which states have international obligations to bring those responsible to justice.<sup>68</sup> The Human Rights Committee has said that, under the ICCPR, where investigations "reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice", explaining:

*"As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. These obligations arise notably in respect of those violations recognized as criminal under either domestic or international law, such as torture and similar cruel, inhuman and degrading treatment (article 7), summary and arbitrary killing (article 6) and enforced disappearance (articles 7 and 9 and, frequently, 6)."*

The Committee has also said that states should "assist each other to bring to justice persons suspected of having committed acts in violation of the Covenant that are punishable under domestic or international law".<sup>69</sup>

### 2.3.4. RESPONSIBILITY OF SUPERIORS AND COMMANDERS

Military commanders and civilian superiors can be held responsible for the acts of their subordinates.<sup>70</sup> Article 86 (2) of Protocol I, which imposes a single standard for military commanders and civilian superiors, reflects customary international law.<sup>71</sup> It states:

*"The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude*

*in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach.”*

#### 2.3.5. SUPERIOR ORDERS

Superior orders cannot be invoked as a defence for crimes under international law, but they may be taken into account in mitigation of punishment. This principle has been recognized since the Nuremberg trials after World War II and is now part of customary international law.<sup>72</sup>

## 2.4. ACCOUNTABILITY

States have an obligation to respect, protect and fulfil the right of victims of human rights violations to an effective remedy.<sup>73</sup> This obligation includes three elements:

- Justice: investigating past violations and, if enough admissible evidence is gathered, prosecuting the suspected perpetrators (in line with the obligations outlined above);
- Truth: establishing the facts about violations of human rights that occurred in the past;
- Reparation: providing full and effective reparation to the victims and their families.

#### 2.4.1. JUSTICE

There are several possible means for bringing to justice those responsible for crimes under international law, in proceedings which meet international standards of fairness and do not result in the death penalty.

1. The Libyan authorities have an obligation to investigate all crimes under international law and, whenever there is sufficient admissible evidence, prosecute the person suspected of those crimes.
2. Other states: Other states should exercise their obligations to conduct prompt, thorough, independent and impartial criminal investigations of anyone within the State's territory or jurisdiction who is accused or otherwise suspected of crimes under international law. If there is sufficient admissible evidence, states should prosecute the suspect, or extradite him or her to another state willing and able to do so in fair proceedings which do not result in the imposition of the death penalty, or surrender him or her to an international criminal court which has jurisdiction.
3. The International Criminal Court: Libya has not ratified the Rome Statute. However, the UN Security Council, in accordance with Article 13(b) of the Rome Statute, has referred the situation in Libya to the ICC Prosecutor.

#### 2.4.2. REPARATIONS

International law requires that the victims of human rights violations be provided with remedies that are not only theoretically available in law, but are actually accessible and



effective in practice. Victims are entitled to equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms. Full and effective reparation includes a combination of the following elements: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.<sup>74</sup>

The ICRC notes that armed groups are themselves required to respect IHL.<sup>75</sup> While the question as to whether armed groups are under an obligation to make full reparation for violations of IHL is unsettled, practice indicates that such groups may be required to provide appropriate reparation.<sup>76</sup>

## 3. UNLAWFUL KILLINGS: FROM PROTESTS TO ARMED CONFLICT

*“All I want is to see those who killed my son being arrested and tried.”*

Neesa al-Wirfally, mother of Ramadan Salem al-Mokahel who was killed in Benghazi on 19 February

In mid-February unarmed demonstrators calling for greater freedom were gunned down in the streets by al-Gaddafi forces, in what turned out to be a futile attempt to suppress the protest movement.<sup>77</sup> Within days, most of eastern Libya and the western city of Misratah fell to the protesters. By late February, the situation had escalated into an armed conflict, with clashes between al-Gaddafi forces and opposition fighters – mostly civilians who knew little or nothing about the use of weapons, and some former members of the security and armed forces who had defected and joined them – west of Ajdabiya and around Misratah.

In their efforts to regain control of opposition-held areas, al-Gaddafi forces unleashed a brutal military campaign, often targeting residents in opposition-held areas who were not involved in the fighting. They fired indiscriminate rockets, mortars and artillery shells as well as cluster bombs into residential neighbourhoods, killing and injuring scores of residents. On several occasions they fired live ammunition or heavy weapons, including tank shells and rocket-propelled grenades (RPGs), at residents who were fleeing – in what appeared at times to be a policy of “shoot anything that moves”.

Such attacks were particularly widespread in Misratah, but in some cases also took place elsewhere, such as in and around Ajdabiya, when al-Gaddafi forces regained control of the area. Tens of thousands of residents, most of the population, fled in fear of reprisals for having supported (or for being perceived as having supported) the revolt.<sup>78</sup>

In Misratah, home to some 300,000 people, residents were trapped from late February as al-Gaddafi forces laid siege to the city from all sides but the sea, and continued to launch attacks against the port – the only exit and entry point for humanitarian aid and the only evacuation point for wounded and sick patients. Indiscriminate rocket attacks stopped in May, resumed in mid-June and continued sporadically.<sup>79</sup>

On the night of 20/21 August opposition forces swept into Tripoli, initially meeting only limited resistance from forces charged with guarding the capital. While the initial success of the advance was checked by a fight-back by al-Gaddafi forces, by 24 August opposition forces were increasingly consolidating their positions in the city. The storming on 23 August of Bab al-Aziziyah, Colonel al-Gaddafi’s residence and command centre, was seen as marking a turning point in the battle. At time of writing, more and more districts of Tripoli were said to be falling under opposition control.

## EXCESSIVE LETHAL FORCE AGAINST DEMONSTRATORS

*"We made a mistake, because we thought that when the soldiers saw that they were killing ordinary civilians who bore no weapons a sense of humanity would prevail and they would stop shooting, but they kept killing."*

A protester in Misratah

From the outset, al-Gaddafi security and armed forces responded to anti-government demonstrations with lethal force, firing live rounds from automatic assault rifles at unarmed demonstrators, killing scores and injuring hundreds. In eastern Libya, most of the casualties were in Benghazi and al-Bayda. Some 170 people were killed and more than 1,500 were injured in the two cities between 16 and 21 February alone.<sup>80</sup> Scores of them were unarmed protesters, while others were killed in the context of armed clashes.



Sa'ad Hamed Salah al-Yamani  
© Amnesty International

In **al-Bayda**, a protester and a bystander were killed on 16 February, a day prior to the planned "Day of Rage", during a demonstration against the arrest of activists (see Chapter 1). The protester was **Sa'ad Hamed Salah al-Yamani**, a 20-year-old student. His father told Amnesty International:

*"He asked for me for permission to go to the peaceful demonstration. He went out at about 6.30pm and at about 7.45pm his best friend got a call to go to the hospital and when he went there he found Sa'ad dead."*

Sa'ad's friend Hazem Ahmed Mohammed al-Faidi, who was with Sa'ad when he was killed and who was himself shot, told Amnesty International:

*"We went for a peaceful demonstration. We walked past the Commercial Bank, where the security forces threw tear gas, and went on to the ISA building to call for the release of the people arrested the previous day. We were outside the main door, at the back of 'Uruba Street, by the market. They shot in the air from the guard room on the ground floor and then shot live bullets. I was shot in the right flank and in the right arm. Sa'ad was standing two or three metres from me and was shot immediately after me; he was shot in the face and collapsed. He died immediately."*

Medical records show the bullet went through the left side of Sa'ad's mouth to the back of his neck and severed his spinal cord. Hazem sustained a punctured lung and internal injuries and was lucky to survive.

The other victim, **Khaled al-Naji 'Abderrazeq Khanfar**, a 22-year-old student, was shot near his father's jewellery shop between 8pm and 8.30pm. His father told Amnesty International:

*"We had closed the shop and gone home and I told him not to go out but he wanted to go to check as our shop is right next to the ISA building where there was the demonstration. He went out at about 7.30pm to 8pm and less than an hour later we received a call that he had been killed. He was shot in the chest."*

A witness told Amnesty International that as Khaled went to cross the street behind the family shop he was shot by security forces who were firing down the street. Several shop owners in the street gave Amnesty International the same account of events, pointing to bullet holes in walls, shutters and doors.

The scheduled demonstrations on 17 February were bolstered by protests across al-Bayda following the funerals of these two students. Scores, possibly hundreds, of soldiers had been flown in from western and southern regions of Libya ahead of the planned demonstrations and during the unrest.<sup>81</sup> Members of the security and armed forces chased and shot at protesters – those who threw stones, as well as those who did nothing or who were running away. Seventeen protesters were killed in al-Bayda that day and scores were wounded.<sup>82</sup>

Among the victims was **Safwan Ramadhan ‘Atiya ‘Ali**, a 15-year-old high-school student. His father told Amnesty International:

*“At about 4.15pm... we heard shooting in the neighbourhood, behind ‘Uruba Street and we heard the imam of the Green Mosque speaking to the soldiers with a loudspeaker... There were bullets, plastic bullets and live bullets, and youths were closing the streets with [makeshift barricades]. Safwan was at home and he called his little brother who was on the balcony to go inside. A bit later he went downstairs and stood with a neighbour on the corner opposite the house. It was quiet. My other children wanted to go downstairs and I went with them and took them to the supermarket by car and while there my cousin called me to go to the hospital... People were holding up and parading the bodies of people who had been shot dead and I did not realize that one of them was Safwan. He was shot in the head as he stood by the door of the mosque.”*

An eyewitness said:

*“We were at the Green Mosque and when we tried to leave after prayer the area was surrounded by security forces, soldiers in green and blue uniforms. They had weapons for plastic bullets and for real bullets.<sup>83</sup> We stayed in the mosque for about an hour unable to leave and then some tried to leave, going forward and coming back because of the security forces ahead. Safwan was by the door of the mosque when he was shot dead at about 5.30pm-6pm.”*

According to the testimonies collected by Amnesty International in al-Bayda, the demonstrations on 16 and 17 February were mostly non-violent. Some protesters threw stones and during the evening of 16 February some burned cars in a square opposite the ISA building after the security forces opened fire on demonstrators from the top floor and the roof of the building. Sheikh Salah Salem Kamash, the imam, who was detained in the ISA building from 16 to 17 February, told Amnesty International that he was held in an office from where he could see events outside the building on the CCTV monitors. He said that he saw ISA members and soldiers shooting at protesters, some of whom were throwing stones at the building. However, by all accounts, the stone-throwing was limited and for the most part from a distance that did not pose a serious danger to the lives of the security forces. In most

of the streets where demonstrations were held, Amnesty International saw bullet holes on walls and shop fronts but little or no visible damage from stone-throwing.

In the afternoon of 16 February, policemen left the local police station without confrontations with the demonstrators. By contrast, the ISA building was abandoned in the late afternoon of 17 February while soldiers in the street continued to clash with and shoot at demonstrators until late evening. Some officers and members of the local police joined the demonstrators. Witnesses told Amnesty International that in the evening they saw police defectors shooting at al-Gaddafi forces.



Roqaya Fawzi Mabrouk  
© Amnesty International

From then on, the protests quickly escalated into violent confrontations. Later during the night of 17/18 February, the protests moved to the Hussein al-Jaweifi military base in Shahat, some 15km east of al-Bayda, where the soldiers who had shot at the demonstrators were reportedly based.

Soldiers inside the base fired at protesters outside, some of whom were reportedly armed and seemingly included police deserters. A bullet fired from the base struck a building across the main road, killing 12-year-old **Roqaya Fawzi Mabrouk** as she was looking out of her bedroom window at about 3am.<sup>84</sup>

Protests and armed clashes outside the base continued the following day after the child's funeral and resulted in some 30 protesters being killed and scores injured. The following day, 19 February, the protesters took over the Shahat military base after some 17 protesters were reportedly killed there. The large quantity of spent cartridges (mostly from kalashnikov or similar rifles) found by Amnesty International at the base and the damage to some of the buildings indicates that intense armed clashes took place.

The protests and clashes then moved to al-Abraq Airport, some 25km east of al-Bayda, where hundreds of soldiers who had been flown in from other parts of the country were reportedly stationed. It is not clear whether the soldiers who shot at protesters in al-Bayda or those who clashed with protesters at the Shahat military base had retreated to al-Abraq Airport or whether they had left the area. On 21 February, the airport was taken over by protesters, after some 15 of them were reportedly killed. The soldiers who were still at the airport were captured. Several were killed but most were subsequently released.<sup>85</sup> Soldiers reportedly shot unarmed protesters at both the Shahat military base and al-Abraq Airport. Amnesty International has not been able to establish exactly what happened during these incidents and who was killed or injured as a result of excessive force.

In **Benghazi**, events followed a similar pattern. When pre-emptive arrests failed to stop demonstrations happening, the security and armed forces opened fire, killing and injuring unarmed protesters. The police mostly refrained from opening fire and some of them joined the protesters. Members of other security forces either fled or deserted to join the protesters, some of them turning their weapons against the soldiers.

Demonstrations began on 15 February, following the arrest of Fathi Terbil and Faraj al-Sharani, both members of the committee set up by relatives of victims of the 1996 Abu Salim Prison massacre (see Chapter 1). Protesters, mainly relatives of the prisoners killed, gathered in the evening outside the compound of the Directorate of the General Security (DGS, commonly referred to as the Directorate). They then headed to the city centre where they clashed with supporters of Colonel al-Gaddafi, many of them apparently members of Revolutionary Committees carrying clubs and batons.<sup>86</sup> Fathi Terbil was released early on 16 February but protests continued that day and ended in clashes, with protesters reportedly assaulted by members of the police, riot police (Central Security), the People's Leadership and Revolutionary Committees. According to al-Jala'a Hospital records and testimonies of victims and witnesses, in the two days 59 protesters were treated for injuries not caused by firearms.<sup>87</sup>

The planned "Day of Rage" on 17 February took place against this tense background. Security and armed forces fired at unarmed protesters, some of whom threw stones. The day ended with at least 13 protesters killed and scores injured.<sup>88</sup> During the following three days, the death toll rose to 109.<sup>89</sup>

The first three protesters killed in Benghazi were 25-year-old **Mo'ayed Boujlawi**, 24-year-old **Naji Jerdano** and **Taher Bin Sreiti**. They were shot in the evening of 17 February by al-Nasr Mosque near the Jalyana bridge.

H.B.<sup>90</sup> told Amnesty International that he bumped into his friend, Mo'ayed Boujlawi, near Basiouni Café in Dubai Road and they walked together and chanted: "*silmiye*", "*silmiye*" ("peaceful", "peaceful"). As they reached the Jneina bridge, adjacent to the main Jalyana bridge, they saw riot police and Directorate vehicles blocking the road. H.B. said:

*"To avoid more clashes with the police, we chanted: 'The people and the riot police are blood brothers' and continued marching, hoping to pass through the cars blocking the road peacefully without a problem... When we were near the Dawa Islamiya building, the security forces opened fire on us... As I waited for the shooting to stop, I saw men wearing yellow helmets armed with knives and batons running towards us, and we all fled. We ran backwards towards the Jalyana and Jneina bridges. I returned to Dubai Road and lost Mo'ayed during the shootings. I later knew that he and the others crossed the bridge and turned right towards a local mosque called al-Nasr, where he was killed."*

The fleeing protesters arrived at al-Nasr Mosque during sunset prayers. Some had finished praying and were leaving while others – mainly protesters – who had just arrived were preparing to pray. At that point snipers on the Jalyana bridge, between 100m and 200m from the mosque, shot and killed the three men.

M.M.,<sup>91</sup> an imam at the mosque who witnessed the killings said **Taher Bin Sreiti**, a man in his forties, had not taken part in the protests and was simply entering or leaving the prayer hall when he was shot. R.S.,<sup>92</sup> who saw how **Naji Jerdano** was killed, told Amnesty International:

*“The mosque was crowded because protesters had just arrived and wanted to pray. So many people were standing in the mosque premises and couldn’t reach the water taps to perform the ablutions. So a man called on us to perform tayammum (dry ablution). My attention was brought to a young man – whom I later knew as Naji Jerdano – when he asked how the tayammum was performed. So I was looking at him, and he was standing just inside the mosque gate using one foot to pull off his shoe in the other foot, when he suddenly fell and was bleeding heavily. Just as he was still on the ground, a group of men wearing yellow helmets came running towards us and one hit Naji with a baton on his back.”*

According to the death certificate, Naji Jerdano was shot in his right thigh, causing fatal bleeding, and hit on his back with a hard instrument. His mother, Fathiya ‘Ali Saltani, told Amnesty International that Naji was protesting because of the lack of job opportunities:

*“He used to be upset that people with influential connections had a better life... I want those who killed my son and all the other young men to be punished... My son went out to protest peacefully with other young men... Why did they open fire on him? Why did they kill him? He did nothing wrong.”*

Mo’ayed Boujlawi’s death certificate states that he was shot in his lower abdomen and that he was dead on arrival at the hospital. He had married six months earlier and his wife was pregnant. H.B. said that when he met Mo’ayed on Dubai Road and marched with him to the Jalyana bridge, Mo’ayed like the others was not carrying stones. Amnesty International inspected the fence and façade of the mosque and found no bullet holes, suggesting that the three men were deliberately targeted.

Among the protesters killed on 17 February was **Mohammed Allam al-’Obeidi**, who worked at the College of Pharmacy and was a keen handball player. He was shot in front of his brother, who told Amnesty International:

*“We were demonstrating peacefully. We came from Rweissat Street into Jamal Abdennasser Street, walking north-west against the traffic on the way to the Court [near the port]. At about 9pm or 9.30pm, just before we reached Tibesti Hotel on our left... we saw a group of security forces and members of the Revolutionary Guards coming in the opposite direction and blocking the road ahead. They were shooting and people tried to run into the side street to avoid the bullets. I saw several demonstrators fall the ground; I don’t know if they were killed or injured. At that moment Mohammed was hit and fell to the ground. He was shot in the left side of the abdomen. No ambulance could reach the area and I looked for a car from the side streets and found one and took Mohammed to the al-Jala’a Hospital. They tried to save him but he died just after midnight.”*

Another demonstrator, 38-year-old Mahdi Ben Zarra’a, who was wounded in the same place a little later, described to Amnesty International the killing of **Fawzi Mohammed Hsein al-Sabri**:

*“As I was at the demonstration outside the court we heard shooting coming from Jamal Street and we went to see what was happening. I was with Fawzi Mohammed Hsein al-Sabri and Othman al-Rouba’a. On Jamal Street, before the Tibesti Hotel, we found men wearing yellow plastic hats with sticks and men in dark coats with guns blocking the road. We walked around a block to avoid them and got back to Jamal Street, further on to the east. There we saw a big*



Top: Mohammed Allam al-’Obeidi; Above: Fawzi Mohammed Hsein al-Sabri © Amnesty International

*group approaching composed of armed men in army fatigues and plain clothes and some with yellow plastic hats carrying clubs and sticks. They shot in our direction without warning. I got a bullet in my right foot, which smashed my foot completely. At the same time Fawzi was shot in the head. He fell into a pool of blood. He died shortly after."*

Tibesti Hotel employees told Amnesty International that on the evening of 17 February members of the Revolutionary Guards and Revolutionary Committees, as well as security forces, shot at protesters behind the hotel, killing and injuring several of them. They said that the security forces were accompanied by men wearing yellow construction hats who had been chasing and beating protesters with clubs and sticks since earlier in the day. Videos of these events, recorded by protesters and residents on mobile telephones and reviewed by Amnesty International, back up these accounts.

The following day, 18 February, the funerals of those killed turned into another demonstration. The security and armed forces again opened fire, killing and injuring people as they walked to and from the cemetery. Most were shot near the Directorate compound and near the Kateeba al-Fodhil Bou 'Omar military barracks (commonly referred to as the Kateeba) in the centre of Benghazi.

Among those killed outside the Directorate compound was **Ayman Miftah Kuider**, a 26-year-old law student. His friend Ahmad<sup>93</sup> told Amnesty International:

*"We first went to the courthouse, where prayers were held for the victims of the previous day. Then at about 2pm-2.30pm we passed by the Kateeba and it was already bloody. Forces were shooting demonstrators. On the way from the cemetery, at about 5pm, we reached the DGS compound. We were chanting 'silmiye', 'silmiye' ['peaceful'] to indicate that we were peaceful. Some men in police uniforms left the compound and joined the demonstrators. Some protesters were throwing stones but they were far away and the stones mostly did not reach the compound. Members of the DGS and [riot police] were shooting from the DGS courtyard and others from the top of some of the compound buildings. There were also men in army uniforms in the courtyard. Some protesters spoke to friends and family members of the DGS inside the compound who wanted to come out, and then they asked demonstrators*



Ayman Miftah Kuider and Directorate compound where he was killed © Amnesty International



*to stand back to allow them to come out and the demonstrators backed off to the opposite side of the road. Only 10 or so came out. Then tear gas was thrown at us from inside the compound, followed by live bullets.*

*"I saw two young men getting shot and falling to the ground and then Ayman was shot and he fell. I ran to him. At first I did not see any blood but when I put my hand under his back there was a pool of blood. He was shot in the upper chest, just below the neck, and the bullet went through his back. Another demonstrator was shot as he was running over to help Ayman. He was shot in his right flank. I went with Ayman and the injured helper to al-Jala'a Hospital in a private car."*

Ayman's family told Amnesty International that shortly before he was killed Ayman had spoken to his father on the phone and that he was calm. His mother said:

*"He was studying to be a lawyer, like his father and others relatives, and the previous day he had gone to the demonstration at the court with the lawyers. He went to the demonstration because he supported freedom and justice."*

The main flashpoints where most of the protesters were killed and injured between 18 and 20 February were around the Kateeba: al-Birka area of Jamal Abdel Nasser Street, to the east of the Kateeba, al-Hijazi Street (commonly called Sidi Abdel Jaleel Street), which forms a perpendicular angle with Jamal Abdel Nasser Street, and the empty space opposite the main entrance of the Kateeba. Most of the protesters and bystanders were killed and injured some distance from the Kateeba – 100m to 500m – indicating that they were not trying to storm the Kateeba.<sup>94</sup>

According to testimonies collected, soldiers shot at protesters from inside the compound – both from ground level and from the top of buildings – and repeatedly chased and shot at protesters through nearby streets and into buildings, killing and injuring protesters and bystanders. They also targeted people trying to rescue the wounded. Bullet holes in the walls, doors and windows of buildings in the streets around the Kateeba examined by Amnesty International delegates, including a military expert, were consistent with the pattern described above.

In a square further down the road from the Kateeba, a pharmacist showed Amnesty International delegates several boxes of medicines that had been perforated by bullets, which had penetrated the shop's door and metal shutter. Across the road, staff at a dental clinic said that soldiers were chasing and shooting at protesters near the clinic and that on one occasion entered the clinic and shot at the walls and ceiling and at the lock of a door to gain access to the roof terrace.

Sa'idi al-Gaddafi, one of Colonel al-Gaddafi's sons, was reportedly present at the Kateeba before it fell to protesters, during the crackdown on demonstrators. In an interview with the BBC from Tripoli, he accused "fundamentalists" of attacking the Kateeba. He said:

*"My father sent me [to Benghazi] at the beginning of the crisis to go and talk with people there and to see what their demands are. And then they started attacking the Kateeba and the police stations and then they took the weapons, so then I had to leave, you know,*

*because it was very unsafe... When those guys came with weapons and wanted to attack the Kateeba, of course they were gonna get in and kill the soldiers. So they [the soldiers] had to defend.*"<sup>95</sup>

The presence of Sa'idi al-Gaddafi at the Kateeba raises questions as to whether he played any role in giving or communicating orders to soldiers there to use lethal force against unarmed protesters.

On 20 February and possibly also the previous day, protesters and/or defectors from the police and security force who had joined them fired on the Kateeba<sup>96</sup> and threw blasting gelatine (a type of explosive)<sup>97</sup> and incendiary bottles (Molotov cocktails) at the Kateeba. In the early afternoon of 20 February, Mahdi Ziu, a 48-year-old middle manager of an oil company who lived near the Kateeba, drove his car loaded with gas canisters into the main gate of the Kateeba. The vehicle exploded, killing him and soldiers guarding the gate. The explosion blasted a hole in the wall and prompted other soldiers to retreat further into the compound. After several hours of armed confrontations, the protesters overran the Kateeba, which had by then been abandoned.<sup>98</sup>

**Hossam Mohamed al-'Amami**, aged 20, was killed at around sunset on 18 February near the Kateeba. Earlier that day, he and his friend, Zakaria Ali al-Nayhoom, had taken part in the funeral of the people killed the previous day. According to his mother Fayza, Hossam had injured his leg when he fell near the Directorate compound as he fled when security forces opened fire at mourners. Hossam had no pockets so asked Zakaria to keep his two mobile phones. After the funeral, Hossam met Zakaria in Jamal Abdel Nasser Street in al-Birka area to collect the phones. Zakaria described what happened to Amnesty International:

*"I gave him his phones and we were chatting when they [the soldiers] opened fire. Everyone ran somewhere to take cover, some behind buildings... Hossam and I ran and hid behind an advertisement banner. I held the cellphone and stretched my arm from behind the banner to film what was going on. Shortly after that, I felt a strong wound in my leg and could feel my blood running and fell. Hossam fell above me. I recited the Shahada [prayer] but Hossam did not say anything... He was hit with a bullet just under his neck, and died instantly."*

At the location of the shooting, Amnesty International delegates saw several bullet holes in the advertisement banner behind which Hossam and Zakaria had taken shelter.

**Mohamed Ode Oweida**, a 49-year-old Palestinian who had lived most of his life in Libya and worked as a guard in a company in Sirte, was killed on 19 February by a shot to the head by soldiers as he was urging them to stop shooting. Three witnesses told Amnesty International that Mohamed Ode Oweida was killed shortly after he arrived at Ibn Sirine Street, a small street parallel to the main Sidi Abdel Jaleel Street. Protesters, who had been gathering since after noon prayers in Sidi Abdel Jaleel Street and were throwing stones at soldiers, sought shelter in Ibn Sirine Street as soldiers advanced. When Mohamed arrived, soldiers began shooting at protesters hiding behind nearby buildings. A witness told Amnesty International:

*“Mohamed arrived at the scene and immediately headed to the front of the Ibn Sirine Street and made gestures with his arms signalling to the soldiers to calm down. He stood behind the small bushes on the corner street. The soldiers started firing at the bushes. He shouted: ‘Why are you shooting? No one has arms here, why shoot?’ He opened his arms to show them that he had no arms, then turned around and started walking back down the street to where the protesters were hiding. I hardly turned my eyes away and looked back and he was lying on the ground with his head split open.”*

On the wall behind the bushes where Mohamed stood moments before he was shot, Amnesty International delegates saw bullet holes. Footage taken by protesters shows the fatal wound to Mohamed’s forehead.

**Ramadan Salem al-Mokahel**, a 27-year-old auditor, was shot dead on 19 February while he stood talking with his friends outside a bookstore in the al-Birka area in Jamal Abdel Nasser Street, some 100m to 200m from the Kateeba. He was not taking part in any protest, according to three of his friends. One of the friends had been with Ramadan in a café from sunset prayers to evening prayers. In the evening, Ramadan went to al-Qabas Bookstore and was standing talking to friends when he was shot. One of the friends, A.K.,<sup>99</sup> told Amnesty International:

*“Ramadan and I chatted a little and I was a bit emotional over the situation and killings and was tearful. So he withdrew, walked a few steps and stood facing another guy who was leaning over a column on the sidewalk just outside al-Qabas Bookstore. As he spoke on the phone, he suddenly fell over on his face and we realized that he was shot. We carried him and took him to the hospital, but he was shot in his head and didn’t make it.”*

In **Misratah**,<sup>100</sup> demonstrations started on 19 February, initially in solidarity with protesters in Benghazi. After security forces used force and firearms, protesters started calling for the downfall of the al-Gaddafi regime. Almost immediately, the first protester was killed. **Khaled Abu Shahma**, a 42-year-old firefighter and father of seven, was shot in the abdomen at about 3pm and died shortly after.

More protesters and bystanders were killed and injured in the following days and weeks. **‘Ali Hussein al-Dweik**, for example, a 43-year-old journalist (director of the new Free Libya radio station in Misratah) and father of two young children, was among those killed at a demonstration in the city centre in the afternoon of 21 March. His brother Mahmoud, who was with him on the demonstration, told Amnesty International:

*“At about 1.30pm-1.45pm we started to walk from the Intissar school, in ‘Abdallah al-Gharib Street. The kata’ib [al-Gaddafi forces] had come into the centre of town and hoisted the green flag [of al-Gaddafi’s regime] at the People’s Congress in Tripoli Street. The demonstration was heading in that direction to remove the green flag and put back the flag of the ‘17 February Revolution’. At about 2.15pm the soldiers started to shoot with kalashnikovs and machine-guns. We went north-east away towards the Nadi al-Hiyat*



‘Ali Hussein al-Dweik © Amnesty International

*football ground. The kata'ib were firing tank rounds. People were running in all directions; I went towards the traffic lights where we had started and my brother went towards the Legueri traffic lights and was hit in the head by shrapnel from a tank shell. He died before he could reach the hospital."*

Other protesters shot dead that day included **Miftah Ramadhan al-Jabu**, a 27-year-old stationery shop owner, 30-year-old **Khaled Ibrahim al-Sriti**, and 22 year-old university student **Abdel Hakim Ahmed Abou Zakiya**, shot from behind in the head. Consistent testimonies from residents – both those who participated in the demonstrations as well as those who witnessed from a distance from their homes or while passing by – point to a pattern of unwarranted and excessive use of lethal force against demonstrators and reckless use of force that endangered bystanders.

### CIVILIANS BEAR THE BRUNT: INDISCRIMINATE ATTACKS

*"I heard an explosion and ran back to the children's bedroom when a second rocket smashed into the house... I found them buried under rubble."*

Safia 'Abdallah Shahit

Among the inherently indiscriminate weapons used by al-Gaddafi forces in Misratah against residential areas were Grad rockets and cluster munitions.<sup>101</sup> From the second half of March, al-Gaddafi forces also launched sustained and often indiscriminate lethal attacks against residential neighbourhoods in Misratah and Ajdabiya using tanks and heavy military vehicles and equipment.

Just after midday on 13 May a barrage of Grad rockets smashed into several homes in the Ruissat neighbourhood, south-east of the Misratah city centre, killing and maiming several residents. **Rudaina** and **Mohamed**, two of Safia 'Abdallah Shahit's three young children, were killed.

She told Amnesty International:

*"I had bathed the children – Malak, aged five, Mohamed, aged three, and baby Rudaina, aged one. I left them in the bedroom and went to prepare lunch for them. Minutes later, I heard an explosion and ran back to the children's bedroom when a second rocket smashed into the house. I fell to the ground; there was shattered glass everywhere and more explosions. After hearing the fifth explosion further away, I gathered the courage to enter the children's bedroom and found them buried under the rubble. I was lifting the rubble, when I saw Rudaina lying under her bed: the back of her head was just gone, pieces of her flesh scattered around. She was a baby, she wasn't even walking yet. What has she done to deserve this?"*



Malak Mostafa Shami © Amnesty International

Safia's daughter Malak survived, but her right leg was so severely wounded that it had to be amputated. Safia told Amnesty International that the family had fled their home in Ruissat in March to seek shelter in a safer neighbourhood and had only returned home a few days before the tragedy as they felt the area was secure following the withdrawal of al-Gaddafi forces from central Misratah in late April.

Nearby, **Hassan Mohamed al-Rouj**, a 36-year-old father of three, was killed by shrapnel from a rocket as he was on his way to the local mosque for Friday prayers. Another rocket smashed into the courtyard of the Sassi family home at 12.45pm. **Lotfiya Shikshaka-Sassi**, a 55-year-old mother of six, sustained a large, deep wound to the abdomen and multiple wounds to the legs, and her 30-year-old son Mohamed was injured in the legs and arms.

Grad rockets are unguided and thus inherently indiscriminate projectiles that can sow destruction at a distance of up to 40km. Their use against residential areas is in flagrant violation of the prohibition of indiscriminate attacks, a cornerstone of IHL.

From their positions around Misratah (to the east, west and south), al-Gaddafi forces launched countless Grad rocket attacks into the city's residential areas, on some days firing several salvos of 40 rockets at a time. Dozens of residents were killed and scores injured in such attacks while they were in or near their homes. Some of the victims had previously fled their homes in areas under attack and were sheltering with relatives and friends in what they believed were safer parts of the city.

**Ahmed Ahmed al-Majdoub**, a 64-year-old father of 10, was killed on 25 April at his daughter's house in the Qasr Ahmad neighbourhood of Misratah, to the west of the port. His son Mohammed told Amnesty International:



Above (left): Ahmed Ahmed al-Majdoub; Above (right): Son of Ahmed Ahmed al-Majdoub © Amnesty International

*“We had just finished eating lunch with other men from the family in a little hut outside my sister’s house, which was very crowded because other relatives had also come to shelter there.*

*After lunch everybody left and my father and my brother Fathallah stayed there. There had been many rockets that morning in the area but most of them fell into the sea or near the sea.*

*“At about 2.30pm a rocket struck near the house. I rushed over and found my father in pieces. One leg was completely severed and the other leg and one arm were only hanging by a thread and he was cut all over. He died almost immediately.*

*“My brother Fathallah had shrapnel injuries all over his body and was later evacuated by a humanitarian boat to a hospital in Benghazi.”*

Several migrants were killed as they waited at Misratah port to be evacuated by the International Organization for Migration (IOM)<sup>102</sup> when Grad rockets struck the temporary refugee camps where they were sheltering near the port. Among the victims were two Nigerian babies, Destiny, 18 months old, his eight-month-old sister Success, their aunt Miriam, aged 38 and a mother of four, and their uncle Amarachi, aged 32 and a father of three.

The children’s mother, 29-year-old Viva Emeka, who was expecting her third child, lost her right leg and right hand and sustained multiple other injuries. From her hospital bed she told Amnesty International:

*“I was just at the port waiting for the ship to take us to safety, and holding my children, when an explosion rocked the port. I lost consciousness, and woke up to realize I lost everything.”*

The children’s father, Emeka Ezelaobi, told Amnesty International:

*“Rockets exploded by our home so we fled and went to a Red Crescent tent camp near the port and were waiting for the IOM ship to evacuate us from Misratah. We were going to return to Nigeria, away from this war. It was 4 May and we had been waiting for the IOM ship for days when the rocket exploded near us.*

*“I have lost my children and my brother and sister and their children are now orphans. My wife is maimed for life and traumatized. She does not want to live anymore and I don’t know how to help her. Our family has been destroyed and I can’t cope.”*



Viva Emeka © Amnesty International

The IOM ship which Emeka and his family were waiting for had reached Misratah on 30 April and was due to leave the following day with hundreds of stranded migrants and critically-wounded patients. However, it could not dock until 4 May because of relentless rocket attacks on the port and surrounding areas. One of these rockets killed Emeka's children and siblings. Five other migrant workers from Egypt waiting to be evacuated near the port had been killed three weeks earlier, on 14 April, as they queued for bread outside a bakery near the port.



After a brief respite of about three weeks, al-Gaddafi forces resumed firing Grad rockets into Misratah in the second week of June.<sup>103</sup> In the last two weeks of June, at least four residents, including a child, were killed and several others were injured in a series of rocket strikes in the eastern part of the city.



The renewed attacks were even more vicious as the rockets used were packed with small metal balls intended to maximize injury and damage. Grad rockets packed with ball bearings were also fired into Benghazi's south-western neighbourhood of Hay Dollar in the morning of 19 March, when al-Gaddafi forces had tried to re-enter Benghazi hours before the first NATO air strikes.<sup>104</sup>



Among those killed by cluster sub-munitions was 12-year-old **Hsein Mohammed Zoubi**, who was hit in the afternoon of 11 April while he was playing in the garden of the place where he and his family were sheltering. His father told Amnesty International:

*"Hsein was playing with other children when the explosions happened and he was killed. One of the other children was injured and a young Algerian man who was also staying here, Wardi Ibn al-Saad, was injured and died on the way to hospital."*

*"We are staying here because on 8 April the house opposite our home was shelled so we came to this shelter. There were foreign journalists"*

Top: Hsein Mohammed Zoubi and family; Middle: Deadly ball bearings used in Grad rocket launched into Benghazi; Above: Housing used to shelter a tank in al-Gheiran neighbourhood in Misratah © Amnesty International

*staying here and I thought we would be safe.”*

Al-Gaddafi forces launched frequent mortar attacks, including with 120mm mortars containing cluster sub-munitions, into the city centre near the “front line” prior to their withdrawal from the area in the third week of April.

On 15 April, an Amnesty International delegate found several cluster sub-munitions in the area, as well as parts of MAT-120 cargo mortar projectiles (designed and manufactured by the Spanish company Instalaza S.A.) which contained cluster sub-munitions. The MAT-120 is prohibited by the Convention on Cluster Munitions.<sup>105</sup>

On 21 April, the day after al-Gaddafi forces left al-Gheiran neighbourhood, the delegate found scores of the red ribbons that are attached to the cluster sub-munitions’ detonators. When al-Gaddafi forces later retreated from other areas of the city, Amnesty International found more remnants of cluster sub-munitions in these areas.

Cluster munitions, which are banned by more than 100 countries, present an enormous danger. Dropped from the air or fired from the ground, they are designed to break open in mid-air, releasing the sub-munitions over a wide area in a way that cannot discriminate between civilians and soldiers. Many of the sub-munitions fail to explode on impact and effectively become anti-personnel mines.<sup>106</sup>

Because they are inherently indiscriminate weapons, cluster munitions should not be used in any circumstances. Their use in residential areas is a flagrant violation of the prohibition on indiscriminate attack.

By the second week of March, al-Gaddafi forces set about re-establishing control over cities they had earlier evacuated. They moved tanks and heavy military vehicles and equipment into residential areas of Misratah and Ajdabiya, and placed snipers in tall buildings in areas they controlled.

Residents of Ajdabiya and surrounding areas were usually able to flee and reach safer areas, though this resulted in significant hardship for tens of thousands of displaced residents who became stranded in the desert in dire conditions for weeks.<sup>107</sup>

Misratah’s residents, on the other hand, could not leave. Many resorted to erecting barricades, using sand-filled containers, discarded fridges, washing machines and furniture, to prevent al-Gaddafi forces from advancing deeper into the city. From their positions in the city centre and from other positions around the city, al-Gaddafi forces launched relentless and often indiscriminate lethal attacks against the city’s residential neighbourhoods, killing and injuring scores of residents in their homes or as they were going about their daily lives.

As the situation escalated, al-Gaddafi forces and local residents-turned-opposition-fighters battled each other in residential neighbourhoods. The city centre became the front line.<sup>108</sup> Tens of thousands of residents fled from areas taken over by al-Gaddafi forces or where armed confrontations were happening. They took shelter with relatives and friends, or in



schools in areas further away from the confrontations. Many residents told Amnesty International that they were forced to move again and again as the areas where they sought shelter came under attack from al-Gaddafi forces. Those who did not manage to flee were trapped in their home, under fire and facing shortages of food, water and medicines.

Al-Gaddafi forces also concealed tanks next to civilian objects, in a deliberate, though ultimately vain, attempt to shield them from possible air strikes. The practice of shielding is in violation of IHL and constitutes a war crime. Amnesty International observed the positioning of tanks in several residential areas of Misratah, including al-Gheiran, Zawiyat al-Mahjoub, and on and around Tripoli Street. Some of the tanks were positioned in-between or even inside houses; others were concealed inside food markets or other small commercial enterprises including a bakery on Sahili Road in Zawiyat al-Mahjoub.

Even if such conduct did not amount to the use of human shields, it represents a failure to take feasible precautions to protect civilians from the effects of attack – which requires that parties to a conflict endeavour at all times to avoid locating military objectives in civilian areas.

### KILLED WHILE TRYING TO FLEE

*“I don’t want revenge. I just hope that those who killed my little girls will one day face justice.”*

‘Adel al-Asta, whose daughters were killed on 31 March

Seven-year-old **Amna ‘Adel al-Asta** and her 18-month-old sister **Ru’a** were fatally wounded on 31 March after their family fled their home in Kerzaz, a neighbourhood south of the city centre, and was trying to find safety in another part of Misratah.

The girls’ father, ‘Adel al-Asta, a building company director, told Amnesty International:



*“The kata’ib had come into Kerzaz, where we live, and the situation was becoming increasingly unsafe. Soldiers were going into people’s houses. A neighbour told us that five members of a family of another neighbour had been taken from their home. We decided to leave. I and my two brothers and our families got into two cars; nine people in my car and six in my brother’s car.*

Above (left): Amna ‘Adel al-Asta; Above (right): Ru’a ‘Adel al-Asta © Amnesty International

*“As we were going around the roundabout to get on the Igzir bridge we saw two Toyota pick-ups with anti-aircraft machine-guns at the back coming from the Air Force College, the main base of the kata’ib in the area. We were about 300 metres from them and there were no other cars on the road; it was mid-morning, full daylight. They fired at us from their pick-ups.*



*“My brother’s car was in front and was not hit. A large calibre bullet came through the driver’s door and went to the back. Amna and Ru’a were sitting behind me. The bullet went through Amna’s head and through Ru’a’s arm and into her chest. Amna was killed instantly and Ru’a died after a few days. I don’t want revenge. I just hope that those who killed my little girls will one day face justice.”*

Two other families were shot at in similar circumstances as they were fleeing Kerzaz in their vehicles on 17 March. In both cases, family members were killed and injured. **Tahar Abu Shibah**, a 46-year-old father of nine, and his oldest daughter **Mona**, aged 21, were killed when their car came under fire. One of his relatives, who was in another car, told Amnesty International:



*“We left in three cars, at about 10pm, I was driving the first car, and Tahar was behind. He was driving and Mona was sitting beside him and at the back were Tahar’s wife, his son, his nephew and two other children from the family. At a certain point we saw a tank in front of us, quite close.*

*“They started to shoot from the tank and I turned back and managed to get away, but Tahar and Mona were hit several times. Tahar was killed on the spot; we got Mona to hospital but she died when we got there.”*

Top: Wreckage of car of Tahar Abu Shibah; Above (left): Miftah al-Tarhouni; Above (right): Mohammad al-Tarhouni © Amnesty International

In a separate incident a few hours earlier in the same area, another family came under fire as they were fleeing Kerzaz in three cars.

**Mohammed Mosbah Souib**, a 61-year-old father of 14, was killed by shrapnel to the head and several members of the family were injured when all three cars came under tank fire. Mohammed’s wife, ‘Aisha, was hit in the back and their seven-month-old grandchild was hit in the face and badly injured. The baby’s mother, Hanan, was injured in her arm. In another car, Mohammed’s son, ‘Imad, and his four-year-old niece ‘Aisha both suffered head injuries. The surviving members of the family told Amnesty International that they too had come under fire as they were trying to turn around, having become aware that tanks were positioned ahead.

Several people were killed in Ajdabiya, a city of over 100,000 residents that was largely deserted when Amnesty International went there in early April.<sup>109</sup> Among them were 67-year-old **Miftah al-Tarhouni**, and his 36-year-old son **Mohammad**, who were killed on 20 March near Ajdabiya’s eastern gate when their car was hit by a projectile – seemingly a rocket or an artillery shell. His son Adam told Amnesty International:

*“They were blown to pieces. We did not find their bodies, only shreds of flesh. They had set out to look for me in Zwaytinah, where I work. I got stuck there after al-Gaddafi’s forces invaded the area the week before. In the meantime my family had fled Ajdabiya on 18 March, after the town was shelled the previous day. They went to take shelter in the desert to the*

south of the city, with many other families. The telephone network in the area had been cut off and we could not call each other. My father was worried about me and on Sunday [20 March] he decided to go to Zwaytinah to see me. As they passed near Ajdabiya's east gate they were killed by a missile."

Adam broke down in tears as he showed an Amnesty International delegate the fragments of his father's and brother's ID cards that he had found by the wreckage of their car on 26 March, after al-Gaddafi forces had retreated from Ajdabiya and the surrounding area.

In the cases mentioned above, and many others, the testimonies of survivors and witnesses and the details they and others provided concerning the positions of the two sides, al-Gaddafi forces and opposition fighters, at the time of the attacks strongly indicate that the projectiles were fired by al-Gaddafi forces. In other cases, including those described below, it has not always been possible to establish whether the people killed or injured were deliberately targeted, or were the victims of indiscriminate or reckless fire, or were caught in the crossfire. In some cases, it has not even been possible to establish whether the shots were fired by al-Gaddafi forces or opposition fighters.

**Ruqaya 'Abdelghani al-Sheikhi**, a 34-year-old teacher, was killed in late March near Ajdabiya as she and her family were fleeing the town, which was then surrounded by al-Gaddafi forces. Ruqaya's mother, Khadija, told Amnesty International:

*"It was between 3pm and 4pm and we were near the petrol station on the road which leads to the eastern gate on the way out of town. My other children and grandchildren were in other cars in front and behind us. My son was driving and I was sitting in the front and Ruqaya and my other daughter, 'Aisha, were sitting at the back. There was shooting and Ruqaya was hit twice, in the back and in the arm. We drove on, looking for a hospital but the hospitals in Zwaytinah, Sultan and Maqrun were closed. We eventually got Ruqaya to hospital in Gmeynes [about 100km from Ajdabiya on the way to Benghazi]; they operated on her and took out the bullet from her back but she died shortly after."*

Another relative, Salma, who was in the car behind with her children, told Amnesty International:

*"There was a lot of shooting; we got caught in the crossfire. A bullet came through the left rear window of our car and hit my daughter Ala', who is nine years old. I was sitting in the back with the children. I was next to Ala' and I was holding the baby. The bullet went straight past me and scraped Ala's forehead, by her left eye. Luckily it was a superficial injury. Our car was also hit in the wheel and we had to stop. We took cover from the shooting in a building by the side of the road and then went back into town and stayed there for two days before we managed to leave town and went to take shelter in the desert."*



Above: Ruqaya 'Abdelghani al-Sheikhi © Amnesty International



Right: Four children from the Abu Fanas family, three-year-old Adam, his sisters Fatima, seven, and Hawa, 11, and their brother Salem, 15, were killed when a projectile hit the car in which they were travelling in Misratah on 21 March. © Amnesty International



See Amnesty International, *Libya: Misratah – Under siege and under fire* (Index: MDE 19/019/2011), 6 May 2011.



Amnesty International examined the cars in which the al-Sheikhi family was travelling. The bullet holes in the vehicles are consistent with their accounts. Judging by the size of the impacts, it appears that the cars were hit by 7.62 calibre bullets fired from kalashnikov or similar rifles, which both sides to the conflict use.

In Misratah, **'Abderrabbo Fezzani**, a 20-month-old baby boy, and his grandmother were injured when they were caught in the crossfire between al-Gaddafi forces and opposition fighters in the second week of April. The child's aunt, who was in the car with them and other relatives, told Amnesty International that they were on the Saheli Road in the western outskirts of the city when they were caught. Al-Gaddafi forces had several positions along this road from which they controlled access to parts of the city, launched attacks into areas controlled by opposition fighters, and engaged in gun battles with opposition fighters.

## EXTRAJUDICIAL EXECUTIONS

On 10 April, Amnesty International delegates saw the bodies of two opposition fighters who had been shot in the back of the head with their hands bound behind their backs with metal wire. The bodies were recovered from the eastern front line, in the area between Ajdabiya and Brega. They were taken to the morgue of al-Huwari Hospital in Benghazi, where they were identified by their families. Staff at the morgue told Amnesty International that the body of a third fighter, whose hands were similarly tied behind his back, had also been brought to the morgue from the front line that morning and had been collected by the family. The forensic pathologist who carried out the postmortem examination and morgue staff told Amnesty International that the men's feet had also been bound together.

The following day, in the morgue of Ajdabiya Hospital, the organization's delegates saw the body of an unidentified man. The hands were tied behind his back with plastic handcuffs and were tied by rope to a wire that was used to tie the ankles together. Hospital staff told Amnesty International that this body, and another brought in with it but already removed for burial by the family, had been found at the eastern gate of Ajdabiya, which had been under the control of al-Gaddafi forces a short time before. It is not yet clear whether they too were opposition fighters or local people who had been taken prisoner and then killed.

Amnesty International has separately received credible reports of four similar cases, where bodies of captured fighters were found with the hands tied behind the back and multiple gunshot wounds to the upper part of the body.

The bodies of three opposition fighters, 34-year-old **Walid al-Sabr al'Obeidi**, his 32-year-old brother **Hassan** and their 39-year-old cousin **Walid Sa'ad Badr al'Obeidi**, were found in the western outskirts of Benghazi on 21 March. Their family told Amnesty International that all three had their hands tied behind their back and two of the bodies had visible injuries – Hassan appeared to have been beaten on the right eye and neck, and Walid Sa'ad had a broken thumb. They also said that Walid al-Sabr had been shot in the forehead from close range.

The three men had gone missing on 19 March when al-Gaddafi forces had attempted to recapture Benghazi and there had been clashes with opposition fighters in the city's western outskirts. Earlier that morning the three had been involved in the capture of members of al-Gaddafi forces. Walid al-Sabr's brother told Amnesty International that he had called Walid al-Sabr later that morning and that when he answered he sounded out of breath, as if he was running, and cut the conversation short. His brother called again shortly afterwards and a man with an accent from the west of Libya answered and said: "If you want your brother, come", and ended the call. The brother rang again and the same man answered and said: "Your brother is dead". The following day the car used by the three men was found riddled with bullets in the south-west outskirts of Benghazi.

On 6 May, the bodies of 'Ashour al-Tifi and his son Youssef were found in Misratah's Kerzaz neighbourhood, which had been controlled by al-Gaddafi forces until two days earlier. Doctors who received the bodies at Misratah's main hospitals told Amnesty International that the hands were tied behind the back and the bodies were in an advanced state of decomposition. One of the victims' relatives told Amnesty International that 'Ashour and Youssef had gone missing from their farm in Kerzaz on 1 May.

All available information about the above and other similar cases indicate that the victims were killed after they were captured, strongly suggesting that they were extra-judicially executed.

Amnesty International has also seen footage taken on mobile telephones confiscated by opposition fighters from captured al-Gaddafi soldiers or found on the bodies of al-Gaddafi soldiers killed at the front. Some of these videos show opposition fighters captured by al-Gaddafi soldiers being shot dead and captives filmed alive and later found dead.

IHL absolutely prohibits the killing, torture and ill-treatment of individuals, including fighters, who have surrendered, been captured, injured or otherwise rendered *hors de combat*. The deliberate killing of captives is a war crime.

The deliberate killing of individuals by al-Gaddafi forces is not limited to captured opposition fighters. Father-of-four, 41-year-old **Othman Youssef Ba'iou**, whose wife Asma was expecting another child, was shot at close range in the neck by an al-Gaddafi soldier in his home in the area of Zawiyat al-Mahjoub on 1 April. That afternoon, four al-Gaddafi soldiers, armed with kalashnikovs, forced their way into the family home, where some thirty women and children were staying together in search of safety. Asma and



Top: Destruction in Bira; Above: Children of Othman Youssef Ba'iou hold his picture © Amnesty International

her female relatives told Amnesty International that the soldiers searched the home looking for weapons and insulted and terrorized those inside. When Othman, who was at a relative's home nearby, heard the women screaming, he rushed to help and was shot near the front door leading to his bedroom. He died 17 days later at the Hikma Hospital without regaining consciousness.

## USE OF ANTI-PERSONNEL AND OTHER MINES

Al-Gaddafi forces planted anti-personnel, anti-vehicle and other mines in and around civilian residential areas in different opposition-held areas across the country, further endangering civilians who are already having to cope with the danger of large quantities of unexploded munitions (UXOs) in areas where military attacks and armed clashes have taken place since March.

Some two-dozen, highly-explosive, Brazilian-made T-AB-1 anti-personnel mines were discovered in the residential neighbourhood of Tamina, south-east of Misratah's city centre in early May, when two were accidentally set off by a passing car.<sup>110</sup> The car was immobilized but fortunately no one was hurt.

A week earlier, al-Gaddafi forces launched anti-vehicle mines into Misratah's port and its surroundings, in yet another attempt to render the port inaccessible. The mines, Type 84 Model A anti-vehicle mines, are delivered by Chinese-made 122mm rockets which burst open in flight, each scattering eight mines over a large area.<sup>111</sup> Such rockets are unguided and indiscriminate and scatter their payloads of mines over a large area.

The same type of anti-personnel mines as those used in Misratah were discovered at the end of March on the outskirts of Ajdabiya, in an area frequented by civilians.<sup>112</sup> On this occasion too the mines were discovered by chance, when an electricity company truck drove over and detonated two of the mines two days after al-Gaddafi's forces had retreated from the area.

In June and July a large number of the same anti-personnel mines, as well as anti-vehicle mines, were discovered in the Nafusa Mountain area, west of the capital.<sup>113</sup>

The presence of anti-personnel and other land mines has made it more difficult for residents displaced by the conflict to return to their homes long after the end of armed confrontations. Moreover, the anti-personnel mines used are made of plastic, with hardly any metal content and thus not detected by metal detectors, making the search exceedingly difficult and dangerous. Libya is not a party to the Anti-Personnel Mine Ban Treaty. But the use of such inherently indiscriminate weapons violates the customary IHL prohibition of indiscriminate attack. Anti-personnel mines should not be used anywhere or under any circumstances. That they were planted in and around residential neighbourhood indicates an intent to harm civilians, and at the very least is a flagrant violation of the prohibition of indiscriminate attacks.

## NATO'S OPERATION UNIFIED PROTECTOR

As a party to an international armed conflict, NATO is bound by the rules of IHL. Colonel al-Gaddafi's government accused NATO of targeting civilian objects and causing up to 800 civilian casualties. Amnesty International is not able to independently verify such claims given its lack of access to territories which were controlled by al-Gaddafi forces. Nevertheless, the organization received reports of civilian casualties, and wrote to NATO Secretary General, Anders Fogh Rasmussen, on 11 April and 2 August to request clarification and call on NATO to take all necessary precautions to avoid civilian casualties. In a response to Amnesty International, NATO Deputy Secretary General, Claudio Bisogniero, confirmed NATO's compliance to IHL and commitment to protect civilians.

On 19 June several civilians were reportedly killed, including two children and a woman, when a projectile struck their homes in Tripoli. In a 21 June press briefing by Wing Commander Mike Bracken, Spokesperson for Operation Unified Protector, the Commander stated that:

*"...during the course of the air strike, on the missile site, a potential weapon system failure occurred and this caused the weapon not to hit the intended target, and reportedly resulted in a number of civilian casualties. We can still not confirm that the site where our weapon landed was, in fact, the site that was shown on the media, but the site is very likely to be that failed weapon and is likely to have been caused by that weapons malfunction."*<sup>114</sup>

Deaths of civilians caused by accidents such as weapons malfunctions do not necessarily amount to violations of IHL. But NATO does have an obligation to take all necessary precautions to protect civilians, including taking measures to minimize risks to civilians from malfunctioning weapons systems.

On 20 June NATO strikes in Surman (west of Tripoli) against what appeared to be civilian homes in a compound reportedly belonging to one of Colonel al-Gaddafi's associates (Khweildy al-Hamedi), reportedly killed several civilians, including two children and their mother. At a 21 June press briefing, Wing Commander Mike Bracken stated that:

*"In the early hours of Monday morning [20 June] NATO carried out a precision strike using precision-guided weapons on a highly-significant command-and-control node in the Surman area near Zawiya. The facility was directly involved in coordinating systematic attacks on the Libyan people and was identified through rigorous analysis based on persistent intelligence, surveillance and reconnaissance and this was carried out over a prolonged period of time. NATO is aware of allegations that this strike caused casualties. That is something we cannot independently verify, but I say again, this was a legitimate military target, a high-value, command-and-control node used to coordinate attacks against civilians. We observed the site over a prolonged period of time before conducting the precision strike which minimized any potential risk of causing unnecessary casualties."*<sup>115</sup>

In a BBC interview, published on 26 June, Lieutenant General Charles Bouchard, Commander of the NATO military operations in Libya, is quoted as saying that the target struck was a command-and-control centre being used by a senior al-Gaddafi aide and that the bomb carefully avoided a mosque and hospital nearby.<sup>116</sup> However, according to international

reporters present at the scene when the children's bodies were being recovered from the rubble, at least some of the targeted buildings in the compound appeared to be residential.

On 30 July, NATO aircraft attacked three ground-based Libyan state television satellite transmission dishes in Tripoli. There were no confirmed reports of civilian casualties. NATO explained that the attack was carried out because:

*“TV was being used as an integral component of the regime apparatus designed to systematically oppress and threaten civilians and to incite attacks against them. Qadhafi’s increasing practice of inflammatory broadcasts illustrates his regime’s policy to instill hatred amongst Libyans, to mobilize its supporters against civilians and to trigger bloodshed.”<sup>117</sup>*

Amnesty International is concerned as generally television satellite transmission dishes and other media infrastructure are civilian objects. Amnesty International did not have the opportunity to monitor and analyse the full content of Libyan state television broadcasts when it was under the control of Colonel al-Gaddafi, but the question of whether Colonel al-Gaddafi is using television broadcasts to instil hatred and mobilize its supporters is not the determining criteria for whether television transmitters are military objectives. The definition of military objective in Article 52(2) of Protocol I, which reflects customary IHL, specifies that “military objectives are limited to those objects which by their nature, location, purpose or use make an *effective contribution to military action* and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a *definite military advantage*”. Propaganda is not “an effective contribution to military action” and it is difficult to consider that the destruction of the transmitters offers “an anticipated definite military advantage”.<sup>118</sup>

Amnesty International has written to NATO expressing concern about these attacks and requesting details of the mechanisms and processes which have been put in place to ensure that all the necessary precautions are taken to avoid civilian casualties, asking in particular about what precautions NATO takes to avoid needless civilian deaths and injuries when civilians are in the vicinity of military objectives.



## 4. ENFORCED DISAPPEARANCES, DETENTIONS AND TORTURE



Posters of the disappeared, al-Huwari Hospital, Benghazi © Amnesty International

*"I fear the worst since he is in the hands of al-Gaddafi forces. But I just want to know if he is dead or alive. If we know [he was killed], at least we will be able to mourn, and start the healing process."*

Sister of 19-year-old Mostafa Ibrahim El-Baghdadi, who disappeared in Misratah in mid-March

The enforced disappearance of thousands of people, mostly men, from across Libya has been a grim feature of the unrest and conflict. Activists and government critics started disappearing in the lead-up to the "Day of Rage" on 17 February in a clear attempt to nip the protest movement in the bud.

As the unrest evolved into an armed conflict in late February, enforced disappearances became more widespread or systematic, seemingly aimed at weakening the opposition or punishing individuals, families or even whole areas or cities for their perceived support of the opposition, and their declared allegiance to the NTC.<sup>119</sup>

NTC spokespeople say that 12,000 people disappeared in Tripoli alone,<sup>120</sup> but they have not provided evidence to substantiate this figure and numbers of those disappeared or detained are difficult to verify as during the conflict vast areas of Libya have remained under the

control of al-Gaddafi forces and have thereby been largely off-limits to independent monitoring.

Colonel al-Gaddafi's government did not disclose details about those held and refused to grant access to independent organizations to detention facilities under the oversight of the General People's Committee for Public Security (equivalent to an Interior Ministry). However, they allowed the International Committee of the Red Cross (ICRC) to visit facilities under the control of the General People's Committee for Justice (equivalent to a Ministry of Justice). To Amnesty International's best knowledge, no visits by independent monitors took place to the Ain Zara and Abu Salim prisons and the Salaheddin Detention Facility in Tripoli, as well as the military police barracks in Sirte – where many of the disappeared were believed to be held.

Those who have been subjected to enforced disappearance in Libya fall under several categories. They include individuals taken on account of their real or perceived support of the opposition or participation in anti-government demonstrations; individuals who went missing as al-Gaddafi forces retreated from cities such as Benghazi and Kufra; and those who went missing in or around fighting in eastern Libya. Some victims were taken by al-Gaddafi forces from their homes, roads or other public places in regions controlled by the opposition during incursions by al-Gaddafi forces, notably in Misratah and cities in the Nafusa Mountain area.

Cities retaken by al-Gaddafi forces, including al-Zawiya and Zuwara, were believed to have faced a campaign of reprisals, including enforced disappearances, for daring to oppose Colonel al-Gaddafi's rule or for having taken up arms against the al-Gaddafi forces. Other individuals from these areas appeared to have been taken when they ventured out of opposition strongholds in what seemed to be a campaign of collective punishment or a desperate attempt to eliminate real or perceived threats to Colonel al-Gaddafi's rule. In several instances documented by Amnesty International, al-Gaddafi forces abducted all males, including boys, found during house raids in cities that had declared their support of the "17 February Revolution".

Furthermore, Amnesty International was deeply concerned for the safety of political detainees held in Tripoli prior to the unrest, as contact with their families and the outside world was abruptly interrupted once protests began. The vast majority of them originated from eastern Libya, seen as the opposition's base.

Some of the disappeared have been released and by early July the ICRC had visited some 460 detainees in Tripoli, at that time still under the control of al-Gaddafi forces.<sup>121</sup> However, the fate and whereabouts of the disappeared remained unknown until opposition forces swept into Tripoli in late August. As Colonel al-Gaddafi's grip on Tripoli loosened, detainees were released or escaped from the Abu Salim, Ain Zara and Jdeida prisons, as well as detention facilities in Tagoura, Khilit Fergan and Qasr al-Ghashir. Others have been extra-judicially executed by retreating al-Gaddafi forces.<sup>122</sup>

The testimonies of former detainees confirm fears that some of the disappeared are at high risk of torture or other ill-treatment or even extrajudicial execution, particularly upon capture

and/or during the initial period of detention. Some of those captured or detained by al-Gaddafi forces subsequently appeared on state television “confessing” to joining “armed groups”, belonging to al-Qa’ida, being drug addicts, or having been “deceived” by the opposition. This only confirms fears about torture and other ill-treatment, particularly as several bore visible marks of beatings, according to relatives.

Across Libya, including in opposition-controlled areas, families are living in anguish over the fate of their vanished relatives. They also fear reprisals. As a result, many are unwilling for their names to be disclosed publicly, believing that this will expose their relatives to even greater risks. In some areas, local activists have started compiling lists and other information about missing people, and sharing them with the Libyan Red Crescent or contacting the ICRC, hoping to get some information. Hundreds of detainees were released from Tripoli in May, stirring families’ hopes, but the vast majority remained detained until late August.

Amnesty International’s concerns about the safety of those being held by al-Gaddafi forces are heightened by the consistent pattern of gross and widespread human rights violations, including torture and extrajudicial executions, that characterized the four-decade rule of Colonel al-Gaddafi. The practice of abducting individuals deemed as opponents or critics of the political system, followed by a denial of their arrest and the concealment of their fate and whereabouts, was a recurring feature of Colonel al-Gaddafi’s rule, with numerous families still trying to uncover the truth about their relatives’ disappearance in past decades.<sup>123</sup>

A growing body of international treaties, customary law and jurisprudence recognizes enforced disappearances as a continuous crime for as long as the fate of the victims is not clarified, and justice and reparation are not afforded.<sup>124</sup> International jurisprudence also acknowledges that enforced disappearances not only constitute inhumane treatment for the disappeared, but also for their relatives who suffer constant distress not knowing whether their loved ones are alive or dead, where they are held, and how they are being treated.<sup>125</sup>

To the extent that the practice of enforced disappearances in Libya had been carried out as part of a widespread or systematic attack by the al-Gaddafi forces on the civilian population, it constitutes crimes against humanity, as provided in Article 7 of the Rome Statute of the ICC.

## GOVERNMENT CRITICS AND PROTESTERS

Security forces in plain clothes, most known or believed to be members of the feared ISA, arrested government critics, pro-democracy activists, writers and others in the run-up to 17 February 2011 in cities across Libya, including Tripoli, Benghazi, al-Bayda and Misratah. Some were released, but the fate and whereabouts of many remain unknown. They include some detainees who were allowed access to their families or lawyers until demonstrations began. Other protesters were abducted during and in the aftermath of demonstrations, particularly in areas that remained under Colonel al-Gaddafi’s grip, such as Tripoli.

**Jamal al-Haji**, a former prisoner of conscience who continued to campaign for human rights despite several arrests in recent years,<sup>126</sup> was arrested in a car park in Tripoli on 1 February 2011. Around 10 plain clothes security forces said the reason for the arrest was that a man had accused Jamal al-Haji of hitting his car. The security officials then forced Jamal al-Haji into an unmarked vehicle and drove him away. The arrest of Jamal al-Haji over an alleged



Top: Jamal al-Hajji;  
Above: Mohammad Misbah  
Soheim © Amnesty International

traffic violation, which he denied and eyewitnesses refuted, is believed to be politically motivated due to his pro-democracy advocacy and writing on Libyan websites based abroad. As protests escalated, contact with him was lost and the authorities under Colonel al-Gaddafi did not disclose his whereabouts and legal status.

Arrests were also carried out in Benghazi in the lead-up to protests. Some of those arrested have been released, including **Mohammad Misbah Soheim**. A 30-year-old writer and pro-democracy advocate, Mohammad was arrested at his home on 16 February by ISA officials in plain clothes. He had advocated reforms on websites and on his Facebook page, and had travelled to Tunisia following the protests that ousted President Ben Ali. One of his last articles, addressed to Colonel al-Gaddafi, ominously warned that unless Libyans obtained more freedoms, there would be bloodshed. When Mohammad Misbah Soheim's distressed relatives approached the ISA headquarters on 16 February, officials initially denied any knowledge of his arrest. They then confirmed his detention and promised his release "after this crisis is over". Throughout the duration of his detention, his relatives received no official information about his fate and whereabouts, but heard that he and another writer arrested in Benghazi at around the same time were being held in an undisclosed detention centre in Tripoli. Five months later, on 21 July, his relatives received a call from him from Tripoli informing them of his release.

The fate and whereabouts of others remain unclear. **Safai Eddine Hilal al-Sharif**, a 41-year-old father of five who worked as a technician in an oil company in Ras Lanouf, has disappeared since his arrest from home on 24 January 2011. Since then, his family have been unable to obtain any information about him or even an acknowledgement of his detention. His family told Amnesty International:

*"At about 8pm [on 24 January 2011] six men in plain clothes, probably members of the ISA, asked the children who were outside if their father was at home and to call him. He went out and the men took him away with them; he was in his pyjamas. After about half an hour they brought Safai Eddine back and came into the house and searched the house. Safai asked them what they were looking for, and one said: 'We have an order to search all your properties'. Safai asked who gave that order, and the man answered: 'We cannot say'. They took two computers, a camera, a camcorder (video) and a mobile phone.*

*"They allowed him to get dressed and took him away. It was 9.30pm. Since then we have had no news about him. An acquaintance who had contacts in the ISA said that Safai Eddine was taken straight to Tripoli, but we have not been able to know anything about where he is held, if he is in good health, what do they want from him; nothing. We don't understand why they have taken him.*



Family of Safai Eddine Hilal al-Sharif © Amnesty International

*“He was just an ordinary guy who spent his time between his family and his work. He was not involved in politics. He liked to browse the Internet and Facebook, but nothing more than that. We just want to know where he is, why he was taken.”*

Safai’s relatives heard from former detainees that he might be held in the Abu Salim Prison in Tripoli, but received no official information.

Other protesters and supporters of the opposition went missing as al-Gaddafi forces retreated from cities that fell to the opposition, including Benghazi and Kufra. Amnesty International documented cases of at least nine males, including four boys aged under 18, missing since 20 February when they were last seen near or going into the Kateeba military compound in Benghazi as it was being taken over by protesters. The families of the nine missing men and boys believe that their relatives may have been taken by the retreating soldiers.

Similarly, several individuals from Kufra told Amnesty International that as al-Gaddafi forces withdrew from the city on 3 May, at least four men who supported the opposition disappeared without trace and were believed to have been taken by the retreating forces and have not been heard of since.

## AMID FIGHTING IN EASTERN LIBYA

Among those missing are individuals reported to have been captured in or around fighting in the area between Ajdabiya and Ben Jawad, west of Benghazi. They include fighters, civilians trying to help the wounded, journalists and onlookers.

Libyan cameraman **Mohamed Al-Shouihdi**, 26, has disappeared since being captured by al-Gaddafi forces on 6 April as he drove with colleagues from the Middle East Broadcasting Corporation (MBC) from Ajdabiya towards the front line in Brega. His two colleagues, Algerian journalist Hassan Zeitouni, and Egyptian cameraman Majdi Hilali were released on 9 April and 12 June, respectively. Upon release, former detainees told Mohamed Al-Shouihdi's relatives of having seen him last some 25 days after his arrest. When Amnesty International last spoke to his relatives in early August, they had no further news of his fate and whereabouts.

A family from the area of Ben Jawad described to Amnesty International how al-Gaddafi soldiers had stormed their house on 8 March in search of opposition fighters. They saw a group of mostly young men lying on the ground outside the fence of their house. Seven or eight of them were alive but injured, and at least three were dead. They were wearing insignia that identified them as opponents of Colonel al-Gaddafi, but it was unclear whether they had been armed when captured or had been providing medical or logistical support to opposition fighters. The prisoners were then pushed into military vehicles by the soldiers who threatened them, saying: "You will be punished you dogs... You will suffer for what you've done".

Other families told Amnesty International that they saw footage on state television of their missing relatives, believed to have been captured in or near areas of fighting in eastern Libya. The relatives were "confessing" to working with al-Qa'ida, being drug addicts, or having been "deceived" by the opposition which their families strongly denied. The families voiced fears that their detained relatives had been tortured or coerced to make them confess to having links with al-Qa'ida.

## DURING ATTACKS BY AL-GADDAFI FORCES

Hundreds of individuals, possibly more, including children, have been abducted by al-Gaddafi forces from their homes in front of their families, at mosques or on the street, particularly in areas that have declared allegiance to the opposition and as a result have come under siege and under fire by al-Gaddafi forces.

Amnesty International documented scores of cases of enforced disappearances in Misratah, particularly when al-Gaddafi forces launched an offensive attempting to retake control of the city after being driven out in late February. They carried out reprisals against the population seemingly to collectively punish Misratah residents for supporting the opposition or to weaken their resolve to resist the incursion.

Residents of neighbourhoods where al-Gaddafi forces positioned themselves during their return to the city, particularly on the outskirts including in Kerzaz, al-Gheiran, Tamina, and Zawiyat al-Mahjoub, as well as areas near Tripoli Street in central Misratah, were among those who suffered the brunt of the disappearances. Several families told Amnesty International that al-Gaddafi forces raided their homes, carried out searches and then took all the men without any indication of why or to where they were being taken.

As al-Gaddafi forces entered the rural areas of Tamina, Kerzaz and al-Gheiran, in the south of Misratah, in mid-March, the vast majority of families fled. Some residents, mainly men who stayed behind to protect their property, were taken from their homes by al-Gaddafi forces. The soldiers stole most valuables from the homes and destroyed the remainder. When Amnesty International visited the area in May, it noticed that some homes were completely razed while neighbouring ones were left untouched. Local residents explained that the untouched homes belonged to perceived supporters of Colonel al-Gaddafi, while those looted and ransacked belonged to perceived opposition supporters.

Amnesty International met a man from the Qadoura family, whose 10 male relatives vanished after being taken by al-Gaddafi forces from a farm in Tamina in early April. The youngest was just 12. As well as abducting the 10 men and boys, eyewitnesses said that al-Gaddafi soldiers armed with kalashnikov rifles and RPGs drove off with two family cars.

Around the same time, al-Gaddafi forces took three boys aged between 15 and 16 from another farm in Tamina. The al-Gaddafi forces were looking for their uncle, who they said was a member of the *thuwwar*. They told the boys' terrified relatives that if the wanted man surrendered, the boys would be released. To spare the youngsters, the man handed himself in some hours later but neither he nor the boys have been released by the al-Gaddafi forces.

Zawiyat al-Mahjoub, in the western outskirts of Misratah, suffered its share of disappearances. Local activists compiled information about 80 such cases, but believe that there might be more as some families are too afraid to report them.

Hussein al-Toumi, whose son and nine other relatives were taken, told Amnesty International what happened when al-Gaddafi soldiers entered the home of Mostafa Hadi al-Toumi near the Sahili Road, where al-Gaddafi forces were positioned, at around 5.30pm on 18 March:

*"We were sitting in the living room having just finished [the] 'Asr prayer. We suddenly turned around and armed soldiers were in our courtyard. There were about five of them, armed with machine-guns, revolvers and kalashnikovs. More were standing outside.*

*"They searched the house, and took all our boys: Mostafa's seven sons, his nephews' two sons, and another relative. I tried to stop them taking the young ones, but they didn't listen. I pleaded with them that my son Hamza and Abdelwahab were not even 18."*

Several families told Amnesty International that they saw their disappeared relatives on state television claiming to have been manipulated by "armed gangs" affiliated to al-Qa'ida and seeking to destroy Libya. Brothers **Mansour** and **Ali Abdel Salam Bousniya**, who between them had 17 children, were taken from the Masjid al-Rahman Mosque in Zawiyat al-Mahjoub, along with two other men, as they prepared for Friday prayer on 25 March. Mansour's grieving wife told Amnesty International that she saw her husband on state television "admitting" to hurting Libya's interests through involvement with "armed gangs":

*"The footage provided little comfort. I found out that he had not been killed by that point, but his face looked swollen and bruised, and now I have no idea how or where he is. He is in his sixties, not a young man. What has he done to deserve this?"*

Similarly, in the Nafusa Mountain area, scores of people disappeared when they ventured out of opposition strongholds, particularly around checkpoints established by al-Gaddafi forces, from late February onwards. As the siege of the Nafusa Mountain intensified, and its residents were running out of necessities, they would drive to areas under the control of al-Gaddafi forces, such as Tiji. Many would vanish, some also later appearing on state television. Amnesty International met relatives of such victims; the relatives had fled to Tunisia, fearing that al-Gaddafi forces would return to cities that declared their support for the NTC and carry out reprisals.

A man told Amnesty International that his brother, a 37-year-old father from Nalut, together with a relative and a friend, disappeared after he drove south from Nalut to Tiji to get spare parts for his car in early March. When he did not return, his family started calling him repeatedly. He eventually answered, hastily saying: "I am going to Tripoli, take care of the kids". Since then his phone has been switched off. His family heard from unofficial channels that he is being held in Ain Zara Prison in Tripoli. His distraught brother showed Amnesty International a video of the missing man proudly waving the opposition flag during peaceful protests in Nalut, just days before his disappearance.



The al-Toumi family, from top left to right: Abdallah al-Toumi; Ahmed al-Toumi; Mohamed al-Toumi; and Hamza al-Toumi. From bottom left to right: Omar Mohamed al-Toumi; Abdel Hamid al-Toumi; and Abdel Ati al-Toumi © Amnesty International



## TORTURE OR OTHER ILL-TREATMENT

Because most of those arrested by al-Gaddafi forces were held completely outside the protection of the law and denied contact with their families and lawyers, they were particularly vulnerable to abuse. The fact that they were detained incommunicado meant that very little was known about detention conditions during the conflict.

Families lived through months of anguish for the safety and well-being of their relatives. Their concerns were heightened by the long-established and well-documented patterns of torture and other ill-treatment meted out against perceived opponents or critics of Colonel al-Gaddafi, particularly in Abu Salim and Ain Zara prisons. Methods of torture most frequently used have included electric shocks, beatings, *falaqa* (beatings on the soles of the feet), sleep deprivation, prolonged contortion of the body in stress positions, and solitary confinement for long periods.

Some of those arrested and detained in Sirte and Tripoli in relation to the recent unrest said they were tortured and ill-treated, particularly upon arrest and in the initial period of detention. Several, including those not carrying any weapons, were shot after they were captured and posed no threat to security forces. Some were denied medical treatment for gunshot wounds.

**Jamal Mohamed Baba**, aged 23, told Amnesty International that he and his 33-year-old brother Mikhael were taken away by al-Gaddafi soldiers at 9.30am on 18 March from a farm in the Kerzaz neighbourhood of Misratah when they were feeding their neighbour's goats. The soldiers did not explain why and did not give them the chance to inform their families.

Jamal described what happened next:

*"We were handcuffed, blindfolded, and hit with the back of rifles, before being roughly shoved into a car. The soldiers were insulting us, calling us traitors, and terrorists. They made impolite remarks about my full beard, calling me a member of al-Qa'ida. I couldn't take it anymore, so I tried to defend myself.*

*"I was then taken out of the car, thrown on the pavement, and shot in the left foot. The bullet exited through the sole of my foot, and it was bleeding profusely. The soldiers then forced me into the boot of the car, which was full of metal, and shut it. I couldn't move and could barely breathe."*

The brothers were taken to the Tawargha region just east of Misratah, where Mikhael was similarly shot in the right foot. The captors then drove Jamal and Mikhael to the local hospital, where their wounds were bandaged but not cleaned. On arrival in Sirte, they were given medical treatment at the hospital, before being taken to a branch of the ISA for questioning. They were eventually transferred to



Jamal Mohamed Baba and Mikhael Mohamed Baba © Amnesty International

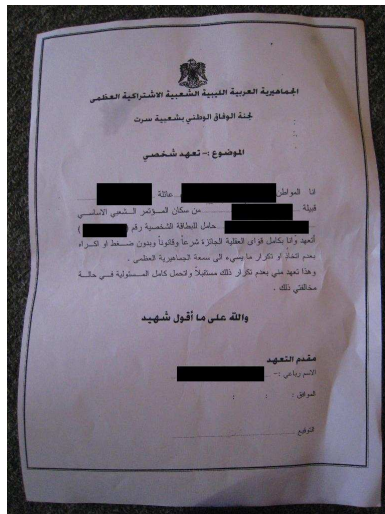
the Military Police barracks in Sirte, where they remained until their release six days later. The brothers told Amnesty International that they met several men from Misratah in detention, most of them arrested from their homes, many in the neighbourhood of Tamina.

**Khaled Bakir** was released on the same day as the Baba brothers. Originally from Misratah, he was arrested on 18 March by al-Gaddafi soldiers in Brega, where he worked for a petrol company. Khaled recounted sharing his cell at the military barracks in Sirte with detainees from Benghazi, Brega, Ras Lanouf, Ben Jawad, Misratah and Ajdabiya. He said that he was not tortured, but could hear other detainees screaming in pain. He also saw several wounded detainees from Misratah who told him that they were shot after being captured, despite not carrying weapons or putting up any resistance.

Another man detained by the ISA and in the Military Police barracks in Sirte told Amnesty International:

*"I was handcuffed and blindfolded all the time, though sometimes I managed to see something because my blindfold moved a bit. I was beaten and tortured in both places and often I fainted and they threw water on me to wake me up..."*

*"They beat me with their rifle butts and other objects; they fired in the air and then burned my skin with the hot gun barrel; they suspended me by hanging my handcuffed wrists (tied behind my back) on the wall or on to a door; it was very painful."*



"Attestation" form © Amnesty International

Detainees said they were blindfolded during interrogation in Sirte. Upon release, they said they were compelled to sign "attestation" forms promising not to do anything "damaging to the reputation of the Great Jamahiriya" and acknowledging that they would "assume full responsibility" for the consequences if they should violate this pledge. Such pledges, however, do not seem to have guaranteed protection from harassment by al-Gaddafi forces; Amnesty International is aware of at least one person who was rearrested in Misratah after signing such a pledge.

Former detainees also reported being abused in Tripoli. **Munder Deghayes**, a 40-year-old engineer and father of two who fled to Tunisia, was detained for over two months in Tripoli. He told Amnesty International that he was arrested on Mizran Street in Tripoli on 4 March in a security operation to prevent people in the Mizran mosque from holding a planned protest after the Friday prayer. He said that during arrest, four or five men hit him all over his body, including with rifles, and caused his head to bleed profusely. Throughout his detention, his head wound was not treated or even

cleaned by medical professionals.

Munder Deghayes said that when he was first taken to the Salaheddin detention complex,<sup>127</sup> he was promised a swift release as soon as the necessary procedures and paperwork were completed. The interrogator's attitude changed when he found messages and emails on Munder's phone promoting the "17 February Revolution". Those detaining him, who did not identify themselves or the official bodies to which they belonged, then realized which family he belonged to. His father, Amer Taher Deghayes, co-founder of the banned Ba'ath movement in Libya, is believed to have been extra-judicially executed in 1980; his brother Omar Deghayes was detained by the US authorities as a "terrorist suspect" in Guantánamo Bay for five years before being cleared and released. These discoveries led to lengthy interrogations about Munder's knowledge of and involvement in al-Qa'ida and other "armed gangs". After spending several days in Salaheddin, part of the time in solitary confinement and at other times in large cells with up to 130 people, Munder was transferred to Ain Zara Prison, where he remained until his release on 10 May.

Munder said that at night he could hear the screams of other detainees reverberating through the prison. He also said that several of his cellmates had open fractures or gunshot wounds that were not treated for about a month, until detainees went on a hunger strike demanding that the wounded receive medical treatment. Munder shared his cell with detainees from Tripoli, al-Zawiya, Zuwara, Garyan and Misratah, as well as with people from Bangladesh, Sudan and Syria. Most did not understand the reason for their arrest. Many were taken from their homes or the street merely on suspicion of supporting the opposition. Munder said:

*"During interrogations, officials would ask us: 'Why are you here? Do you have weapons? Are you trying to ruin the country?' It is unbelievable that those who arrest us, question us about the reasons for our detention. Some of those held with me were elderly men, up to 80 years old. What could have they done to threaten the regime? There were also several people from Benghazi, who were living in Tripoli before the unrest. It seems like they were just taken because of their origin, not because of anything they did... One person was transferred to us from Abu Salim, and was so traumatized that he couldn't communicate for several days. He eventually said that our... treatment in Ain Zara was a 'five star hotel' compared to what he had seen in Abu Salim."*

On 10 May, Munder was released with a group of some 130 individuals in the presence of journalists, both foreign and Libyan. This followed declarations by "tribal leaders" that the detainees were manipulated by "armed gangs" into harming Libya's interests, but had now repented and agreed to "correct their wrongdoings."<sup>128</sup>

## LONG-TERM POLITICAL PRISONERS

Political prisoners held in Abu Salim Prison, some for over 15 years, for security-related offences, were also subjected to enforced disappearances after the protests began. The families of over 100 such prisoners were not able to establish any contact with them from mid-February, and were gravely concerned for their safety, fearing reprisals against them for their opposition to Colonel al-Gaddafi's rule. The fact that most of them originated from eastern Libya, seen as the birthplace of the uprising, added to their fears.

The exact number of political prisoners is difficult to establish as the al-Gaddafi authorities consistently refused over the years to give Amnesty International and other such organizations any detailed information on the number of people detained, the circumstances of their arrest and detention, and their legal status. According to estimates given by former prisoners, between 100 and 200 people were still detained in late February, taking into account the release of 110 prisoners on 16 February 2011 and 25 others four days later.

Many of those who were detained in Abu Salim Prison were victims of arbitrary detention, as they were kept in detention after the expiry of their sentence or despite having been cleared of all charges. Others were detained after grossly unfair proceedings in front of exceptional courts, not meeting the minimum standards of fair trial, including the right to defence. Statements extracted under torture or duress were widely used as evidence to convict them.<sup>129</sup>

The suffering of many of these political detainees dates back to the 1990s and even the late 1980s. The majority were arrested without warrants, held incommunicado for years and tortured or otherwise ill-treated, particularly in the initial years of their detention. In some cases, the conditions of detention themselves amounted to torture or other ill-treatment. Throughout their long years of incarceration, they were allowed only intermittent access to their families and denied proper medical treatment. They were deprived of any recreational activities or access to outdoor space for months or sometimes years.

A distressed mother in Benghazi fearing for her son's safety in Abu Salim Prison told Amnesty International in May 2011:

*"How much more suffering can we endure? My boy was taken away from me in 2007 in terrifying circumstances by men in civilian dress, armed to the teeth, without any explanation of where and why they were taking him. He was tortured, convicted in mock trial proceedings, and denied the right to appeal against this injustice. He's now been detained for over four years, and I can count the number of times I visited him in Abu Salim on my one hand. Today, I don't even know how he is. I am afraid, he [Colonel al-Gaddafi] is going to take out his anger about the opposition to his rule on my boy, and those held with him, especially those from eastern Libya. He always called them 'stray dogs' and 'terrorists'; and now they are completely at his mercy, cut off from the external world."*

Through tears, she spoke about her other son, who was killed during the 1996 Abu Salim Prison killings (see Chapter 1).<sup>130</sup> She said:

*"[The authorities] refused to tell us that my son was killed in 1996; so until the early 2000s, I would hover around the door of the prison begging in vain to see him. The first time I tried to visit my other son in Abu Salim in 2008, the guards turned me back at first, saying that visits were not allowed. I started crying and shouted at them: 'If you killed him too, have the courage to tell me and put an end to my agony. I am not leaving the prison until I get an answer.' I was eventually allowed to see him for a few minutes. Now I can't even find out if he is alive or dead, and the memory of what happened to his brother continues to haunt me every day. What if they kill the other one too?"*

In late August, some of these long-term political detainees re-emerged once opposition forces took control of Abu Salim Prison. Among those who managed to escape was Jalal al-Din Othman Bashir, detained since 1995. He was tortured, sentenced to 10 years' imprisonment in a grossly unfair trial in 2005, but remained in detention until the fall of al-Gaddafi in Tripoli.<sup>131</sup>

## 5. ABUSES BY OPPOSITION FORCES

Opposition fighters and supporters have abducted, arbitrarily detained, tortured and killed former members of the security forces, suspected al-Gaddafi loyalists, captured soldiers and foreign nationals wrongly suspected of being mercenaries fighting on behalf of al-Gaddafi forces. No independent or credible investigations are known to have been carried out by the NTC, nor effective measures taken to hold to account those responsible for these abuses.

The lightning flight of al-Gaddafi forces and the collapse of state institutions in the first days of the protests left a security and institutional vacuum that has been mostly filled by the local residents who took up arms against al-Gaddafi forces.<sup>132</sup> The task of policing the opposition-held areas has been left to armed opposition fighters who have taken the law into their own hands, who lack the necessary training and experience, and who have been operating without supervision or an accountability framework.



Second floor of a house destroyed by opposition forces in Benghazi © Amnesty International

In May 2011, Amnesty International submitted a memorandum to and met with NTC officials, including Chairman Mostafa Abdeljalil, raising concerns about abductions, unlawful killings, torture and arbitrary detention at the hands of opposition fighters and supporters of the “17 February Revolution”. The NTC is facing a difficult task of reining in opposition fighters and vigilante groups responsible for serious human rights abuses, including possible war crimes; but has shown unwillingness to hold them accountable.<sup>133</sup> Opposition officials with whom Amnesty International raised these concerns condemned such abuses, though they have often downplayed their extent and gravity, some dismissing them as “understandable” reactions to heinous crimes by al-Gaddafi forces. The officials assured Amnesty International that efforts were being made to stop and prevent such practices, but that this was difficult given the ongoing conflict, attacks by al-Gaddafi forces and the lack of resources and capacity. So far, NTC officials have not provided details of any measures taken to address such concerns and have avoided discussing or condemning crimes and abuses by opposition fighters and supporters in the media or other public forums. On the other hand, the NTC published statements on its official website (at the time inaccessible to the majority of Libyans due to

the Internet blackout) confirming their commitment to human rights and to the respect of the rule of law.<sup>134</sup>

With the justice system virtually paralysed, no coordination between the Department of Public Prosecution and individuals abducting, detaining and interrogating suspects, and no civil society organizations or independent local media addressing these concerns, victims of abuses by opposition forces have no means of seeking redress or having their grievances addressed.<sup>135</sup>

## LYNCHING

*"The protesters in al-Bayda have been able to seize control of the military airbase in the city and have executed 50 African mercenaries and two Libyan conspirators. Even in Derna today, a number of conspirators were executed... This will be the end of every oppressor who stands with al-Gaddafi."*

'Amir Sa'ad, political activist in Derna, 18 February 2011<sup>136</sup>

In the first days of the uprising, groups of protesters killed a number of captured soldiers and suspected mercenaries in al-Bayda, Derna and Benghazi. Some were beaten to death, at least three were hanged, and others were shot dead after they had been captured or had surrendered. Those killed were presented as "African mercenaries" but their identities are not known. Most were believed to be Libyan soldiers with dark skin and some may have been Sub-Saharan African nationals wrongly presumed to be "mercenaries" (see Chapter 6).

Most of these killings were reported between al-Bayda and Derna, where a large number of soldiers were captured by or surrendered to protesters who took over military bases and airports. In Benghazi, soldiers had already left the military base before it was taken over by protesters.

Opposition fighters killed several soldiers in two separate incidents on the outskirts of Derna on 22 February, according to Derna residents interviewed by Amnesty International. One soldier was seized by angry protesters and hanged from the pedestrian bridge in Derna. Up to 15 others were killed during the night or early the next morning near the village of Martubah, south-east of Derna. An amateur video showing a group of dead men, some in military uniform, all of them barefoot and with their hands tied behind their back, was posted on Libyan opposition websites. It described the victims as Libyan soldiers executed by their colleagues for refusing to shoot protesters.<sup>137</sup> However, the victims appear to be the same group of captured soldiers shown in another amateur video being interrogated by protesters and opposition fighters.<sup>138</sup> Moreover, by the time the killing occurred, on 22 February or early the next day, Libyan forces had fled the area.

In al-Bayda, a resident told Amnesty International that on 18 February, as soldiers inside the Hussein al-Juweifi military barracks in Shahat, east of al-Bayda, were beginning to lose control after protracted battles with protesters, he attempted to mediate to avoid more bloodshed:

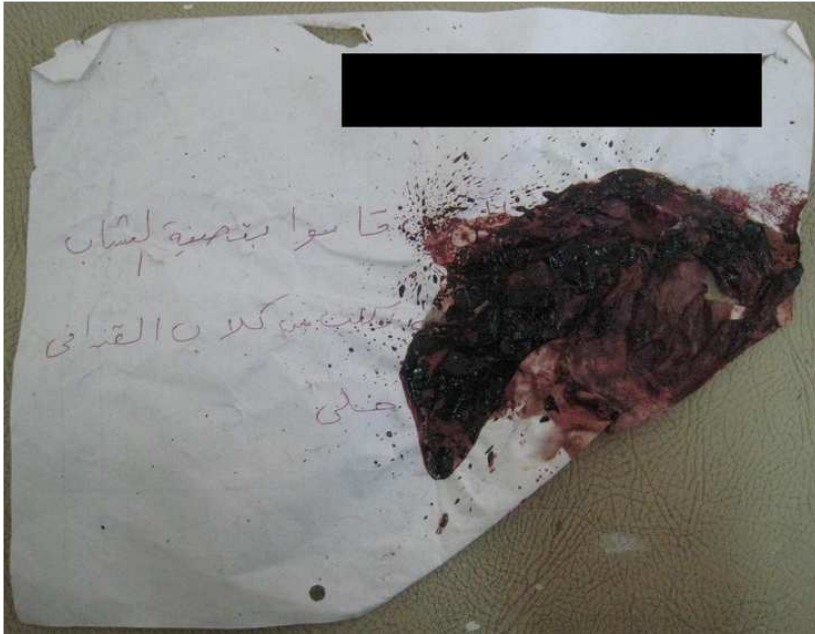
*"I asked to speak to a senior officer at the compound whom I knew from before... I gave him my word and said: if your soldiers surrender, they will be safe. As the group of soldiers were*

*coming out to surrender, the protesters were very angry and shot dead two soldiers... they were Libyans, not foreign mercenaries... I feel guilty because was it not for me, they may not have come out."*

Also in al-Bayda, a dark-skinned man in riot police uniform – but referred to as an “African mercenary” – was first lynched by protesters and later taken out of the hospital and hanged. It is not clear if he was killed by hanging or if he was already dead when he was hanged. Several residents of al-Bayda, including hospital staff, told Amnesty International that they had witnessed different sequences of the victim’s ordeal.

Amnesty International received consistent reports from several residents about the lynching, including by hanging, of men described as “mercenaries” in two separate incidents in al-Bayda and outside Benghazi North Court – the building where the protests began in Benghazi and which has become a symbol of the 17 February movement. Amateur videos show crowds cheering and filming the gruesome scenes on their mobile phones.

## REVENGE KILLINGS AND ATTACKS



Blood-stained note found next to body of former ISA member © Amnesty International

Former operatives, notably officers of ISA and members of the Revolutionary Committees and Revolutionary Guard,<sup>139</sup> have been targeted. Some have been killed. Others have been assaulted or detained, or had their property attacked, looted or burned down. Many have left opposition-held areas, some immediately after the opposition took over, others after receiving threats or being attacked.

A former ISA member, **Ibrahim Khalifa al-Surmani**, a father of six, was found dead on 10 May in the south-western outskirts of Benghazi. He had been shot in the head. His hands and feet were bound and a scarf was tightly tied around his neck. He was missing a piece of flesh from his right calf and marks on his trousers indicated that he had been kneeling. A blood-stained note bearing his name was found by the body; it read: “...a dog among Gaddafi’s dogs has been eliminated”.

Eight other ISA members were similarly killed between March and May in Benghazi and Derna. Among the cases investigated by Amnesty International is that of **Nasser al-Surmani**, aged 48 and father of three. His body was found on the evening of 22 April, also in the south-western outskirts of Benghazi. He had been shot twice in the head, his hands were tied



behind his back with two plastic handcuffs, and a scarf was tightly tied around his neck. Marks on his trousers indicated that he had been kneeling.

In another case investigated by Amnesty International, a group of armed men – some of them masked – abducted a 55-year-old father of eight, **Hussein Gaith Bou Shiha**, also a former ISA member, from his home in the evening of 8 May. The following morning his body was found, also in the south-western outskirts of Benghazi. He too was handcuffed and had been shot in the head and had also been injured on the head and hand with a blunt object. Those who abducted him did not identify themselves nor did they tell his family why or where they were taking him. However, they were driving a pick-up truck with an anti-aircraft machine-gun mounted at the back, a type of vehicle which in eastern Libya is only used by opposition fighters.



Hussein Gaith Bou Shiha  
© Amnesty International

By mid-July, Amnesty International received reports of several other similar cases, two in Derna and several others in Benghazi.

Unlike the lynching and killings in the first days of the uprising, these more recent unlawful killings form a disturbing pattern and are perpetrated by organized groups who operate freely, openly and with impunity.

Victims' families are generally unwilling to publicize their cases for fear of reprisals and to avoid the stigma of being labelled as al-Gaddafi loyalists or "anti-revolutionary". Some go as far as disguising the identity of the perpetrators. The assumption is that anyone targeted by the *thuwwar* must be al-Gaddafi loyalists and "anti-revolutionary". Relatives of a former member of the security forces who was abducted from his home by armed opposition fighters and found dead the following day – his hands and feet were bound and he had been shot in the head – told Amnesty International that they had registered the deceased as a "martyr of the revolution" and a victim of al-Gaddafi forces.

With no functioning police or judicial system, those who feel at risk have few options but to flee. A woman who was leaving Libya told Amnesty International:

*"My husband was threatened because he was a member of the [Revolutionary Committees]. He didn't tell me at first, he just said we should go to stay with our relatives in Benghazi for a few days. He didn't say why and I didn't understand and I didn't want to go. We have children and our relatives have a small apartment and we would be crowded there. The day after a friend of my husband came and said our shop was burned down; he filmed it on his mobile phone and he showed it to us. He said we should leave immediately because they wanted to kill my husband. We left without taking anything, just our papers and a change of clothes. We came to Benghazi to our relatives. After a while our home was attacked; my husband went and found everything looted and smashed up. So we lost everything and my husband is still at risk of getting killed."*<sup>140</sup>

## DETENTION

Opposition forces have detained hundreds of individuals, including civilians, in areas they control since the end of February. Many of those held are former ISA members, suspected members of the Revolutionary Committees or Revolutionary Guard, and people accused of “subverting the revolution”, commonly referred to as the “fifth column”. Foreign nationals, the overwhelming majority from Sub-Saharan African countries, suspected of being “mercenaries” were also held but have since been released (see Chapter 6). In addition, scores of soldiers from al-Gaddafi forces captured at the front continue to be detained in Benghazi and Misratah.<sup>141</sup> Amnesty International welcomes the access granted to the ICRC to facilities where such individuals are held.

Amnesty International was granted access on several occasions to detainees held in two detention centres in Benghazi, where it was able to interview detainees in private. One is in the 17 February military camp<sup>142</sup> under the control of the 17 February (Martyrs’) Brigade, a volunteer militia set up at the end of February by opposition fighters, some with a military or police background. This mainly holds former ISA members, suspected members of the Revolutionary Committees or Revolutionary Guard, and people accused of “subverting the revolution”. The other detention centre is under the control of the Military Police and located in the former juvenile detention centre (Rahaba). This mainly holds captured soldiers and Libyan civilians and foreign nationals suspected of helping al-Gaddafi forces.<sup>143</sup>

In Misratah, Amnesty International visited two locations where detainees were being held and where the organization’s delegates were also able to interview detainees in private: Sa’adoun Secondary School,<sup>144</sup> where captured al-Gaddafi soldiers and five suspected foreign mercenaries were detained at the end of May; and the Zarouq Cultural Centre, in which mainly civilians suspected of “subverting the revolution” (including former ISA members and other al-Gaddafi loyalists) were detained.

In August, Amnesty International visited two locations where some 300 detainees were held in al-Zawiya, according to officials. They included both civilians and former fighters loyal to Colonel al-Gaddafi.

All the detainees and former detainees interviewed by Amnesty International in Benghazi and Misratah said they were never shown an arrest warrant or any other document when they were seized. In most cases, the manner of detention is better described as abduction rather than arrest. They were seized by groups of heavily-armed men, some of them masked, who did not identify themselves. They were then taken away in unmarked vehicles, usually pick-up trucks with anti-aircraft machine-guns mounted at the back.

Groups of vigilantes and opposition fighters have been carrying out regular night-time raids looking for people suspected of collaborating with or assisting al-Gaddafi forces. The ones found and not killed have usually been handed over to authorities at the north Benghazi courthouse or at military camps such as the 17 February camp. Foreign nationals suspected of being mercenaries who have been handed over to the NTC authorities have usually ended up at the Military Police detention centre, as have soldiers captured at the front.

Opposition officials<sup>145</sup> in Benghazi told Amnesty International that many of these groups act independently and on their own initiative – not on the orders of military and other officials – and that they usually hand suspects over to the relevant NTC authorities, but not always. One official said that it was “not unusual to learn of people having been held in private houses or apartments”. Officials said that they did not know how many such vigilante groups were operating in Benghazi or in other areas under opposition control, but according to reports there were dozens or scores.

None of the detainees, whether Libyan or foreign civilians, or Libyan soldiers, have had access to a lawyer, been formally charged, or been given the opportunity to challenge their detention before a judicial authority.

At the 17 February detention centre, members of an “investigation committee” – all of them volunteers and some with a police or legal background – told Amnesty International that when the investigation reveals that a detainee is not involved in activities that pose a danger, he is released, usually after signing a pledge not to engage in acts “subverting the revolution” and conditional on relatives guaranteeing that the detainee keeps his promise. According to this investigation committee, as of 26 April, 71 of 112 detained people had been released, most within a few days. Detainees at the 17 February detention centre also told Amnesty International that many detainees were released within a few days or weeks.

At the Military Police detention centre, the chief Military Prosecutor, Colonel Yusef al-Sfeir, told Amnesty International<sup>146</sup> that foreigners were interrogated and investigated and that those who have someone who can vouch for them are released.<sup>147</sup> At the end of May, five foreign nationals remained held at this facility, one of them pending release.<sup>148</sup>

In Misratah by the end of May, only four foreign nationals remained detained at the Sa’adoun Secondary School for Economic Sciences on suspicion of being “mercenaries”, out of the total of 162 detainees, mostly captured soldiers.

Officials at the Zarouq Cultural Centre in Misratah told Amnesty International in May that large numbers of detainees were released, particularly those with “dark skin”, after investigations showed that there was no evidence in their involvement in the conflict, and after the employers of Sub-Saharan African migrants confirmed their identities. The facility held 111 detainees at the times of Amnesty International’s visit and officials in Zarouq said that a 12-member committee is responsible for detaining individuals considered to be part of the “fifth column”, and conducting investigations, pending the return of a regular judicial process. Three members of the Committee need to approve the releases of suspects.

Opposition officials and authorities at the detention centres in Benghazi told Amnesty International that civilians were often held for their own protection, to prevent them being killed by vigilantes. Some detainees told Amnesty International that they handed themselves in to the detention authorities seeking protection because they felt threatened. Others complained that they should not have to be imprisoned to avoid being killed.

## TORTURE AND OTHER ILL-TREATMENT

Several detainees, including Libyan and foreign civilians, as well as captured soldiers, told Amnesty International that they were tortured, in most cases immediately upon capture by those who seized them and in some cases during the first days of detention. Allegations of beatings and ill-treatment upon capture were frequent, and allegations of torture in detention were particularly common in the Zarouq detention centre in Misratah, as well as in a building separate from the detention facility in the 17 February military camp.

The most frequently-reported methods of torture and other ill-treatment include beatings all over the body with various objects including belts, metal bars, sticks, the backs of rifles and rubber hoses (at times administered directly on exposed flesh); electric shocks; and threats – including with rape. Victims are subjected to beatings and other abuses seemingly to extract confessions and to punish them for their alleged “crimes”. In some cases, detainees are forced to sign or thumb-print statements under torture or duress without being allowed to read them. In fact, several detainees told Amnesty International that they were interrogated while blindfolded.

There were severe delays in providing medical treatment for injured detainees, including for wounds sustained as a result of torture, or upon capture. In some cases where detainees were transferred to hospitals for treatment, they were not afforded protection from revenge attacks. For instance, a soldier with the al-Gaddafi forces was attacked by a group of unidentified individuals in plain clothes and military dress in the middle of the night while receiving treatment at the Hikma Hospital. His assailants, who came in through the window, beat him with rubber hoses and metal wires all over his body, and broke his jaw and at least one tooth. Calling him “a traitor who came to annihilate residents of Misratah”, they threatened to kill him should he attract any attention. After enduring beatings for about 30 minutes, doctors noticed the noise and intervened; but the assailants managed to escape. Amnesty International was also shown video footage of a group of supporters of the opposition taunting and humiliating captured soldiers receiving treatment at the al-Jala’a Hospital in Benghazi, including forcing them to repeat “I am a Gaddafi dog” and chewing paper.

A detainee at the Sa’adoun Secondary School detention centre in Misratah told Amnesty International:

*“I am well-treated here but there is a man who comes regularly from outside the detention centre and tortures us. Several times he has beaten me with a metal bar and/or a belt and has given me electric discharges with an electric baton [Taser]. It is very painful. He wants me to confess that I have killed, raped and stolen; at least one of these crimes. When I say that I didn’t do any of these things he tortures me more harshly. Sometimes he just hits us without asking any questions. He comes every few days and doesn’t always torture the same people. But we never know when he’ll come next and I worry all the time. He wears glasses, is about 40 years old and people call him ‘Abdellatif. There are some others also who come with him but not every time.”*

The detainee had bruising and raw skin consistent with his account. Several other detainees said that they had been tortured by the same man and some of them also bore marks and

scars consistent with their accounts. Some of them said that they had been subjected to worse treatment in their first days in a detention centre in Misratah, believed to be Zarouq. One said:

*“For the first 15 days in the Zarouq centre they beat me every day, they beat me a lot on the soles of my feet with a stick and a whip and gave me electric shocks on various parts of the body. My feet felt as if on fire and I could not walk for days even after it stopped. They wanted information. The people who tortured us were not the same as the ones who captured us. Now they mostly leave me alone here.”*

Several detainees told Amnesty International that three detainees died as a result of torture while detained at a school: **Salem Ali Ahmad al-Fitouri**, from al-Ja’afara died under torture in the Zarouq centre. It was reported that his left ear had been cut off. **Mohammed Nasser Mshay**, from Tripoli, died shortly after he was brought to the Sa’adoun Secondary School detention centre from another detention facility as a result of the severe beating and torture he was subjected to there, and **Akram Bougila**, described by those detained with him as a dark-skinned Libyan, was reportedly taken to the hospital after severe beatings, but died the following day. Several detainees also said a fourth man, whose name they did not know, died from the severe beating.

At the Military Police detention centre, many of the detained soldiers said they had been beaten when captured. Some said that they had been shot after they were captured.

In the 17 February detention centre in Benghazi, several detainees reported being kept in a separate building where they were beaten with rifle butts, and in one case given electric shocks with a Taser. Some said they were threatened with death. One said he had been beaten and threatened with rape. Most said that they were kept in the building for the first day, and some for a few days. One said he was held there for 14 days. Another told Amnesty International:

*“They tied a cloth around my eyes and one around my mouth and handcuffed each of my hands to one side of the chair and cuffed my ankles together and beat me severely with a baton on the thighs and on the hands and on the back. Later they wanted me to sign a paper which I could not read and when I refused they put a gun to my head and said they would kill me and so I signed. They then put me in an isolation cell for three days and then brought me to this building. Here the treatment is good.”*

While treatment of detainees improved after their initial periods of detention and detainees in Misratah and Benghazi have been visited by the ICRC; impunity for such behaviour remains entrenched. Several detainees told Amnesty International that they had reported the torture to the authorities in the detention centres where they were now held, but none was aware of any investigation into their allegations.

At the end of May, the NTC member in charge of legal affairs, Dr Salwa Dghili, was quoted in the media as saying that the authorities were distributing guidelines to opposition fighters about the treatment of detainees and warning that anyone who broke the rules would be punished.<sup>149</sup> During a meeting with Amnesty International in May, she confirmed to Amnesty

International that guidelines have been distributed, and improvements to prison conditions have been introduced, arguing that torture or other ill-treatment occurred in isolated cases.

NTC officials showed willingness to take steps to improve prison conditions and avoid repetition of the abuses; but seemed more reluctant to conduct investigations and bring those responsible to justice. In a meeting with Amnesty International in May, NTC Chairman Mostafa Abdeljalil indicated that a major duty of the-then newly-appointed head for internal affairs and local government, Ahmed Hussein al-Darrat, would be to bring the various vigilante groups conducting arrests under his umbrella; and centralize policing in opposition-controlled territory. He also indicated the NTC's intention of ensuring that the Prosecution and courts operate normally. It remains unclear whether any practical steps have been taken to realize these pledges; and adequate investigations have yet to be conducted into abuses committed by supporters of the opposition.

### **USE OF INDISCRIMINATE ROCKETS BY OPPOSITION FIGHTERS**

Opposition fighters have launched Grad rockets from their front-line positions in eastern Libya since at least March,<sup>150</sup> more recently from the Misratah western front line around Dafniya and possibly from the eastern front line towards Tawargha.<sup>151</sup> Such rockets, which are unguided and indiscriminate, have a range of up to 40km and pose a lethal danger to populated areas within that distance. They should never be used in areas where civilians might be located within the strike range.

## 6. FOREIGN NATIONALS: ABUSED AND ABANDONED

*“The problem is my black skin; the thuwwar think I am with Colonel al-Gaddafi. Mu’ammar [al-Gaddafi] repressed my people, and those opposing him because of his brutality are now doing the same.”*

Detainee held in Misratah’s Zarouq Cultural Centre, May 2011

Before the uprising began, Libya was “home” to between 1.5 million and 2.5 million foreign nationals.<sup>152</sup> Most originated from Sub-Saharan African countries, including Burkina Faso, Ethiopia, Eritrea, Ghana, Mali, Niger, Nigeria, Somalia and Sudan. Many came from neighbouring North African countries and some from as far away as south-east Asia. While some came in search of better life opportunities either in Libya or in Europe, which they tried to reach via Libya, others had fled conflict or persecution.

Some viewed Libya as a transit country; others had settled there. In fact, Libya relied heavily on migrant labour, including in the crucial sectors of construction, education, health and other services.

The situation of foreign nationals in Libya, particularly those in an irregular situation, was dire prior to the unfolding conflict. Colonel al-Gaddafi’s government refused to recognize the right to seek and enjoy asylum, and made no effort to distinguish between individuals entitled to international protection, and economic migrants. Refugees, asylum-seekers and migrants in Libya lived under constant threat of being arrested and detained in appalling conditions for “migration-related offences”. Beatings, torture and other ill-treatment of refugees and migrants were rampant in



Top: Migrant workers camping by the roadside outside Misratah’s port waiting to be evacuated, Libya, 15 April © Amnesty International; Above: A seething mass of humanity in no-man’s-land, desperate to reach Tunisia, 2 March © UNHCR/A. Duclos

detention centres and perpetrated with total impunity. Sub-Saharan Africans in particular were also vulnerable to exploitation and racist and xenophobic attacks by ordinary Libyans, fully aware that such abuses were tolerated by the authorities. Those responsible for such crimes were never held to account – facilitating the repetition of such abuses as evidenced in the ongoing conflict.

As the unrest in Libya evolved into armed conflict in late February 2011, foreign nationals were vulnerable to indiscriminate attacks like other civilians. They were also targeted by both sides.

Widespread, but largely unfounded, reports that al-Gaddafi forces were relying on Sub-Saharan African mercenaries to fight the opposition put them at heightened risk in areas that fell under the control of the NTC. Sub-Saharan Africans in territories under Colonel al-Gaddafi's control fared little better. Racist and xenophobic attacks, already frequent before the unrest,<sup>153</sup> increased as a result of the breakdown of law and order and an escalation of xenophobic rhetoric by both sides of the conflict. In a speech on state television on 20 February, Saif al-Islam al-Gaddafi blamed the uprising on foreign elements, and accused the opposition of using "Arab brothers and Africans" to create havoc in the country.<sup>154</sup> This exposed foreign nationals to further risks of attack.

## ABUSES BY AL-GADDAFI FORCES

The majority of foreign nationals interviewed by Amnesty International who had crossed the border from Libya into Tunisia and Egypt said they had fled for several reasons, including to escape the fighting and the increasing attacks and harassment they were facing, and because they could not survive financially as the country had come to a virtual standstill. Most had been allowed to flee westwards unimpeded by the authorities, although several said they had their money and phones taken by Libyan officials.

**Faraj Mohamed Omar**, an Eritrean national who had been in Libya since 2007, told Amnesty International that he decided to leave Tripoli after about eight men in plain clothes, two of them armed with kalashnikov rifles, broke down the door of his home in the middle of the night of 26 February. They searched the house for weapons, without finding any, then urged Faraj and other Eritreans living there to join the demonstrations in support of Colonel al-Gaddafi. Shortly after, Faraj and his friends left Libya, encountering few problems on their way to the Ras Jdir border crossing controlled by Tunisia.

Other foreign nationals attempting to flee encountered greater difficulties. Three Côte d'Ivoire nationals, for example, told Amnesty International that they had been stopped and arrested in Tripoli immediately after setting out on their journey to Tunisia. Government soldiers took them to the Tweisha Detention Centre, which was used in the past to detain foreign nationals for "migration-related offences". There, they were beaten and verbally abused for between three days and a week. They were eventually released but given no explanation for their arrest and detention, let alone the abuse to which they were subjected. They eventually reached Tunisia.



Amnesty International met three Egyptian men in their twenties, **Ali Mohamed Said**, **Hussein 'Awad Abdel Fatah** and **'Ali 'Abdel 'Azim Muftah**, who were working in Misratah prior to the unrest, two of them as bakers. In early March, they decided to escape the fighting and boarded a bus with some 40 other Egyptians heading east. At a checkpoint leading to Tawargha, an area controlled by al-Gaddafi forces, they were ordered to turn back, but not before their mobile phones were confiscated. As the fighting intensified, the three men were trapped in their home near the Sahili Road, where al-Gaddafi forces were positioned during their counter-offensive on Misratah. On 16 March, a group of al-Gaddafi soldiers entered their home and stole their savings totalling 3,300 dinars (US\$2,700). One of them told Amnesty International what happened next:



Stranded Egyptian migrants show Grad rocket found near Misratah's port © Amnesty International

*"When they caught us, they immediately started shouting at us and beating us. They said: 'You Egyptians, Gaddafi is a blessing for you. Why are you here, baking bread for the armed gangs? We will teach you a lesson.' We were then blindfolded and taken to a place we didn't know. There, we were punched, kicked and insulted. For two days, they didn't give us anything to eat or drink. In our cell, there were other foreigners including a Tunisian and some [Sub-Saharan] Africans. I have no idea why any of us were arrested, we were just here to work, to make a living.*

*"We were released after some six days; but still couldn't find safety. We stayed in about 10 different places since the siege and shelling started. The rockets were flying on top of our heads, no matter where we went."*

Other foreign nationals fell victim to al-Gaddafi forces during the siege of Misratah. **Ali Youssef**, a 26-year-old man from Niger, told Amnesty International that in the late afternoon on 25 March, he was at home in the area of Jazira, west of central Misratah, along with his cousin Nasser Ider, when they heard explosions nearby. Shortly after, al-Gaddafi forces entered the area and started searching neighbouring homes. The two men left their building with their hands up to show that they had no weapons or intent to resist. Ali Youssef said that al-Gaddafi forces nevertheless tied their hands and feet and forced them to kneel on the ground. They then shot at them without warning or explanation. Nasser was shot in the back of the head and died immediately. Ali Youssef was luckier as the bullet only injured his face. He was, however, left for dead. He told Amnesty International that for 11 days he remained lying



Ali Youssef © Amnesty International

on the ground unable to move or to get help as residents of the area fled the fighting. He was eventually seen by an Egyptian migrant worker, himself trapped in Jazira, who took him to a residence used by foreign nationals. Another man from Niger described Ali Youssef's state after his rescue:

*"When I saw Youssef, I was surprised that he was still alive. He looked like a skeleton. He couldn't walk or talk. We couldn't even take him to the hospital at the time, as it was too dangerous to get out. Only on 22 April, 17 days later, the thuwwar took him to Hikma [Hospital]."*

Such incidents follow a long-standing pattern of human rights violations by the Libyan authorities under Colonel al-Gaddafi against foreign nationals, particularly those in an irregular situation. At time of writing, Libya is not a state party to the 1951 UN Convention relating to the Status of Refugees or its 1967 Protocol. It had no functioning asylum system, and the task of conducting refugee status determination (RSD) and screening individuals fell to the UNHCR in Tripoli, until the al-Gaddafi authorities suspended its activities in early 2010. Since then, individuals wishing to claim asylum have had no opportunity to do so; and were left trapped in Libya and vulnerable to further abuse.

Libyan law makes the irregular entry to, stay in or exit from the territory a criminal offence, and allows for indefinite detention and expulsion from Libya without appeal and without conducting individual assessments. Foreign nationals have been systematically tortured and ill-treated in detention with impunity by al-Gaddafi security forces.

Since the eruption of the conflict, attempted travel to Europe from territories controlled by Colonel al-Gaddafi increased, possibly as a result of a reduction in patrolling of the coast. Frustrations with the lack of durable solutions for refugees, including those who initially fled from Libya to Tunisia, pushed some refugees and asylum-seekers to cross back into Libya in a desperate attempt to board unseaworthy vessels to Europe. Reports also suggest that Colonel al-Gaddafi's government encouraged foreign nationals to embark on dangerous boat journeys across the Mediterranean to show the vital role played by his government in preventing the "influx" of migrants to southern Europe.<sup>155</sup>

## ABUSES IN OPPOSITION-HELD TERRITORIES

When al-Bayda, Benghazi, Derna, Misratah and other cities first fell under the control of the opposition in the third week of February, house raids, killings, lynching and other violent attacks were perpetrated by supporters of the "17 February Revolution" against individuals believed to be foreign mercenaries on account of their skin colour. Some victims were dark-skinned Libyan soldiers; others may well have been Sub-Saharan Africans.

Allegations that Colonel al-Gaddafi's government was using foreign mercenaries, particularly from Sub-Saharan Africa, to crush the uprising had inflamed anger among many Libyans living in areas taken over by the opposition. The anger was further inflamed by Colonel al-Gaddafi's public threats to bring in foreign fighters,<sup>156</sup> and by repeated references by opposition leaders and fighters to the alleged use of "African mercenaries" by the

government.<sup>157</sup> For instance, NTC Chairman Mostafa Abdeljalil claimed in media interviews that Colonel al-Gaddafi was using “African mercenaries” against his own people.<sup>158</sup> He also stated that as the former Secretary of the General People’s Committee for Justice he had witnessed first-hand that “40 per cent of criminals [in Libya] are Africans, who invade Libya through its southern borders, passing through it, greedily wishing to live in Europe”.<sup>159</sup> Such claims were especially irresponsible in the climate of insecurity and fear of attack by al-Gaddafi forces that existed among the population in opposition-held areas, fed existing racism and xenophobia in Libya and signalled that abuses against foreign nationals would be tolerated by the NTC.



Foreign journalists photographing and filming detained Sub-Saharan African migrants (supposed “mercenaries” who were subsequently released) © Amnesty International

The allegations about the use of mercenaries proved to be largely unfounded. Many captured al-Gaddafi fighters, including those interviewed by Amnesty International in Benghazi and Misratah, were in fact Libyan nationals, including individuals from places such as Sabha in the south-west of Libya and from the Tawargha region east of Misratah. Due to their black skin and Sub-Saharan African features, they were mistaken for foreign mercenaries. This assumption may have partly been the legacy of Colonel al-Gaddafi’s long insistence that all Libyans were homogenous – Arab and Muslim – and that there were no minorities.<sup>160</sup> However, NTC officials did little to correct the false assumption and instead fed the flames of hatred and resentment.

The exact number of victims of lynching, including those who were beaten to death, shootings and public hangings is difficult to establish given the reluctance of witnesses, forensic doctors, prosecutors, medical staff and others to provide details of the attacks. Based on testimonies of doctors, local residents, members of the security forces, protesters and some witnesses, at least tens of al-Gaddafi soldiers and suspected mercenaries were killed in such attacks in the immediate aftermath of opposition victories in eastern Libya, including in al-Bayda, Derna and Benghazi.

As protesters, some of them defectors from security forces in possession of firearms, overpowered al-Gaddafi forces, over 20 people were reportedly killed upon capture in al-Bayda, Shahat and al-Abraq. In late February, an official in al-Bayda's al-Thawra Hospital told Amnesty International that at least 24 bodies of soldiers and suspected "mercenaries" were brought into the hospital in the last two weeks of February. The total number of casualties in this area may well have been higher as not all victims were taken to the hospital.

Mohamed Lamloom, a member of the Department of Public Prosecutions in al-Bayda, told Amnesty International that by 22 February he had registered 16 bodies of al-Gaddafi soldiers and alleged mercenaries. Some of the dark-skinned soldiers who were killed were identified as Libyans from western regions, including Sibrata and Msellata, and the southern region of Sabha. Others might have been Sub-Saharan African migrants mistaken for mercenaries on account of their skin colour. Officials were not able to provide any precise information on the causes of their deaths; and no full autopsy reports have been carried out. To date, no investigations have been conducted into the circumstances surrounding their deaths.

A wounded protester from al-Bayda described to Amnesty International how he and other protesters captured two "mercenaries" who were allegedly shooting at people on 17 February. He said they beat the "mercenaries" until they lost consciousness, and took them to hospital. He continued:

*"[Al-Gaddafi] Soldiers and mercenaries were brought in from outside al-Bayda and did not know the city, so when they opened fire at us and we ran towards them, they would run away and enter alleys unaware that they were dead ends. We caught two this way and a crowd of people hit them hard, some stabbed them with knives... one was a Tunisian and the other, [Sub-Saharan] African. I spoke to the Tunisian, but the African did not know Arabic. I and a few others brought them to the hospital... By that time they were in a bad state, they were unconscious... I later heard that one of them, the [Sub-Saharan] African, I think, was taken away from the hospital by angry people... I don't know what happened to him after that."*

There are fears that the man was lynched. Amnesty International viewed two videos of the man, who had Sub-Saharan African features. The first shows him lying in a hospital bed in a uniform generally worn by members of the General Support Forces (riot police); the other shows the same man hanging by a rope while a crowd cheer and celebrate "justice". It is unclear from the video footage, recorded on a mobile phone, whether the victim was actually strangled, but other sources told Amnesty International that the man had been dragged out of his hospital bed by an angry crowd and killed.<sup>161</sup>

Sub-Saharan Africans who fled to Egypt from opposition-controlled territories in eastern Libya told Amnesty International that they felt increasingly insecure, especially after having witnessed killings and other violent attacks against individuals with black skin. Sudanese national **Omar Amir**, 49-year-old father of five, told Amnesty International that he left Libya, where he had lived since 1997, after his house was raided by supporters of the opposition, who stole some of his belongings and beat him in front of his family. Furthermore, he witnessed several black men being killed on suspicion of being mercenaries. He recounted his experience:

*"A week after protests started, I got a panicked phone call at 2am from my [female] cousin in Marj, that some armed men raided her house, which she shared with other Sudanese women and children. To protect them, the following morning at dawn, I went to Marj ... On my way back to Benghazi on the same day after 'Asr [the afternoon prayer, around 3.30pm], the thuwwar stopped our bus at a roadblock near 'Aguria [just as one comes down the mountain from Marj]... They were armed... We were travelling in a procession of three small buses [12 passengers each]... I saw three black people being brought down from the vehicle in front of us. The three were beaten by several thuwwar; two hit the black men with axes on their head and all over their body. Two of them fell on the ground and were no longer moving; I think they died. I saw the third raise his hand, and it was chopped off [with the axe]. Our bus drove off before I could see what happened to him later, but I am sure he was killed too... The thuwwar came to our bus, asking our nationalities. They said: 'Any Chadians? Anyone from Niger?' We said that we were all Sudanese, and had IDs to show them. Only one Sudanese youth didn't have any identification and was taken down. The Libyan driver managed to convince the thuwwar that he knew the boy, who has lived in Libya for a long time, and vouched that he was not a mercenary. I don't know what happened to people in the third bus, as we drove away."*

Footage of crowds gathered around dead "mercenaries" or captured al-Gaddafi soldiers – many of them dark-skinned, some in uniforms, others in civilian clothes or wrapped in blankets – is widely available on various websites. In such cases, crowds frequently express their satisfaction that "justice has been served" and that "the blood of martyrs had not been wasted".<sup>162</sup> Often, the opposition flag is waved. For instance, a video uploaded on 20 February on social-networking websites under the title "Killing of African Mercenaries" shows two dead men with Sub-Saharan African features tied to the front of a pick-up truck, photographed and paraded around to triumphant shouts of "God is Great" and celebratory gunfire. Neither man is wearing police or military uniform, raising the possibility that they were not members of al-Gaddafi's forces killed in clashes with protesters; but dark-skinned individuals mistaken for "African mercenaries".<sup>163</sup>

While such violent attacks became less frequent following the immediate aftermath of the opposition's victory in eastern Libya, Amnesty International has continued to document attacks against Sub-Saharan Africans suspected of being mercenaries.

The bodies of two unidentified men with Sub-Saharan African features were found in the western outskirts of Benghazi on 23 and 24 April. The throat of one had been cut and the ankles were bound with a rope. The other had been shot in the head and had multiple contusions, indicating that he had been beaten. As al-Gaddafi forces had not been present at the time, Amnesty International suspects that the two were killed by individuals supporting the "17 February Revolution" on suspicion that they were mercenaries.

In another instance, a man from Chad, who lived and worked in a metal workshop in Benghazi's industrial area, has been attacked and stabbed several times by four young men in plain and military clothes since the opposition took control of eastern Libya. The government of Chad had raised concerns, including with the Office of the High Commissioner for Human Rights (OHCHR), that Chadians and in particular those in opposition-controlled areas, were accused of being mercenaries fighting for Colonel al-Gaddafi. According to the Chadian authorities, some Chadians were victims of arbitrary arrest, enforced disappearance

and extrajudicial execution. The Chadian government said that several were shot after their hands were tied and they were forced to kneel or lie down on the ground.<sup>164</sup>

Amnesty International has also documented several attacks on Sub-Saharan Africans in Misratah. For instance, two migrant workers from Niger were shot at relatively close range by individuals in pick-up trucks in separate incidents. One was shot on 26 April, after al-Gaddafi forces withdrew; the other was shot about 10 days earlier in an area under the control of opposition fighters. Both survived, were evacuated from Misratah and were receiving medical treatment in Benghazi. While Amnesty International delegates visited them at the hospital in May 2011, teenage Libyans boys entered their room calling them “mercenaries” and accusing them of “killing Libyans”.

According to testimonies collected by Amnesty International from individuals who had fled Libya to Tunisia, opposition supporters also attacked foreign nationals and people with dark skin in areas still controlled by al-Gaddafi forces. This has increased the belief of foreign nationals that there is nowhere safe for them in Libya.

**Liban Sheikh Ibrahim**, a 32-year-old Somali, said he and his extended family of 14 people, including two children, decided to flee Libya on 6 March. On the road to Tunisia, he said, the vehicle in which they were travelling was stopped by a group of armed men near al-Zawiya. The men, who were carrying the flag of the opposition, ordered all the Somali men out of the vehicle and forced them to kneel on the ground. One was said to have shouted “shoot them, they are mercenaries”. Liban said their lives were saved by their Libyan driver, who told the armed men that his passengers were “good Somali Muslims”, not mercenaries.

**Abdelrahman Abdallah Morsal**, another Somali who fled to Tunisia, told Amnesty International in April that he had witnessed a Nigerian man being beaten in the street by ordinary Libyans around 22 February in Tripoli’s Jansour neighbourhood, the site of anti-government protests and their brutal crackdown in February. They apparently suspected the Nigerian man of supporting Colonel al-Gaddafi and threatened to set him ablaze. Abdelrahman said he then fled from the scene fearing that he too, as a black foreigner, would be attacked.

The vulnerability of Sub-Saharan Africans to violent attacks in opposition-controlled territory has been exacerbated by the wide availability of weapons and the security vacuum created by the withdrawal of the police – still largely absent months after the NTC was formed. The failure of the de-facto authorities to address the issue – both by denouncing the myth of “African mercenaries” and by holding to account perpetrators of attacks – increases the risk that such attacks will continue unpunished.

In opposition-controlled areas, Sub-Saharan Africans and dark-skinned Libyan soldiers have been captured and detained, and some have been tortured. In eastern Libya, scores of Sub-Saharan African migrants were detained after 17 February and repeatedly paraded in front of the world’s media as “foreign mercenaries” before any investigations had been conducted to establish their identities.<sup>165</sup> The overwhelming majority of them were later released and allowed to leave the country when no evidence was found against them. Similarly, in Misratah,

the administration at the Zarouq Cultural Centre, where those “subverting the 17 February Revolution” have been held, told Amnesty International that in the days after the opposition took control of the city, scores of individuals with dark skin were held when the city first fell under the control of the opposition, on suspicion of being foreign mercenaries. Detention administrators admitted that the vast majority were eventually released when the suspicions proved unfounded. They explained that the detainees were freed once their employer confirmed that they had previously lived or worked in Libya, and “posed no threat to the revolution”.

At the time of Amnesty International’s May 2011 visits to detention centres in Benghazi and Misratah, where captured soldiers were held, there were about 10 foreign nationals detained on suspicion of being foreign mercenaries, including nationals of Chad and Algeria, out of a total of about 230 captives. Twenty Egyptians were held in Misratah, apparently accused of entering Libyan waters without authorization and/or of stealing fishing boats. The remainder of those held were Libyans, including dark-skinned soldiers from southern and western Libya.

As was the case with other captives, foreign nationals were beaten or otherwise abused upon capture and during their first days of detention. However, it seems that the most brutal treatment was reserved for those with dark skin – whether Libyan or foreign.

A man detained in Misratah told Amnesty International in May that his captors beat him with belts, metal bars and wires all over his body, including his head, and burned his skin with a lighter. He believed that he was singled out due to his black skin as his assailants kept shouting insults at him, including “slave”, “animal” and “mercenary”.

A group of captured soldiers held in Sa’adoun Secondary School in Misratah expressed the same sentiment. They said that all of them were tortured upon capture and in their first days of detention, including with electric shocks and beatings, particularly on their backs, with metal wires, belts and rubber hoses. They also said that the worst treatment was reserved for those with dark skin. While their conditions subsequently improved, some continued to report being terrorized by unidentified individuals in plain clothes, who did not belong to the regular prison administration or the guards. Interviewees said that these individuals entered cells, particularly at night, calling detainees “mercenaries” and threatening them with reprisals and severe punishments for their alleged crimes against the Libyan people.<sup>166</sup>

## INTERNATIONAL FAILURE TO PROTECT THOSE FLEEING THE CONFLICT

Since the unrest started in February, over 644,000 foreign nationals have crossed Libya’s western, eastern and southern borders in search of safety, and about 8,500 have been evacuated from Misratah, which was besieged for two months by al-Gaddafi forces.<sup>167</sup> The IOM reported that it had evacuated over 1,500 foreign nationals from Tripoli by boat in August as the fighting in the city and attacks against Sub-Saharan Africans intensified. The organization had also evacuated over 10,000 foreign nationals by road to Tunisia from Tripoli, before intensified fighting in August closed the land route. A further 27,000 people have reached Italy and Malta by boat.

Thus far, EU member states, despite paying lip-service over the years to the human rights of refugees, asylum-seekers and migrants, have not adequately responded to the unfolding human tragedy by assisting those fleeing conflict and persecution in Libya to reach safety.

This is despite EU backing for UN Security Council Resolution 1970 and the NATO campaign in Libya, which have the stated objective of taking all possible measures to protect civilians. By mid-May 2011, Europe had received only two per cent of the refugees, asylum-seekers and migrants fleeing Libya, as most had been admitted to neighbouring countries or travelled further afield to their home countries.<sup>168</sup> Despite this, European countries have expressed concerns about the “massive influx” of refugees and migrants caused by the instability in North Africa, and have continued to pursue a “border control” policy at the expense of guaranteeing the right to seek asylum and migrants’ rights.

This follows a period of collaboration between Colonel al-Gaddafi’s government and the EU and its member states to “control migration”, which in effect supported abusive practices against refugees, asylum-seekers and migrants. Italy was at the forefront of countries seeking the assistance of the Libyan authorities to stem the flow of migrants reaching European shores. In October 2010, the European Commission, turning a blind eye to Libya’s dire human rights record, signed an agreement with Libya over the “management of migration flows” and border control.

Since the unrest began, many people have embarked on dangerous or even fatal journeys from Libya across the Mediterranean to European shores. EU member states, as well as NATO, failed to take all necessary measures to enable these civilians to reach safety, despite the declared *raison d’être* of NATO’s intervention in Libya being the protection of civilians. Since March 2011, at least 1,500 people are believed to have perished at sea.<sup>169</sup> Following several fatal incidents at sea, the UN refugee agency UNHCR has warned that all boats leaving Libya ought to be considered in distress and rescued.<sup>170</sup> For example, an unsafe boat left Libya on 25 March and quickly ran into trouble. It drifted for two weeks and only nine of the 72 people initially aboard survived, even though the boat issued distress calls and survivors said they had seen a military helicopter, what appeared to be an aircraft carrier and other vessels.<sup>171</sup> In June 2011, Amnesty International interviewed one of the nine survivors in the Shousha camp in Tunisia. Ethiopian national **Elias Mohammad Kadi**, 23, recounted how after having paid US\$800 to embark the unseaworthy vessel along with nationals from Nigeria, Ghana, Ethiopia, and Eritrea, the boat drifted for 16 days. He confirmed that throughout the journey, the boat encountered a large military ship, two helicopters and several other ships. He said that the passengers held up two babies and an empty canister upon spotting the military helicopter to indicate their need for help. They kept waiting for a rescue that never came. Lieutenant Massimo Maccheroni confirmed to Amnesty International that the Italian Coastguard was alerted about a boat in distress and passed the alert on to the Maltese authorities on the assumption that the vessel in distress was entering the Maltese Search and Rescue Area. Father Musi Zerai, who runs Agenzia Habeshia, an organization based in Rome advocating for refugee and migrants’ rights, told Amnesty International that he had also alerted the NATO headquarters in Naples upon receiving distressed calls from the passengers. While NATO denied responsibility, it remains unclear whether a full, impartial and independent inquiry was launched to determine if more could and should have been done to avoid this terrible loss of life.<sup>172</sup>

In early June, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, denounced Europe’s response to such tragedies, noting its added responsibility to guarantee



safety for those fleeing Libya given NATO's military involvement in Libya. He urged European governments and institutions to accelerate their efforts and proactively seek to ensure successful search-and-rescue operations. He also called on them to put human rights considerations at the centre of their policy decisions.<sup>173</sup>

Prior to the unrest, 8,000 refugees and 3,000 asylum-seekers were registered in Libya with UNHCR. The actual total number of those in need of international protection is believed to be higher as UNHCR was denied access to large parts of the country. In early 2010, it was forced by the Libyan authorities to suspend its visits to detention centres across Libya and refugee-status determination interviews, further hampering its already limited ability to screen individuals potentially in need of international protection.<sup>174</sup>

Hundreds of thousands of civilians have fled the conflict in Libya. While many have been repatriated, at least 3,300 and about 1,000 refugees and asylum-seekers continue to be stranded in camps in Tunisia and the Saloum camp in Egypt, respectively. They cannot return to their countries of origin for fear of persecution or other abuses; and are growing increasingly frustrated with the slow pace of registration, refugee-status determination and resettlement. The international community has also been slow to respond to calls to prioritize the resettlement of refugees who have fled Libya, or to raise the quota above the promised 900 cases by 11 resettlement countries. The US government has yet to announce the number of refugees it is willing to accept.

In a worrying development, NTC Chairman Mostafa Abdeljalil promised to “close the borders in front of these Africans”.<sup>175</sup> This raises fears that regardless of the outcome of the conflict in Libya, refugees, asylum-seekers and migrants will continue to suffer discrimination and abuse in Libya, and be perceived as unwelcome guests.

In another worrying development, the Italian authorities signed a memorandum of understanding with the NTC on 17 June 2011, in which the two parties confirm their commitment to a joint management of “the migration phenomenon” through the implementation of existing co-operation agreements on “illegal migration”. In recent years, Amnesty International and others have documented how the implementation of these very same agreements resulted in grave human rights violations, including the forcible removal through “push-back” operations conducted at sea, of foreign nationals to Libya, where they faced arrest, torture and detention in appalling conditions.<sup>176</sup>

Against this background, the organization is concerned that Italy and



Stranded migrant workers wait in the no-man's-land between Libya and the Egyptian border post at Saloum, 4 March © UNHCR/F. Noy

the NTC have now committed themselves to reciprocal assistance and co-operation in the “fight against illegal migration”, including through the “repatriation of illegal migrants”.<sup>177</sup> The signing of the above-mentioned memorandum while the armed conflict in Libya still raged on, coupled with the ostensive absence of adequate safeguards to ensure respect of human rights and refugee law, raises profound concerns that refugee and migrants’ rights risk once again being sacrificed by Europe’s policy towards Libya. Concerns were heightened when Mahmud Jibril, head of the Executive Board of the NTC, said during his visit to Naples for the signing ceremony that previous bilateral agreements on “illegal migration control” will be upheld. Their negative impact on migrants’ rights and the right to claim asylum has been well-documented and denounced by Amnesty International, among others.<sup>178</sup>

It is time that EU member states reflected on the human rights impact of their asylum and migration policies in relation to their southern neighbours. They must stop ignoring human rights violations against foreign nationals and put human rights protection and respect of the right to seek asylum at the centre of their migration and asylum policies.

## 7. CONCLUSION AND RECOMMENDATIONS

Amnesty International has long campaigned for all those responsible for abuses in Libya in the last four decades, as well in the conflict, to be held to account not only to provide victims with an effective remedy, but also to ensure the non-repetition of such violations.

During the conflict, the organization found evidence that forces loyal to Colonel al-Gaddafi committed violations of IHL, in some cases amounting to war crimes. They launched indiscriminate attacks and direct attacks on civilians. Al-Gaddafi's security forces also committed gross violations of human rights, including the deliberate killing of scores of unarmed demonstrators, a widespread campaign of enforced disappearances and arbitrary detention, and torture and other ill-treatment of detainees. To the extent that these violations have been committed as part of a systematic or widespread attack against the civilian population, in pursuit of official policy, they constitute crimes against humanity.

Members and supporters of the opposition also committed human rights abuses and violations of IHL, albeit on a smaller scale, including violent attacks against perceived supporters of al-Gaddafi and suspected "mercenaries".

In order to rebuild Libya on the foundation of the respect of human rights and the rule of law, it is crucial to ensure that all such crimes are investigated, and that perpetrators are brought to justice, regardless of their rank and affiliation. Allowing them to escape justice will send a message that serious human rights violations will continue to be tolerated.

The UN Security Council's referral of the situation in Libya to the ICC and the arrest warrants for Colonel al-Gaddafi, Abdallah al-Senussi and Saif al-Islam al-Gaddafi send an important message that perpetrators of crimes under international law will be brought to justice. It is essential that the international community follows through this commitment to secure justice and reparations for all victims of violations in Libya.

Looking to the future, the leadership in Libya will need to ensure a comprehensive overhaul of laws and practices that facilitated the systematic perpetration over decades of human rights abuses in a climate of total impunity, and that triggered the anti-government movement in the first place. Only then will the hopes of Libyans for a better future – one of equality before the law, social justice, and the respect of human rights – be realized.

To address human rights abuses and violations of IHL in the conflict, Amnesty International makes the recommendations below to both the Libyan leadership and the international community, to alleviate the suffering of victims, including foreign nationals who fled the fighting. Amnesty International recommendations to the NTC are made in recognition of the NTC's role as the de-facto government, and in acknowledgement of its willingness to address human rights violations and break with the past impunity for such crimes. The organization is also issuing a roadmap for reform in the form of an agenda for human rights change.

## TO THE NATIONAL TRANSITIONAL COUNCIL

### STOP UNLAWFUL KILLINGS AND OTHER VIOLENT ATTACKS

- Take measures to stop unlawful killings and other violent attacks against civilians and anyone who has been apprehended. Make clear to all fighters, including in public statements, that such abuses will not be tolerated and that perpetrators will be immediately removed from active duty and brought to justice; and
- Ensure that all unlawful killings and any other unlawful attacks are investigated promptly, thoroughly and impartially, and that those responsible for such crimes are brought to justice in proceedings that comply with internationally-recognized standards for fair trial and without recourse to the death penalty.

### STOP ARBITRARY ARRESTS AND DETENTIONS

- Ensure that all those arbitrarily detained are released, that arbitrary arrests and detentions cease immediately, and that no one is deprived of their liberty except in accordance with proper criminal procedure; and
- Ensure that arrests are only carried out by security forces authorized to do so by law, and that all detention facilities are placed under the oversight of the Department of Public Prosecutions.

### PREVENT TORTURE AND OTHER ILL-TREATMENT

- Ensure that all detainees are treated humanely and held only in detention centres authorized by law, and that all detentions are promptly reviewed by a judge, in line with internationally-recognized standards. Detainees must either be charged with a recognizable criminal offence and promptly brought to trial in line with international standards for fair trial and without recourse to the death penalty, or released. In particular, ensure that no statements extracted under torture are used as a basis for convictions;
- Ensure that the families of civilian detainees are informed promptly of the place of detention of their relatives and that detainees are allowed prompt access to their families and lawyers;
- Facilitate communication for captured soldiers with their families and ensure they are granted access to the ICRC;
- Require that all detainees are examined by an independent doctor as soon as possible after they are arrested and regularly thereafter throughout their detention;
- Ensure that those making a complaint of torture or other ill-treatment and any witnesses to such abuse are adequately protected against possible reprisals, intimidation or harassment, and take firm action if such abuses take place;

- Ensure that all allegations of torture or other ill-treatment of detainees are investigated promptly and independently, that anyone found responsible is brought to justice, and that victims receive reparation;
- Urgently put in place a mechanism to ensure independent, impartial and non-partisan oversight and accountability of the security forces, including regular inspections of detention centres without advance notice; and
- Issue clear instructions to all members of the security forces that anyone who abuses their power or fails to carry out their duty to enforce the law, taking into account their duty to protect and uphold human rights, will be subject to disciplinary measures or criminal prosecution.

#### RESTORE THE RULE OF LAW

- Instruct the General Prosecutor, prosecutors, judges and police force to resume discharging their duties;
- Establish a clear structure for internal security, policing, and the detention of captured soldiers or criminal suspects; and
- Establish clearly-defined criteria and procedures for the vetting, recruitment and training of members of the security forces to ensure that they are effective and accountable and operate according to appropriate professional principles and standards. Anyone who does not uphold these principles should be held accountable.

#### ENSURE RESPECT FOR IHL IN THE CONDUCT OF HOSTILITIES

- Ensure that NTC fighters comply fully with the duty to take precautionary measures when carrying out attacks, as well as in defence, and do not carry out indiscriminate attacks; in particular, forbid the use of Grad or other indiscriminate rockets in areas where civilians may be located within range;
- Ensure that there is a clear structure, hierarchy and chain of command in place for the fighters under the control of the NTC; and
- Provide adequate training on applying the rules of IHL, including necessary measures to protect the civilian population from the dangers arising from military operations, including not locating military objectives in densely-populated areas. The NTC should seek outside expertise if necessary. Training should also be provided on handling weapons without endangering the civilian population, and ensuring that only those thoroughly trained are allowed to handle such weapons. Celebratory shooting should be forbidden.

#### COMBAT RACISM AND XENOPHOBIA

- Publicly condemn violent attacks against Sub-Saharan Africans; and
- Take steps to counter racism, xenophobia and discrimination against individuals with dark skin, including by celebrating the diverse ethnic make-up of the Libyan population and the positive contribution of migrants, including from Sub-Saharan Africa, to Libyan society.

#### IMPLEMENT A PROCESS OF DISARMAMENT AND DISMANTLE BODIES RESPONSIBLE FOR HUMAN RIGHTS VIOLATIONS

- Implement a process of disarmament, including of small arms; collect surplus weapons and munitions within the population, using a combination of collective or individual incentives designed to regulate, license and reduce as much as possible all civilian arms possession; also safely destroy surplus weapons and ammunition which is clearly in excess of national needs;
- Stop the proliferation of weapons. Take immediate steps to safely store all national stockpiles of the armed forces, police and any other security agency; mark all weapons and related articles to facilitate effective tracing and accountability and ensure an effective system of end-use certificates and licenses to control all imports and exports of arms and security equipment;
- Dismantle the Internal Security Agency and other security agencies that have perpetrated systematic human rights abuses; and
- Adopt best practices identified by the UN Office of Disarmament Affairs to control weapons and munitions, and ratify the international conventions to prohibit the transfer and use of inhumane weapons including anti-personnel mines and cluster munitions.

#### CO-OPERATE WITH INTERNATIONAL INVESTIGATIONS

- Co-operate fully with the ICC investigations and with the Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya established by the UN Human Rights Council, led by Mahmoud Cherif Bassiouni.

#### TO EU MEMBER STATES AND OTHER STATES WHO PARTICIPATED IN NATO'S OPERATION UNIFIED PROTECTOR

- Ensure that prompt, independent, impartial and thorough investigations are conducted into any allegations which may arise of serious violations of international law by participants in Operation Unified Protector. Wherever there is sufficient admissible evidence, ensure that suspects are prosecuted in full compliance with international fair trial standards, and ensure that victims receive full reparation;
- Investigate circumstances surrounding the deaths of 63 individuals aboard a boat drifting at sea for over two weeks after leaving the coast of Libya on 25 March. The inquiry should particularly consider whether NATO and EU member states failed to respond to distress calls and to rescue its passengers;
- Put in place effective mechanisms to prevent deaths at sea of refugees, asylum-seekers and migrants fleeing Libya, including increasing air surveillance and search-and-rescue operations so vessels are located and people rescued. All vessels carrying people who have left Libya and neighbouring countries should be prima facie considered at risk; and
- Comply with search-and-rescue obligations; and ensure that search-and-rescue operations comply with international human right law and refugee law and standards,

particularly in regard to accessing asylum and protection from *refoulement* (forcible return to places where there is a risk of persecution or other serious human rights violations).

#### TO THE ITALIAN GOVERNMENT

- Desist from conducting any “push-back” operations towards Libya;
  
- Set aside the memorandum of understanding on “migration control” signed with the NTC on 17 June 2011; and for the time being, refrain from engaging in negotiations with the Libyan authorities on joint management of “the migration phenomenon”, whether premised on existing co-operation agreements between the two countries or not; and
  
- Commit to ensuring that any existing and future co-operation on “migration control” with Libyan authorities will be contingent upon both parties’ commitment and ability to fully respect, promote and comply with the human rights of asylum-seekers, refugees and migrants, and be consistent with international human rights and refugee law and standards.

#### TO THE INTERNATIONAL COMMUNITY

- Maintain open land, air and sea borders and allow anyone fleeing Libya immediate access at the border – be it a land, air or sea border – without discrimination and irrespective of their background;
  
- Respond immediately and generously to the UNHCR call for an emergency resettlement effort by offering resettlement places to help meet the protection needs of refugees and asylum-seekers in Libya and neighbouring countries that do not have protection and assistance systems in place; and
  
- Put respect for human rights and accountability at the core of the agenda in discussions with the Libyan parties and offer assistance in developing and implementing an overarching programme of human rights reform in the country.

## ENDNOTES

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<sup>1</sup> See Chapter 3 for additional information on the international coalition and then NATO's military involvement.

<sup>2</sup> Cumulative numbers based on media reports and estimates by the Office of the United Nations High Commissioner for Refugees (UN Refugee Agency, UNHCR). For example see UNHCR, "Angelina Jolie and UNHCR chief Guterres visit boat people on Italian island", 20 June 2011:  
<http://www.unhcr.org.uk/news-and-views/news-list/news-detail/article/angelina-jolie-and-unhcr-chief-guterres-visit-boat-people-on-italian-island.html>

<sup>3</sup> They were all released within two years of their arrest. For more information, see Amnesty International, "Libya: Heavy sentences against prisoners of conscience" (Index: MDE 19/006/2008), 11 June 2008:  
<http://www.amnesty.org/en/library/info/MDE19/006/2008/en>

<sup>4</sup> Colonel al-Gaddafi officially relinquished the formal position of Secretary of the General People's Committee in March 1979 to devote himself to "revolutionary work". After that, he was officially referred to as the "Leader of the Revolution", and was not considered a head of state in the conventional sense, but rather as an influential advisor to the people.

<sup>5</sup> The Open Prison of Ain Zara, which at time of writing is a low-security prison under the oversight of the Directorate of the Judicial Police, is a different facility from the Ain Zara Prison, which fell under the control of the ISA.

<sup>6</sup> For further details of the Abu Salim Prison killings, see Amnesty International, "*Libya of tomorrow*": *What hope for human rights?* (Index: MDE 19/007/2010), 23 June 2010:  
<http://amnesty.org/en/library/info/MDE19/007/2010/en>; and Amnesty International, *The long struggle for truth: Enforced disappearances in Libya* (Index: MDE 19/008/2010) 29 June 2010:  
<http://amnesty.org/en/library/info/MDE19/008/2010/en>

<sup>7</sup> According to the information available to Amnesty International, the People's Leadership comprised of members of various tribes, members of the law enforcement bodies and others. People's Leaderships existed in all major cities of Libya, and a national People's Leadership was based in Tripoli. Their exact mandate, composition, reporting structure and role remains opaque. In recent years, they were involved in informing families of victims of the Abu Salim Prison killings of their relatives' deaths and negotiating financial compensation.

<sup>8</sup> For example, five relatives of victims of the Abu Salim Prison killings were arrested and detained incommunicado in March 2009 in connection with the protests and held for several days before being released without charge or trial. For further details, see Amnesty International, "*Libya of tomorrow*": *What hope for human rights?*; and Amnesty International, *The long struggle for truth: Enforced disappearances in Libya*.

<sup>9</sup> Colonel al-Gaddafi's speech on 22 February can be viewed on YouTube:  
<http://www.youtube.com/watch?v=rbqV0ksBLUM&feature=related>



<sup>10</sup> Saif al-Islam al-Gaddafi's speech on Libyan state television on 20 February can be viewed on YouTube: [http://www.youtube.com/watch?v=Pp6DFM9\\_NuU&feature=related](http://www.youtube.com/watch?v=Pp6DFM9_NuU&feature=related)

<sup>11</sup> Saif al-Islam al-Gaddafi's speech, 20 February.

<sup>12</sup> Interim National Transitional Council, "Announcement on the establishment of the Interim National Transitional Council", 2 March 2011: <http://ntclibya.org/arabic/first-announcement/>. The name of the Council was changed to the National Transitional Council (NTC) in May.

<sup>13</sup> At the time of writing, the NTC was recognized by over 40 countries, including Belgium, Canada, France, Gambia, Italy, Jordan, Kuwait, the Maldives, the Netherlands, Portugal, Qatar, Russia, the UK and the USA. Many came to recognize the NTC's authority after opposition forces stormed Tripoli in late August.

<sup>14</sup> The international alliance included Belgium, Canada, France, the UK and the USA.

<sup>15</sup> NATO's operation in Libya was extended by a further 90 days on 1 June.

<sup>16</sup> NATO, "NATO acknowledges civilian casualties in Tripoli", 19 June 2011: [http://www.nato.int/cps/en/natolive/news\\_75639.htm](http://www.nato.int/cps/en/natolive/news_75639.htm)

<sup>17</sup> The estimate does not include Libyans who crossed into Tunisia and Egypt, and later returned. For regular updates on cross-border movement from Libya, see International Organization for Migration (IOM) daily statistical reports available at <http://reliefweb.int/>

<sup>18</sup> Reporters Without Borders (RSF), "The birth of 'free media' in eastern Libya", 20 June 2011: [http://en.rsf.org/IMG/pdf/libye\\_2011\\_gb.pdf](http://en.rsf.org/IMG/pdf/libye_2011_gb.pdf)

<sup>19</sup> Rana al-Aqbani was released on 18 April. See Amnesty International, "Syrian journalist and brother held in Libya", 4 April 2011: <http://www.amnesty.org/en/library/info/MDE19/014/2011/en>

<sup>20</sup> See Saif al-Islam al-Gaddafi's speech on 20 February and Colonel al-Gaddafi's speech on 22 February.

<sup>21</sup> Committee to Protect Journalists (CPJ), Blog, "Journalists under attack in Libya: the tally", 20 May 2011: <http://www.cpj.org/blog/2011/05/journalists-under-attack-in-libya.php>

<sup>22</sup> *The New York Times*, "Freed Times Journalists Give Account of Captivity", 21 March 2011: <http://www.nytimes.com/2011/03/22/world/africa/22times.html?pagewanted=all>

<sup>23</sup> BBC, "BBC team's Libya ordeal in their own words", 9 March 2011: <http://www.bbc.co.uk/news/world-africa-12695138>

<sup>24</sup> See "Free Mathew VanDyke" Facebook page for information about his abduction: <http://www.facebook.com/FreeVanDyke>

<sup>25</sup> See Chapter 4 for details of the case of MBC cameraman Mohamed al-Shouihdi.

<sup>26</sup> See Amnesty International, "Killing of Al Jazeera journalist condemned", 13 March 2011: <http://www.amnesty.org/en/news-and-updates/killing-al-jazeera-journalist-condemned-2011-03-13>

<sup>27</sup> The on-line TV station he established was re-launched as a TV channel, retaining the name Libya Al-Hurra. See Libya Al-Hurra, "Libya Al-Hurra to begin broadcasting tonight", 30 May 2011: <http://english.libya.tv/2011/05/30/libya-al-hurra-to-begin-broadcasting-tonight/>

<sup>28</sup> UN Human Rights Council, *Resolution S/15-1* (UN Doc.: A/HRC/RES/S-15/1).

<sup>29</sup> See UNSC, *Resolution 1970 (2011)* (UN Doc.: S/RES/1970 (2011)), 26 February 2011: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/245/58/PDF/N1124558.pdf?OpenElement>

<sup>30</sup> See International Criminal Court (ICC), “Pre-trial Chamber I issues three warrants of arrest for Muammar Gaddafi, Saif Al-Islam Gaddafi and Abdulla Al-Senussi”, 27 June 2011: [http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/pre\\_trial%20chamber%20i%20issues%20three%20warrants%20of%20arrest%20for%20muammar%20gaddafi\\_%20saif%20al-islam%20gaddafi%20and%20a](http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/pre_trial%20chamber%20i%20issues%20three%20warrants%20of%20arrest%20for%20muammar%20gaddafi_%20saif%20al-islam%20gaddafi%20and%20a)

<sup>31</sup> For the full advanced version of the report, see UN Human Rights Council, *Report of International Commission of Inquiry to investigate all alleged violations to international human rights law in the Libyan Arab Jamahiriya* (UN Doc.: A/HRC/17/44), 1 June 2011: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.44\\_AUV.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.44_AUV.pdf)

<sup>32</sup> See African Court on Human and Peoples' Rights, “Order for Provisional Measures against Libya”, 25 March 2011: [http://www.african-court.org/fileadmin/documents/Court/Cases/Order\\_for\\_Provisinal\\_Measures\\_against\\_Libya.PDF](http://www.african-court.org/fileadmin/documents/Court/Cases/Order_for_Provisinal_Measures_against_Libya.PDF)

<sup>33</sup> See League of Arab States, “Statement on dangerous developments witnessed in Libya”, 22 February 2011: [http://www.arableagueonline.org/lasimages/picture\\_gallery/bayan22-2-2011.doc](http://www.arableagueonline.org/lasimages/picture_gallery/bayan22-2-2011.doc)

<sup>34</sup> International Court of Justice, “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories”, 9 July 2004, para104; Human Rights Committee, *General Comment 31*, para11.

<sup>35</sup> NTC, “A vision of a democratic Libya”: <http://www.ntclibya.org/english/libya/>

<sup>36</sup> ICCPR articles 6, 7, 9 and 21.

<sup>37</sup> See, for example, UNCAT, Article 4; and UN Declaration on the Protection of all Persons from Enforced Disappearance, General Assembly Resolution 47/133 (1992) (“UN Disappearances Declaration”), Article 4.

<sup>38</sup> UNCAT, Article 7; and UN Disappearances Declaration, Article 14; Human Rights Committee, *General Comment 20 (1992)*, para8 and *General Comment 31 (2004)*, para18.

<sup>39</sup> See for example Article 7 of the Rome Statute of the International Criminal Court, which reflects customary international law.

<sup>40</sup> For more information, see Amnesty International, Chapter 2, “*Libya of tomorrow: what hope for human rights?*” The right to freedom of expression is guaranteed by Article 19 of the ICCPR.

<sup>41</sup> Article 3 of the Code of Conduct states the overriding principle of these standards: “Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.” The official UN commentary on this provision of the Code of Conduct for Law Enforcement states:

*“The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures*

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*are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities."*

According to Principle 5 of the Basic Principles:

*"Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment; (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment."*

Principle 9 of the Basic Principles, which reflects customary international law, requires:

*"Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life."*

And Principle 10 explains:

*"In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident."*

See Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (8th UN Congress on the Prevention of Crime and Treatment of Offenders, 1990); Code of Conduct for Law Enforcement Officials, General Assembly Res 34/169 (1979), Annex.

<sup>42</sup> See *Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions* (UN Doc.: A/HRC/17/28), 23 May 2011 on "Protecting the right to life in the context of policing assemblies"; *Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment* (UN Doc.: A/HRC/13/39/Add.5), 5 February 2010, para189-194 on "Excessive use of force by law enforcement bodies".

<sup>43</sup> See for example *Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions* (UN Doc.: A/61/311), 5 September 2006, para35; see also Nigel Rodley, *The Treatment of Prisoners under International Law*, (3rd ed, 2009), pp257-8.

<sup>44</sup> Red Cross study, *Customary International Humanitarian Law: Volume 1: Rules*, J-M Henckaerts and L Doswald-Beck, eds, 2005 ("ICRC Customary IHL Study")

<sup>45</sup> ICRC Customary IHL Study, Rule 1; see also Protocol I, Article 48 and Protocol II, Article 12(2).

<sup>46</sup> ICRC Customary IHL Study, Rule 5; see also Protocol I, Article 50.

<sup>47</sup> ICRC Customary IHL Study, Rule 6; see also Protocol I, Article 51(3); Protocol II, Article 13(3).

<sup>48</sup> ICRC Customary IHL Study, Rules 8 and 9; Protocol I, Article 52.

<sup>49</sup> ICRC Customary IHL Study, Rule 10.

<sup>50</sup> Protocol I Article 52(3). See also ICRC Customary IHL Study, pp34-36.

<sup>51</sup> ICRC Customary IHL Study, Rule 156, pp591,593,595-598. See also Rome Statute of the ICC, articles 8(2)(b)(i) and (ii) and 8(2)(e)(i)(ii)(iv) and (xii) (see also discussion in ICRC Customary IHL Study, p27).

<sup>52</sup> ICRC Customary IHL Study, Rule 2; see also Protocol I, Article 51(2) and Protocol II articles 12(2).

<sup>53</sup> ICRC Customary IHL Study, Rule 11; Protocol I, Article 51(4).

<sup>54</sup> ICRC Customary IHL Study, Rule 12; Protocol I, Article 51(4)(a).

<sup>55</sup> ICRC Customary IHL Study, Rule 13; Protocol I, Article 51(5)(a).

<sup>56</sup> ICRC Customary IHL Study, Rule 14; Protocol I, Articles 51(5)(b) and 57.

<sup>57</sup> ICRC Customary IHL Study, Rule 156.

<sup>58</sup> ICRC Customary IHL Study, Rule 15. See also Protocol II, Article 13(1).

<sup>59</sup> ICRC Customary IHL Study, rules 16-19.

<sup>60</sup> ICRC Customary IHL Study, Rule 20.

<sup>61</sup> ICRC Customary IHL Study, Rule 22.

<sup>62</sup> ICRC Customary IHL Study, rules 23 and 24.

<sup>63</sup> See for example common Article 3, 1949 Geneva Conventions; articles 13, 16, 17, 23, 87, 89, 102-108, 130 of the Third Geneva Convention; articles 5, 13, 27, 28, 32-34, 66-75, 147 of the Fourth Geneva Convention; articles 51(7), 75 and 85(4)(e) of Protocol I; articles 4-6 of Protocol II; Customary IHL Study, rules 87-105.

<sup>64</sup> ICRC Customary IHL Study, Rule 156; Article 130 of the Third Geneva Convention; Article 147 of the Fourth Geneva Convention; Article 85 of Protocol I.

<sup>65</sup> ICRC Customary IHL Study, Rule 97; Article 23 of the Third Geneva Convention; Article 28 of the Fourth Geneva Convention; Article 51(7) of Protocol I. See also ICC Rome Statute, Article 8(2)(b); Article 13(1) of Protocol II.

<sup>66</sup> ICRC Customary IHL Study, rules 156-161.

<sup>67</sup> ICRC Customary IHL Study, Rule 158, as well as provisions of the 1949 Geneva Conventions and Protocol I.

<sup>68</sup> UN Disappearances Declaration; Human Rights Committee, *General Comment 31* (2004), para18; General Assembly Resolution 63/182 (16 March 2009).

<sup>69</sup> Human Rights Committee, *General Comment 31* (2004), para18.

<sup>70</sup> Rome Statute of the ICC, Article 28.

<sup>71</sup> ICRC Customary IHL Study, Rule 153.

<sup>72</sup> See UNCAT, Article 2(3); Human Rights Committee, *General Comment 31 (2004)*, para18; rules 154 and 155 ICRC Customary IHL Study; also Rome Statute of the ICC, Article 33.

<sup>73</sup> The right to an effective remedy for victims of human rights violations is provided for in Article 2(3) of the ICCPR. It is also recognized in: Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Article 3 of the 1907 Hague Convention concerning the Laws and Customs of War on Land; Article 91 of Geneva Protocol I; Article 75 of the Rome Statute of the International Criminal Court; Article 7 of the African Charter on Human and Peoples' Rights; ICRC Customary IHL Study, Rule 150; and "Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law" (Basic principles on the right to a remedy and reparation), General Assembly Resolution 60/147 (UN Doc.: A/RES/60/147), 16 December 2005.

<sup>74</sup> See UN General Assembly, "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" (Resolution A/RES/60/147), 21 March 2006; ICCPR, Article 2(3); Human Rights Committee, *General Comment 31 (2004)*, paras15-16; UNCAT, Article 14; Committee against Torture, *Dzemajl v Yugoslavia* (161/2000), 21 November 2002, para9.6; ICRC Customary IHL Study, Rule 150.

<sup>75</sup> ICRC Customary IHL Study, Rule 139.

<sup>76</sup> ICRC Customary IHL Study, Rule 150.

<sup>77</sup> Anti-government protests also took place in other parts of western Libya and were likewise met with excessive force, which seemingly succeeded in suppressing the protest movement there. However, Amnesty International was not granted access to areas under the control of Colonel al-Gaddafi's forces and has therefore not been able to investigate the extent of the human rights violations there. For this reason, those events are not covered in this report.

<sup>78</sup> See Amnesty International LiveWire, "Libya: living in fear and caught in crossfire", 1 April 2011: <http://livewire.amnesty.org/2011/04/01/libya-living-in-fear-and-caught-in-the-crossfire/#more-3312>; and Amnesty International LiveWire, "Ajdabiya: civilians tell of their dead amid the rubble", 30 March 2011: <http://livewire.amnesty.org/2011/03/30/libya-ajdabiya-civilians-tell-of-their-dead-amid-the-rubble/#more-3282>

<sup>79</sup> See Amnesty International, "Renewed rocket attacks target civilians in Misratah", 24 June 2011: <http://www.amnesty.org/en/for-media/press-releases/libya-renewed-rocket-attacks-target-civilians-misratah-2011-06-24>

<sup>80</sup> Demonstrators were also reported to have been killed in Tobruk, Derna and Ajdabiya.

<sup>81</sup> Two soldiers held in detention at a school in al-Bayda by the newly-established de-facto authorities told Amnesty International that they had been flown to al-Bayda (al-Abraq Airport) on 19 February with some 90 soldiers from a military base in Bir Ghenim in the west of the country, and that upon arrival they found many other soldiers who had arrived before them also from the west and south of the country.

<sup>82</sup> According to the Director of al-Bayda's Hospital, Dr Mohamed Miftah al-Treiki, and to the death certificates obtained by Amnesty International.

<sup>83</sup> Other witnesses told Amnesty International that plastic bullets were used in al-Bayda by some members of the security forces at the same time as live firearms were used by other members of the security forces.

<sup>84</sup> At the house, Amnesty International researchers and a military expert examined the bullet holes in the shutter and window pane and found the remains of the bullet (a 7.62mm bullet fired from a kalashnikov or similar rifle) lodged into the wooden frame of the child's bed.

<sup>85</sup> For further details, see Chapter 5 of this report.

<sup>86</sup> Revolutionary Committees were established in 1977 to generate popular support for Colonel al-Gaddafi's ideology and, in practice, to stamp out any opposition to his rule. They operated outside any judicial oversight and many were implicated in gross human rights violations, including the physical liquidation of political opponents.

<sup>87</sup> Al-Jala'a Hospital received most of the casualties during the unrest.

<sup>88</sup> According to al-Jala'a Hospital records and death certificates obtained by Amnesty International.

<sup>89</sup> According to records from the city's three main records and death certificates obtained by Amnesty International. The 109 include nine unidentified charred bodies recovered at the Kateeba military barracks on 21 February, a day after it fell to protesters. The circumstances surrounding these nine deaths remain unclear as the bodies were burned beyond recognition. According to the leading forensic pathologist, Dr Omar Khaled, when he examined the remains, smoke was still emanating from some of them, indicating that they were freshly burned.

<sup>90</sup> Full name and details withheld, on file with Amnesty International.

<sup>91</sup> Full name and details withheld, on file with Amnesty International.

<sup>92</sup> Full name and details withheld, on file with Amnesty International.

<sup>93</sup> Full name and details withheld, on file with Amnesty International.

<sup>94</sup> The Kateeba compound covers an area of about 1km<sup>2</sup>. It was surrounded by a wall and contained several buildings, used by the military as offices and for accommodation, and underground bunkers and cells. Since 20 February 2011, when it was taken over by protesters, the buildings in the compound have been burned down and looted and the surrounding wall demolished.

<sup>95</sup> BBC, Panorama, "Fighting Gaddafi", first broadcast on BBC 1 on 21 March 2011: <http://www.bbc.co.uk/programmes/b0101pyh>. In the programme a soldier told the BBC that Sa'idi al-Gaddafi addressed the soldiers at the Kateeba and told them to give protesters "...one more day, and if nothing changes, fire on them". Sa'idi al-Gaddafi denied addressing the soldiers, saying it was not his job and that he was at the Kateeba because his family owned a house there.

<sup>96</sup> By then protesters in al-Bayda had overrun the Shahat military base and looted the weapons and munitions there.

<sup>97</sup> Blasting gelatine is a rubber-textured, water-resistant explosive used by fishermen along the Libyan coast, where it is commonly referred to as "*jellatina*". Though illegal (because it kills even the smallest

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fish and damages the marine environment), it continues to be used by fishermen. Since February it has also been used recklessly by opposition fighters and youths for celebratory blasts.

<sup>98</sup> One side of the Kateeba compound adjoins residential buildings and it is believed that the soldiers and officers who were in the Kateeba left through these buildings, undetected by protesters.

<sup>99</sup> Full name and details withheld, on file with Amnesty International.

<sup>100</sup> For further details, see Amnesty International, *Misratah – Under siege and under fire* (Index: MDE 19/019/2011), 6 May 2011: <http://www.amnesty.org/en/library/asset/MDE19/019/2011/en/4efa1e19-06c1-4609-9477-fe0f2f4e2b2a/mde190192011en.pdf>; and Misratah blogs from the field at: <http://livewire.amnesty.org/category/libya/>

<sup>101</sup> For further details, see Amnesty International, *Misratah – Under siege and under Fire* and Misratah blogs from the field.

<sup>102</sup> More than 8,000 stranded migrants and wounded were evacuated by sea from Misrata by the IOM between April and July.

<sup>103</sup> See Amnesty International, “Libya: Renewed rocket attacks target civilians in Misratah”, 24 June 2011.

<sup>104</sup> See Amnesty International LiveWire, “Tales of terror as rockets fall on Benghazi”, 24 March 2011: <http://livewire.amnesty.org/2011/03/24/tales-of-terror-as-rockets-fall-on-benghazi/#more-3253>

<sup>105</sup> The Spanish Minister of Defence told parliamentarians on 19 April 2011 that Spain had sold these cluster munitions in 2008 before Spain adopted in June 2008 a unilateral moratorium on the production, use and transfer of cluster munitions. Spain then signed the Convention on Cluster Munitions on 3 December 2008 and ratified it on 17 June 2009.

<sup>106</sup> The Spanish company that used to manufacture the MAT-120 cargo bombs said that the submunitions have a zero per cent failure rate. According to its website: “...if the submunition does not detonate upon impact, it self-destructs after a few seconds, and, even if this self-destruction device fails, it self-deactivates infallibly within 10 minutes, therefore preventing the hazard of causing an accident after its use”. See Instalaza S.A., “About MAT-120”: <http://www.instalaza.es/eng/des2.html>

These assertions were disputed by a munitions expert consulted by Amnesty International, who confirmed that if for various reasons the system of priming (system or fuses that trigger the exposition of the clusters) is not functioning, the explosives and detonators contained in these munitions explode when picked up. Thereby, these unexploded munitions (UXOs) continue to pose a danger to civilians, particularly as these cluster bombs hit residential areas.

<sup>107</sup> The Libyan Red Crescent and other humanitarian organizations tried to reach and assist the displaced residents and their situation gradually improved. Many were later resettled in temporary accommodation and others were able to return to their homes after al-Gaddafi forces retreated from the areas.

<sup>108</sup> Local residents-turned-opposition-fighters fought the al-Gaddafi forces and their snipers initially mostly with light weapons previously left behind by the al-Gaddafi forces. They subsequently acquired more and heavier weapons, including long-range rockets, some seized from the retreating al-Gaddafi forces and others smuggled to Misratah by boat from the opposition fighters’ stronghold of Benghazi.

<sup>109</sup> See, Amnesty International, LiveWire, “Libya: Living in fear and caught in the crossfire”, 1 April 2011.

<sup>110</sup> Amnesty International, “Civilians at risk amid new mine threat”, 25 May 2011:  
<http://www.amnesty.org/en/news-and-updates/libya-civilians-risk-amid-new-mine-threat-2011-05-25>

<sup>111</sup> Each mine is equipped with a parachute to activate the mine’s arming system and to regulate its descent to the ground. The rockets, which have a range of several miles, are fired from mobile multi-rocket-launch-systems (MRLS) which carry 24 rockets. See Amnesty International, “Al-Gaddafi’s forces carry out indiscriminate attacks in Misratah”, 8 May 2011: <http://www.amnesty.org/en/for-media/press-releases/al-gaddafi%E2%80%99s-forces-carry-out-indiscriminate-attacks-misratah-2011-05-08>

<sup>112</sup> Amnesty International, LiveWire, “Mines pose new danger as Libya battles rage on”, 6 April 2011:  
<http://livewire.amnesty.org/2011/04/06/mines-pose-new-danger-as-libya-battles-rage-on/#more-3345>

<sup>113</sup> See Human Rights Watch, “Libya: Government using landmines in Nafousa Mountain”, 21 June 2011: <http://www.hrw.org/en/news/2011/06/21/libya-government-using-landmines-nafusa-mountains>

<sup>114</sup> The briefing can be accessed at: [http://www.nato.int/cps/en/natolive/news\\_75649.htm](http://www.nato.int/cps/en/natolive/news_75649.htm)

<sup>115</sup> The briefing can be accessed at: [http://www.nato.int/cps/en/natolive/news\\_75649.htm](http://www.nato.int/cps/en/natolive/news_75649.htm)

<sup>116</sup> BBC, “Libya Conflict: NATO’s man against Gaddafi”, 26 June 2011:  
<http://www.bbc.co.uk/news/world-europe-13919380>

<sup>117</sup> NATO, “NATO strikes Libyan state TV satellite facility”, 30 June 2011:  
[http://www.nato.int/cps/en/natolive/news\\_76776.htm](http://www.nato.int/cps/en/natolive/news_76776.htm)

<sup>118</sup> For an analysis of the status of attacks on media in IHL see Amnesty International, *Collateral Damage or Unlawful Killings? Violations of the Laws of War by NATO during Operation Allied Force* (Index: EUR 70/18/00), 5 June 2000, pp41-48: <http://www.amnesty.org/en/library/info/EUR70/018/2000>

<sup>119</sup> For more information about disappearances, see Amnesty International, *Libya: detainees, disappeared and missing* (Index: MDE 19/011/2011), 29 March 2011:  
<http://amnesty.org/en/library/info/MDE19/011/2011/en>; and Amnesty International, *Libya: Disappearances in the besieged Nafusa Mountain as thousands seek safety in Tunisia* (Index: MDE 19/020/2011), 27 May 2011: <http://amnesty.org/en/library/info/MDE19/020/2011/en>

<sup>120</sup> Monsters and Critics News, “Opposition: at least 12,000 people ‘taken away’ in Tripoli”, 29 May 2011: [http://www.monstersandcritics.com/news/uk/news/article\\_1629478.php/Opposition-At-least-12-000-taken-away-in-Tripoli](http://www.monstersandcritics.com/news/uk/news/article_1629478.php/Opposition-At-least-12-000-taken-away-in-Tripoli)

<sup>121</sup> ICRC, “Increasing health-care needs”, 5 July 2011:  
<http://www.icrc.org/eng/resources/documents/update/2011/libya-update-2011-07-05.htm>

<sup>122</sup> See Amnesty International, “Libya: Detainees killed by al-Gaddafi loyalists” (Index: PRE01/422/2011), 26 August 2011: <http://www.amnesty.org/en/for-media/press-releases/libya-detainees-killed-al-gaddafi-loyalists-2011-08-26>

<sup>123</sup> See Amnesty International, “*Libya of tomorrow*”: *What hope for human rights?*



<sup>124</sup> See, for example, OHCHR, Working Group on Enforced and Involuntary Disappearances, *General Comment on Enforced Disappearances as a Continuous Crime*: <http://www2.ohchr.org/english/issues/disappear/docs/GC-EDCC.pdf>

<sup>125</sup> See Human Rights Committee, *Decision: El Hassy v. Libya* (UN Doc.: CCPR/C/91/D/1422/2005), 24 October 2007; Human Rights Committee, *Decision: El Awani v. Libya* (UN Doc.: CCPR/C/90/D/1295/2004), 11 July 2007; and Human Rights Committee, *Salem Saad Ali Bashasha vs. the Libyan Arab Jamahiriya, Communication No. 1776/2008* (UN Doc.: CCPR/C/100/D/1776/2008), 20 October 2010.

<sup>126</sup> See Amnesty International, “*Libya of tomorrow*”: *What hope for human rights?*; “Libyan Prisoner of Conscience released”, 15 April 2010: <http://www.amnesty.org/en/news-and-updates/libyan-prisoner-conscience-jamal-el-haji-released-2010-04-15>; “Heavy sentences against prisoners of conscience” (Index: MDE 18/006/2008), 11 June 2008: <http://amnesty.org/en/library/asset/MDE19/006/2008/en/025816d3-3866-11dd-a7d1-851179bc648e/mde190062008eng.html>; and Chapter 1 of this report for more details.

<sup>127</sup> The Salaheddin complex was used by the Department of Criminal Investigations before the unrest. It seems that since anti-government protests began, the complex became a detention facility for those arrested in connection with the unrest. It is unclear who oversaw the complex throughout the unrest, as former detainees reported seeing officials in different uniforms – military and police – as well as in plain clothes.

<sup>128</sup> Footage of the release ceremony in Kashaf (scouts) Theatre by CCTV can be found at: <http://www.youtube.com/watch?v=OAtHCwgYDFA>

<sup>129</sup> Such individuals are all victims of arbitrary detention as defined by the UN Working Group on Arbitrary Detention, which has identified three categories of arbitrary detention: when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty, and the detention is not within the framework of national law (as when a person is kept in detention after the completion of his/her sentence or despite an amnesty law applicable to him/her) (Category 1); when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as states parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the ICCPR (Category 2); and when the detention results from total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the states (Category 3).

<sup>130</sup> For more details on the Abu Salim Prison killings, see Chapter 1 of this report; *The long struggle for truth: Enforced disappearances in Libya*; and “*Libya of tomorrow*”: *What hope for human rights?*

<sup>131</sup> See Amnesty International, “*Libya of tomorrow*”: *What hope for human rights?* and Amnesty International, *Libya: Time to make human rights a reality* (Index: MDE 19/002/2004), 26 April 2004: <http://www.amnesty.org/en/library/info/MDE19/002/2004>

<sup>132</sup> Local residents obtained weapons by looting police and army barracks and when weapons and ammunition dumps were left unguarded – a situation which continues to some extent. See, for example: Reuters, “Libya’s abandoned stockpiles attract smugglers”, 1 July 2011: <http://www.reuters.com/article/2011/07/01/us-libya-east-stockpiles-idUSTRE76044H20110701>

<sup>133</sup> Opposition military commander Abdel Fatah Younes was killed on 28 July 2011 by an armed group in unclear circumstances. Some place the blame on armed groups operating in eastern Libya, but beyond the control of the NTC.

<sup>134</sup> See Chapter 1 for pledges made by the NTC upon its establishment promising to honour Libya's obligations under international human rights law.

<sup>135</sup> The new NGOs and media that have sprung up in opposition-held areas are mostly focused on activities in support of the "revolution" and there is for now little or no space for criticism or opposition.

<sup>136</sup> Interview with Al Jazeera: <http://www.libyafeb17.com/2011/02/aamir-saad-political-activist-speak-to-al-jazeera-arabic-2/>

<sup>137</sup> See "Soldiers executed for refusing cooperation":  
<http://www.youtube.com/watch?v=nOywJD3sIY&feature=fvwrel&skipconrinter=1>

<sup>138</sup> See "Libyan armed gangs executed prisoners":  
<http://www.youtube.com/watch?v=uompyU29vIE&feature=related>

<sup>139</sup> Ideological organizations established after the 1969 "El-Fateh Revolution" which brought Colonel al-Gaddafi to power to "defend the revolution". In practice, their main role was to repress any opposition to Colonel al-Gaddafi's rule.

<sup>140</sup> A former resident of Ajdabiya, April 2011.

<sup>141</sup> A group of 174 soldiers from the south and west of the country who were captured in al-Bayda at the end of February were released a few days later into the care of tribal/community leaders who assured their safe passage home.

<sup>142</sup> Formerly know as the 7 April military camp.

<sup>143</sup> In July, detainees in the 17 February military camp were moved to Rahaba. On the night of 28 July, an armed group broke into the facility freeing those detained, of which some 45 have been recaptured at the time of writing.

<sup>144</sup> Sa'adoun Secondary School for Economic Sciences.

<sup>145</sup> Including Mustapha Sagazli, Head of the 17 February Brigade, Colonel Hassan 'Alwani, Head of the Committee of Investigators at the 17 February detention centre; Judge Marwan Tashani, Head of the Detainees' and Prisoners' Committee on behalf of the NTC; Jamal Bennour, Benghazi Local Council Justice Coordinator and member of the 17 February Coalition; and Fathi Terbil, NTC member.

<sup>146</sup> Meeting with the Chief Military Prosecutor, Colonel Yusef al-Sfeir, on 28 March in Benghazi.

<sup>147</sup> In some cases it is difficult to find such a "guarantor" because the detainees' colleagues and employers have been displaced by the conflict.

<sup>148</sup> One of the detainees was due to be released after Amnesty International located his employer in Misratah and obtained a letter attesting that he was working and living in Misratah prior to his arrest and had not been involved in the conflict. When the conflict broke out, he left Misratah and was arrested on arrival in eastern Libya.

<sup>149</sup> Associated Press, “Libyan rebels distribute rules on POW treatment”, 30 May 2011:  
<http://www.opednews.com/populum/linkframe.php?linkid=132460>

<sup>150</sup> On 29 March General Hamdi Hassi, an opposition forces commander near Ben Jawad was quoted saying: “Now because of NATO strikes on [the government’s] heavy weapons, we’re almost fighting with the same weapons, only we have Grad rockets now and they don’t”. See *Daily Mail*, “Rebels rain missiles on retreating Gaddafi troops”, 29 March 2011: <http://www.dailymail.co.uk/news/article-1370412/Libya-war-Rebels-attack-Gaddafi-troops-close-Sirte.html#ixzz1SbRm1IXs>; *The New York Times*, “Inferior Arms Hobble Rebels in Libya War”, 20 April 2011:  
<http://www.nytimes.com/2011/04/21/world/africa/21rebels.html>; and Onur Coban, Libya-Frontline:  
<http://www.onur-coban.com/category/libyas-frontline/>

<sup>151</sup> See photos on Free Libya: <http://freelibya-tumblr.com/> [second photo]; and *International Business Times*: <http://www.ibtimes.com/articles/164413/20110616/libya-conflict-the-fight-for-misrata-photo.htm>

<sup>152</sup> Estimates of the IOM. See Reuters, “Thousands of migrants still stranded in Libya-IOM”, 15 July 2011: <http://af.reuters.com/article/chadNews/idAFLDE76E0H820110715>. The Libyan authorities placed the number closer to 3 million. See General People’s Committee for International Relations and Foreign Liaison, “Statement in relation to irregular migration and the situation of Eritrean migrants in care and deportation centres”, 7 July 2010.

<sup>153</sup> For more information on the legal framework in Libya and the situation of refugees, asylum-seekers and migrants before the conflict, see Amnesty International, “*Libya of tomorrow: What hope for human rights?*”; and Amnesty International, *Seeking safety, finding fear: Refugees, asylum-seekers and migrants in Libya and Malta* (Index: REG 01/004/2010), 14 December 2010:  
<http://amnesty.org/en/library/info/REG01/004/2010/en>

<sup>154</sup> Saif al-Islam al-Gaddafi’s speech on Libyan state television on 20 February 2011.

<sup>155</sup> *Guardian*, “Libyan regime accused of exploiting boat people”, 11 May 2011:  
<http://www.guardian.co.uk/world/2011/may/11/libya-accused-of-exploiting-humanitarian-crisis>

<sup>156</sup> Colonel al-Gaddafi’s speech on 22 February 2011.

<sup>157</sup> See for instance, NTC, “Statement of the National Transitional Council on the Assistance of the Chadian Government to Qaddafi’s Regime”, 8 April 2011: <http://www.libyanmission-un.org/ntc%20ENG/ntc1.pdf>. See also, NTC officials and opposition fighters quoted in the media regarding the use of “African mercenaries” by Colonel al-Gaddafi: *Asharq Al-Awsat*, “Thuwwar preparing to go into Sirte and Tripoli”, 14 June 2011:  
<http://www.aawsat.com/details.asp?section=4&issueno=11886&article=626486>; *Guardian*, “Has Gaddafi unleashed a mercenary force in Libya?”, 22 February 2011:  
<http://www.guardian.co.uk/world/2011/feb/22/gaddafi-mercenary-force-libya>; *Time Specials*, “Mu’ammar al-Gaddafi’s delusions of African grandeur”:  
[http://www.time.com/time/specials/packages/article/0,28804,2045328\\_2045333\\_2053164,00.html](http://www.time.com/time/specials/packages/article/0,28804,2045328_2045333_2053164,00.html); and Monsters and Critics News, “Rebels blame Chad troops for loss of key Libyan cities”, 31 March 2011: [http://www.monstersandcritics.com/news/africa/news/article\\_1629946.php/Rebels-blame-Chad-troops-for-loss-of-key-Libyan-cities](http://www.monstersandcritics.com/news/africa/news/article_1629946.php/Rebels-blame-Chad-troops-for-loss-of-key-Libyan-cities)

<sup>158</sup> Statement by Mostafa Abjeljalil: <http://www.youtube.com/watch?v=XX09Lq73e94>

<sup>159</sup> Statement by Mostafa Abjeljalil.

<sup>160</sup> See, Amnesty International, “*Libya of Tomorrow*”: *What hope for human rights?*

<sup>161</sup> See Tweet “Shabab Libya”, a group of Libyan youth supporting the opposition, announcing the beatings and hangings of “mercenaries” in al-Bayda on 19 February:  
<http://twitter.com/%21/ShababLibya/status/38996956806258688>

<sup>162</sup> For an example of a video showing bodies of killed soldiers or suspected mercenaries, see:  
<http://www.youtube.com/watch?v=3JBhcH09DsE&feature=related>

<sup>163</sup> See <http://www.youtube.com/watch?v=SIBVT68ICfo&feature=related&skipcontrinter=1>

<sup>164</sup> See Human Rights Council, *Report of International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya* (UN Doc.: A/HRC/17/44), 1 June 2011: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.44\\_AUV.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.44_AUV.pdf)

<sup>165</sup> See for example, *Daily Telegraph*, “African mercenaries in Libya nervously await their fate”, 27 February 2011:  
<http://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/8349414/African-mercenaries-in-Libya-nervously-await-their-fate.html>

<sup>166</sup> See Chapter 5 of this report for further details of conditions of detention in opposition-controlled territory.

<sup>167</sup> For regular updates on cross-border movement from Libya, see IOM daily statistical reports available at <http://reliefweb.int/>

<sup>168</sup> UNHCR, “UNHCR seeks better rescue mechanisms after Mediterranean drowning”, 10 May 2011:  
<http://www.unhcr.org/4dc939c86.html>

<sup>169</sup> Cumulative numbers based on media reports and estimates by the UNHCR. For example see UNHCR, “Angelina Jolie and UNHCR chief Guterres visit boat people on Italian island”.

<sup>170</sup> UNHCR, “Hundreds risk return to Libya in bid to reach Europe by boat”, 18 May 2011:  
<http://www.unhcr.org.uk/news-and-views/news-list/news-detail/article/hundreds-risk-return-to-libya-in-bid-to-reach-europe-by-boat.html>

<sup>171</sup> Amnesty International interviewed one of the nine survivors, Ethiopian national Elias Mohammad Kadi, on 16 June at the Shousha camp in Tunisia. See Agenzia Habeshia, “Silence and indifference caused the death of 63 people”, 19 April 2011: <http://habeshia.blogspot.com/2011/04/mi-chiedo-perche-stanno-in-silenzio-le.html>; *Guardian*, “Aircraft carrier let us die, say migrants”, 9 May 2011: <http://www.guardian.co.uk/world/2011/may/08/nato-ship-libyan-migrants>; and Human Rights Watch, “NATO: investigate fatal boat episode”, 10 May 2011: <http://www.hrw.org/en/news/2011/05/10/nato-investigate-fatal-boat-episode>

<sup>172</sup> Reuters, “NATO, France deny failing to save Libyan migrants”, 9 May 2011:  
<http://www.reuters.com/article/2011/05/09/us-libya-nato-migrants-idUSTRE74836P20110509>

<sup>173</sup> The Council of Europe’s Commissioner’s Human Rights comment, “African migrants are drowning in the Mediterranean”, 8 June 2011: [http://commissioner.cws.coe.int/tiki-view\\_blog\\_post.php?postId=143](http://commissioner.cws.coe.int/tiki-view_blog_post.php?postId=143)

<sup>174</sup> For more information on the constraints facing UNHCR's ability to provide protection prior to the eruption of the conflict see UNHCR, *Submission by the Office of the UN High Commission for Refugees in the case of Hirsi and Others vs. Italy*, March 2010:  
<http://www.unhcr.org/refworld/docid/4b97778d2.html>

<sup>175</sup> Statement by Mostafa Abjeljalil: <http://www.youtube.com/watch?v=XX09Lq73e94>

<sup>176</sup> See, among others, Chapter 5 of Amnesty International's report: "*Libya of tomorrow*": *What hope for human rights?*.

<sup>177</sup> *People's Daily*, "Italy signs immigration accord with Libya's opposition council", 18 June 2011:  
<http://english.peopledaily.com.cn/90001/90777/90853/7413647.html>

<sup>178</sup> See Amnesty International, "*Libya of tomorrow*": *What hope for human rights?*; and *Seeking safety, finding fear: Refugees, asylum-seekers and migrants in Libya and Malta*.





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## **THE BATTLE FOR LIBYA**

### **KILLINGS, DISAPPEARANCES AND TORTURE**

Inspired by events in neighbouring Tunisia and Egypt, Libyans called for a “Day of Rage” in mid-February 2011 against the iron-fist rule of Colonel Mu’ammarr al-Gaddafi, in power since 1969. The protests were met with lethal force. By early March the uprising had evolved into an armed conflict between forces loyal to Colonel al-Gaddafi and armed protesters coalesced into a loosely structured force led by the newly established National Transitional Council based in Benghazi.

This report, based on a three-month fact-finding visit to eastern Libya and the besieged city of Misratah from late February, documents serious and widespread human rights violations by al-Gaddafi forces. It presents strong evidence of war crimes, including deliberate and indiscriminate rocket, mortar and artillery attacks that killed and injured hundreds of residents not involved in the conflict, and the use of internationally banned weapons such as cluster bombs and anti-personnel mines in residential areas.

The report also documents abuses by the opposition, including unlawful killings and torture of captured soldiers, suspected mercenaries and former members of the Libyan security forces.

The report calls for accountability for all crimes committed during the unrest and urges all parties to the conflict and the international community to co-operate with the Prosecutor of the International Criminal Court and other international investigations.

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