

# MISRATAH – UNDER SIEGE AND UNDER FIRE

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First published in 2011 by  
Amnesty International Ltd  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom

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Index: MDE 19/019/2011 English  
Original language: English  
Printed by Amnesty International,  
International Secretariat, United Kingdom

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*Cover photo:* Khamis, aged 72, standing in front of his home, which was shelled on 9 April 2011, Misratah, Libya.

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Children from the orphanage now sheltering in a school, 19 April 2011. © Amnesty International

## INTRODUCTION

Khadija, who takes care of children in an orphanage in the centre of Misratah, told Amnesty International:

*“When the kata`ib (Colonel Mu`ammar al-Gaddafi’s armed forces) came to our area around mid-March they were shooting in all directions and it became very unsafe. I saw one of their tanks 200 metres from our building, in between the houses. Many residents fled the area and some were killed as they were fleeing. We had 92 children in the orphanage, most of them small and the youngest a little baby of three months. Now we have 101 children there. We could not leave and most of our colleagues could not come to work anymore.*

*We took all the children to the basement and stayed there for a week. There was no electricity, running water or telephone network anymore; we had water in the underground storage reservoir but no electricity to pump it into the system so we used buckets and then used the water very sparingly. The kitchen staff could not come to work anymore so we broke the lock of the store room and used the rice, pasta and basic food and bottled water we had in storage. We were only a handful of staff and we did our best to entertain the children and to keep them safe. Sometimes I went to upstairs to try and see what was happening outside. It was very scary; the courtyard was littered with bullets and shrapnel.*

*Then the driver and some other people came to get us out and take us to this school. As we got the children in the buses there was intensive shooting and shelling all around and we had to leave quickly and could not take many things – clothes, food, milk bottles and diapers. We are safe here and we have received a lot of help but the situation in Misratah is very difficult for everyone. There is a shortage of many things. We used to change the small children's diapers six times a day but now we do that no more than five or even four times a day, and there are only three toilets and one shower here. Many of our colleagues are still unable to come to work because they live in areas under the control of al-Gaddafi's forces and cannot move in and out of the area. We used to have 58 staff but now we are only six, plus three who come for night duty. I have not been to my own home for two months and I have no idea where my parents are or what is happening with them."*

Residents of Misratah, Libya's third largest city with a population in excess of 300,000, have been living under siege and under fire for the past two months as forces loyal to Colonel al-Gaddafi have been laying siege to the city from all sides but the sea and have engaged in a brutal military campaign to retake control of this only major opposition-held city in the west of the country.<sup>1</sup>

Scores of residents not involved in armed confrontations have been killed and hundreds injured in increasingly frequent and often indiscriminate attacks by Colonel's al-Gaddafi's forces against residential areas.

The siege has prevented all but a trickle of humanitarian and other aid from getting into Misratah and the already dire situation has worsened since mid-April as Colonel al-Gaddafi's forces have stepped up attacks on the port – the city's only remaining lifeline to the outside world – and the plight of civilians still marooned there could deteriorate further if these attacks continue and are intensified. On 29 April Colonel Mu'ammarr al-Gaddafi's spokesperson in Tripoli, Moussa Ibrahim, warned that "total fire" would be unleashed against the city unless the *thuuwar* surrender and lay down their arms within days; the following day sea mines were discovered around the port, after the Libyan authorities in Tripoli warned that their forces would attack any ships that tried to dock at Misratah's port.

## NOWHERE SAFE

As Colonel al-Gaddafi's forces retook control of much of the city, including the city centre and its main street (Tripoli Street), and attempted to push on to other areas of the city, it became increasingly difficult for residents to find safe shelter. Thousands of families fled their homes in search of a safe refuge and many others hid in their homes for weeks, not daring to go out and fearing that their homes could come under fire at any time. Many were forced to move again and again as the areas where they found shelter progressively came under attack.

Dalal, a 22-year-old mother of two, struggled to remember all the places where she and her family had moved to in search of safe accommodation since the end of February: "We had to leave our home near Tripoli Street and first went to my parents in Gheiran, then to Zawia al-Mahjoub, then to Swawa, then to Qasr Ahmad, and now here in this school. I hope we'll be safe here."

A Moroccan couple and their five daughters, aged from 21 years down to a mere 18 months,

a family long resident in Libya, told Amnesty International that they hid in a well with the water up to their waists for three days when the building in which they lived in the centre of Misratah was taken over by Colonel al-Gaddafi's forces. Hind, aged 21, and her sisters Rabab, 18 and Sabrin, 15, told Amnesty International:

*“It was early morning, when peeping out of the window we saw two tanks, one on each side of the building. We live on the first floor and there was only us left in the building; the other families who lived in the other apartment, mostly Egyptians, had left. We heard the kata`ib getting close and we managed to go downstairs where there is a water well under the building and got into the well and closed the trap door above our heads. We had to stand up; if we slipped down we would drown. It was cold and we had no food. We could not make any noise and had to keep baby Yasmine quiet to avoid the soldiers upstairs noticing our presence. We could hear shooting. We prayed; that is all we could do.*

*After three days the Gaddafi soldiers escaped or were killed and the thuwwar came into the building. We heard them say “Thank God there were no families in the building”. We banged on the trap door with a stick to make our presence known. They must have thought that there were Gaddafi soldiers in the well as they opened the trap door with their weapons pointed down at us but when they saw us they quickly helped us get out of the well. We found our apartment trashed. The soldiers had smashed and shot at things and had stolen money and jewellery. They had even eaten the food. We found Yasmine's birth certificate half burned but luckily the other papers were in a safe place.”*

Families have taken refuge with relatives or in schools which are now functioning as shelters for those displaced by the conflict. Humanitarian conditions in the city are becoming increasingly desperate.

For weeks (since mid-March) there has been no electricity or running water. Only a few places that provide essential services, such as hospitals, have their own generators. For everyone else, there is no power supply. Telephone lines have been cut off since mid-March and Internet connections have also been shut down since the inception of the unrest.

Engineers from the electricity board told Amnesty International that repairs to damaged transmission systems could not be carried out because they are in parts of the city controlled by Colonel al-Gaddafi's forces. Similar challenges were reported with regard to the water supply and sewerage treatment facilities. Engineers from the Water Board told Amnesty International that they could not ascertain whether the main water supply to the city has been shut down or damaged because it too is located in areas controlled by Colonel al-Gaddafi's forces. The little water remaining in the reservoirs is being distributed to residents in small quantities by water tankers on the basis of handwritten lists of families, a slow and laborious process which is not tenable for any length of time.

The city's sewerage treatment plant has similarly been inaccessible for weeks, raising potential public health concerns, especially with residents resorting to re-using old wells which have not been used for decades and whose water may be contaminated by sewage.

Residents also told Amnesty International of dwindling food supplies, particularly fresh produce and baby milk. They recounted that forces loyal to Colonel al-Gaddafi destroyed

existing food stocks in areas which they entered, such as Mujamadat Street, and had killed livestock in Gheiran and Tammina.

Hospitals have reported shortages of some essential drugs, including those for treating cancer patients, dialysis solution and pain killers. Hospitals also lack adequate medical personnel with the level of skills and experience needed to deal with the high volume of patients being brought in and the range of injuries they have sustained.

Reports from the World Health Organization (WHO) indicate shortages of doctors, nurses and medical supplies in Misratah. Health staff are overstretched and several hundred patients need to be evacuated for urgent medical treatment. Health cluster partners report that there is a backlog of between 500 and 800 patients, including many children and women who urgently need to be evacuated from Misratah. Medical facilities in Misratah are over-crowded and sometimes patients are discharged earlier than optimal to make room for more urgent cases.<sup>2</sup>

A 28-year-old woman who was receiving treatment in Tunisia for an existing medical condition told Amnesty International on 18 April that she had been unable to obtain medical assistance in Misratah because of the shortage of doctors, nurses and medical supplies. She said: “Misratah is a tragedy. People are dying every day; snipers are spread out everywhere. There are shortages of the most basic necessities. We are just hiding in our houses, and wait for the arrival of daily bad news.”

Though some aid has been reaching Misratah, much more is needed as existing supplies and reserves are being used up. The port of Misratah, the city’s only link to the outside world and through which aid has been brought into the city and from which patients have been evacuated by ship to Benghazi and Tunisia, has been targeted with frequent rocket attacks by Colonel al-Gaddafi’s forces. Though the sea mines discovered on 29 April have been made safe,<sup>3</sup> there are concerns that more mines may have been laid by Libyan government forces, in a renewed attempt to isolate the city and prevent humanitarian aid from reaching its besieged residents. The mining of the port and the continuous attacks have caused humanitarian vessels to be delayed.<sup>4</sup> For instance, a boat chartered by the International Organization for Migration (IOM) which reached Misratah on 30 April on a rescue mission for stranded migrants and critically-wounded patients could not dock until 4 May because of repeated rocket attacks on the port. Attacks on the port have increased since Colonel’s al-Gaddafi’s regime warned, at the end of April, that it would attack any ship that attempted to dock at Misratah port. On 4 May, four members of a family of Nigerian migrants, including two children aged eight and 18 months and their aunt and uncle, were killed in a rocket attack as they were waiting to be evacuated in a makeshift camp by the port. The children’s mother lost a leg and sustained other serious injuries in the attack.

## ABOUT THIS REPORT

The findings in this report are largely based on an Amnesty International fact-finding visit to Misratah between 14 and 20 April. During the visit, the organization’s delegate interviewed victims and victims’ families, other eyewitnesses and medical professionals; and visited hospitals and several areas affected by the fighting, including near the front line. The briefing also draws from an Amnesty International visit to Tunisia between 6 and 20 April, where the organization’s delegates interviewed injured residents from Misratah and their families who



had been evacuated for treatment to Tunisia on 4 and 18 April by the humanitarian aid organization Doctors Without Borders (Médecins Sans Frontières).

This report highlights cases of civilian casualties as a result of reckless and indiscriminate attacks by Colonel al-Gaddafi's forces, and sniper fire apparently targeting civilians in residential areas; the use of cluster bombs, including in residential areas; the deliberate use of civilians as "human shields"; and the plight of foreign nationals trapped by the fighting. The report also examines excessive use of lethal force by Colonel al-Gaddafi forces, including against unarmed protesters at the inception of the uprising against his 41-year rule; and the enforced disappearance of individuals believed to support the opposition and other reprisals against the civilian population.

The cases highlighted in this report are only some examples of wider patterns of violations researched by Amnesty International in Misratah. The names of several people whose cases are documented in this report are withheld in respect of their wishes not to be identified for fear of reprisals against them or their families. The report includes recommendations to the Tripoli authorities calling on them to respect their obligations under international human rights law and international humanitarian law.

## RECKLESS AND INDISCRIMINATE ATTACKS – CIVILIANS UNDER FIRE



Several residents were injured, including two children, when a mortar struck this house in Gheiran neighbourhood  
© Amnesty International

By the second week of March forces loyal to Colonel al-Gaddafi had set about re-establishing control over parts of the city they had earlier evacuated, moving tanks and heavy military vehicles into Misratah's residential areas and placing snipers in tall buildings in the city centre including the Ta'min (Insurance) Building on Tripoli Street.<sup>5</sup>

From their positions in the city centre and from other positions all around the city (to the east, west and south) Colonel al-Gaddafi's forces have continued to launch relentless and often indiscriminate lethal attacks into the city's residential neighbourhoods for the past two months, killing and injuring scores of residents in their homes or as they were going about their daily chores in the city.

In many of the attacks investigated by Amnesty International in Misratah, residents were killed or injured by 122mm Grad rockets and by mortars, as well as 155mm artillery shells. Grad rockets are indiscriminate weapons. Pro-Gaddafi forces have fired these rockets from up to tens of kilometres away, killing and injuring civilians and damaging civilian homes and

other buildings. Even at much closer range, these rockets cannot be directed at a particular target. Mortars and artillery shells are weapons meant to be used against massed infantry or armour. They are not appropriate for striking a precise target, especially in the vicinity of civilians. Neither of these weapons should ever be used in residential areas.

**In the Qasr Ahmad neighbourhood** and in the nearby port, in the **east of Misratah**, Amnesty International's delegate witnessed sustained Grad rocket attacks on 14, 15 and 16 April. The rockets, which were being fired individually and in salvos of 40, were literally raining down on the area.



**On the morning of 14 April** a dozen residents were killed and many more were injured when several salvos of rockets were fired into the neighbourhood between 7 and 8am. Many of the victims were standing in a queue outside the bakery. With so many neighbourhoods no longer safe or accessible, the bakeries in the “safer” neighbourhoods have to provide for many more people, including the tens of thousands of residents from other neighbourhoods who have been displaced by the conflict. Hence the long queues at the bakeries.



Houses hit by a Grad rocket in the Qasr Ahmad neighbourhood of Misratah, Libya, 16 April 2011.  
© Amnesty International

Among those killed in the bread queue were **'Ali 'Abdelqader Armeida**, a 35-year-old psychologist and father of a two-year-old boy; **Mohammad 'Ali Sha'aib**, a 47-year-old father of two (boys aged four and five); 29-year-old office worker **Ahmad Mohammad Shalfuh** and his friend **Walid Mohammad Ahtaiba**, a 26-year-old port employee.

At the home of Ali 'Abdelqader Armeida his two-year-old son Rafiq, too young to comprehend, was asking for his father. Dozens of relatives were crowding in with 'Ali's parents and sisters after having fled their homes because of the rocket attacks on the neighbourhood. 'Ali's mother and sisters told Amnesty International:

*“When he heard the shelling in the neighbourhood 'Ali went to see if anyone needed help; he was always ready to help. He had been studying in Damascus and had almost completed his doctorate. We were so happy when he returned but now we wish he had not come back; he would still be alive. We are living under constant shelling. So many relatives have been forced from their homes because of it. More than 120 people from our family are sheltering here in these four houses, but we are not safe here either. We are not safe in our homes or anywhere else anymore. Please tell the world that we need protection. Rockets are falling on our houses and we cannot protect our children; we need help. We have not seen anyone from the outside world here. Please someone do something to protect us”.*

Mohammad 'Ali Sha'aib's family were similarly sheltering relatives who had been displaced from their homes by the shelling. Mohammad's wife, Awatef, who is originally from Tripoli, told Amnesty International that at this difficult time she cannot go to her family and they cannot come to visit her as there is no connection between Misratah and the rest of the country, and with the telephone network shut down in Misratah she has no way to even speak to her parents.



Remains of a 122mm Grad rocket which smashed into this little girl's bedroom at her home in the Qasr Ahmad neighbourhood of Misratah in the early morning of 14 April. © Amnesty International

Amnesty International interviewed several other people who were wounded on the morning of 14 April by rocket shrapnel in the neighbourhood – in the bread queue, in their homes or in the streets, and visited dozens of houses which had been damaged in such rocket attacks. In most cases large parts of Grad rockets were found at the scene of the attacks and in other cases the rockets could be identified through the remaining shrapnel.

From his hospital bed, 30-year-old **Mokhtar Ibrahim al-Sabri** told Amnesty International: "I was outside the bakery waiting to buy bread. It was about 7.30am when the rocket exploded near the back of the queue. It was a carnage, there was blood everywhere and many people were killed and injured; I don't know exactly how many; I was taken to hospital." Al-Sabri sustained shrapnel wounds to his back and legs.

Twenty-year-old **Asma al-Fgui** and her sisters **Ruwaida**, 20, and **Hajir**, 23, showed Amnesty International the damage caused by two rockets which smashed into their home at about 7am

the same morning (14 April). One rocket went through the roof and into their bedroom and another went through a side wall into the landing and on to another room. The three women luckily escaped with relatively minor shrapnel wounds to their arms, legs and head.

Elsewhere in the neighbourhood two elderly men, 80-year-old **Mohammad Belnour 'Arfa**, and 69-year-old **Mostepha al-Hamroush**, were killed outside their homes by rockets which fell nearby. Al-Hamroush's son-in-law and neighbour told Amnesty International: "We were sitting by the wall of his house with other neighbours when rockets started to fall very close by. We got up and ran off in different directions. Mostepha took cover under a tree across the road but a rocket landed right by the tree and killed him. A large piece of shrapnel tore through his abdomen." He and other neighbours showed Amnesty International where another rocket exploded as **Ayman Miftah al-Kilani** passed by in his car. Al-Kilani, aged 22, was killed and his friend who was with him in the car was injured.

A few streets away, **Faraj Mohammad al-Sriti**, a 65-year-old father of 10, told Amnesty International that he was outside his house when a rocket exploded nearby. He was injured by shrapnel in his neck. His 53-year-old relative, **Mohammad 'Awad al-Sriti**, was injured in yet another explosion nearby as he was putting out the rubbish in front of his house. He sustained a deep shrapnel wound to the right flank which caused serious internal damage.

Also in the hospital Amnesty International spoke to the parents **'Ali Jamal Gurman**, a 15-year-old ninth grader who was seriously wounded when a rocket exploded near his family home. His father said that 'Ali was in the house with his mother and other female relatives when a rocket landed in the little street opposite the house.



Faraj Mohammad al-Sriti, 65, injured on his neck by shrapnel from a Grad rocket which exploded near his home. © Amnesty International

Doctors told Amnesty International that the boy's condition is serious, with deep abdomen and neck wounds and the pelvis artery severed by shrapnel.

The boy was eventually evacuated by boat a few days later for medical care outside Misratah. The boy's cousin, **Sundus Gurman**, a 27-year-old medical doctor, also sustained a wound to her head in the same rocket attack.

The neighbourhood of Qasr Ahmad is adjacent to the port – Misratah's only connection to the outside world. It is from the port that whatever small amount of aid has reached Misratah and that stranded migrant workers and patients in desperate need of medical care which is not available in Misratah have been evacuated. Continuous rocket attacks on the area by Colonel Mu'ammarr al-Gaddafi's forces are seemingly aimed at disrupting even this very limited lifeline to the besieged city.

In the early afternoon of 24 April a 72-year-old man, **Ahmad Majdoub al-Sheikhi**, was killed when a rocket exploded next to the house where he was staying at the western end of the Qasr Ahmad neighbourhood. This area was considered safer than other areas of the city and in the past six to eight weeks, hundreds of families from other parts of Misratah have taken refuge there.

His son, a 40-year-old pharmacist, who was injured in the strike, told Amnesty International:

*"We had just finished eating. My father was washing his hands when the missile exploded just outside the house and killed him. Luckily the missile landed in the street, which is sandy and the sand absorbed most of the impact. We were several families sheltering in this house, some 70 or 80 people in all. I live in the centre of town and me and my family had to leave our home in early March when Gaddafi's forces came into town and started launching more*



*frequent attacks. We first went to a neighbour further away from the Gaddafi's forces' position, then that area too become more unsafe and we moved to the Faratza neighbourhood but after a while we had to flee again because of increasing attacks and went to the western part Qasr Ahmad, which was safe. I think now there is no safe area left in Misratah."*

Indiscriminate attacks have not been limited to the port area and eastern neighbourhoods. In the west and south of Misratah similar rocket attacks, as well as mortar attacks, have been frequent, killing and injuring residents and causing damage and destruction to homes, schools, medical facilities and places of worship.



Ten-year-old Maryam Mahmoud al-Hassouni was killed on 5 April in the courtyard of her home in Zawia al-Mahjoub neighbourhood of Misratah. © Amnesty International

In **Zawia al-Mahjoub**, on the western outskirts of Misrata, 10-year-old **Maryam Mahmoud al-Hassouni** was killed on 5 April in the courtyard of her home. Her uncle told Amnesty International: "It was about 10.30 am and Maryam was playing in the yard when a shell exploded in the middle of the yard. She was badly injured in the head and died almost immediately." Strike marks in the courtyard and shrapnel remains indicate that it was a mortar strike.

On the same day two other young children, **Ahmad 'Abdallah al-'Amariya** and **'Abdelsalam Ibrahim al-Atrash**, both aged only two, were injured while they were inside their homes by shrapnel from rockets that fell nearby. Ahmad's right arm was broken and 'Abdelsalam's left femur was fractured.

On the afternoon of 14 April, six-year-old **Arwa Mohammad Ba'ayou** sustained serious shrapnel injuries to her neck and abdomen when a rocket or a mortar struck her home, also injuring both her parents and her grandmother.

Two days later, on 16 April, renewed rocket attacks on the neighborhood injured several residents, including a staff member and a visitor at the local clinic. **Mohammed Salem 'Awad**, a 42-year-old anesthesia technician at the clinic, was wounded by shrapnel in the chest and in the right leg and was awaiting surgery when Amnesty International visited him in hospital. He gave an account of what had happened: "While I was getting a cup of coffee in the courtyard of the hospital, two rockets landed nearby and I rushed into the hospital but when I reached the door a third rocket landed in the car park and I was injured."

The other casualty from the attack, **Faraj al-Rashid**, a 45-year-old teacher, told Amnesty International that he was at the clinic to visit a friend who had been injured earlier that day when a rocket or mortar had exploded in front of his house. Doctors treating Faraj al-Rashid told Amnesty International that he had sustained deep shrapnel injuries to the abdomen which had caused internal damage and that his left arm had been fractured.

Shrapnel from the projectile examined by Amnesty International at the site indicated that it was in fact a mortar which exploded in the car park of the clinic. The director of emergencies at the clinic said that the attack occurred at about 17.30 on 16 April. He also pointed to several bullet impacts from previous attacks on the clinic, which had luckily not resulted in any casualties. One of the sections which had previously come under fire was the gynecology department, which has since been moved to another part of the clinic.

The following morning (17 April), a rocket exploded in front of the **al-Shuqmani** family home, injuring a family member and a neighbour as they stood by the gate of the house. **Sghrayer 'Ali al-Shuqmani**, aged 34, sustained deep shrapnel wounds in his neck and his neighbour, 53-year-old **'Ali Mohammad Ben Najwa**, sustained a shrapnel injury to the abdomen and a fracture to his left arm, where an artery had also been severed.

'Ali Mohammad al-Shuqmani, the head of the family and Sghrayer's father, told Amnesty International that he and his family had taken in three other families who had been forced to flee from their homes in other neighbourhoods. More than 40 people were huddled together in one room in the centre of the damaged house on the ground floor – in the hope that this would offer the greatest protection in case another rocket or mortar hit the house.

'Ali's brother, who has suffered from paralysis for the past five years, was weeping and shaking as he lay in his bed, unable to speak and shuddering every time a rocket exploded nearby with a loud bang. The family were trying to comfort and reassure him but they themselves were terrified and feeling a sense of helplessness.

When Amnesty International visited the area on 17 April rocket and mortar attacks in and around the neighbourhood were ongoing and there was extensive damage to houses and other properties – including the local girls' school (Nusseiba Bint Ka'ab School), the dental clinic (Basma Clinic), the pharmacy (Pharmacy al-Mahjoub), and a mosque ('Omar 'Abdel'Aziz al-Snoussi Mosque). Many residents had left or were leaving the area for fear of the attacks, while others were wondering where they could go to find safety.

**Mahmoud Danaf** and his family showed Amnesty International the damage caused by a mortar which struck the house on the evening of 16 April at about 8pm. Luckily the 16 inhabitants of the house were either in a different part of the house or outside and they escaped unscathed, but were now planning to leave the house if they could find a safe shelter elsewhere. Neighbours of other families whose homes had been damaged in such attacks told Amnesty International that while most people had stayed in their homes for as long as possible, the recent increase in indiscriminate attacks had forced many to leave.

After Colonel al-Gaddafi's forces redeployed to the outskirts of the city in the third week of April, they increased long-distance attacks, including with artillery, into some of the areas they had evacuated. During the night of 23-24 April several 155mm artillery shells, believed to have fired from a self-propelled cannon located in the outskirts of the city, rained down on the Ras 'Ammar neighbourhood of Misratah, killing at least six residents of two adjacent houses. Among the victims were three members of the Abu-Shahala family (four-year-old 'Nadia, her 30-year-old mother 'Aisha and her 60-year-old grandmother Nadia) and three members of the Belnour family (eight-year-old 'Abdelnour, his 35-year-old aunt Fatima and his 36-year-old uncle 'Ali).

Each of the surviving members of the two families was injured, several of them very seriously. Among them are eight members of the Belnour family:

- Miftah (37) and his wife Zeinab (33) and three of their children ('Abdelghani, 11 months, 'Abdelmalik, five years and 'Abdelsalam, 10 years). Their fourth child ('Abdelnour, eight) was killed in the attack;
- Sou'ad (40) and her son 'Abdallah (five); and
- 'Aseila (70), the children's grandmother.

In the Abu-Shahala family, 28-year-old Zakarya lost his left arm and his right leg and sustained other shrapnel injuries. He does not yet know that his mother (Nadia, 60), and sister ('Aisha, 30) and his sister's daughter (Nadia, four) were killed. Other family members were injured in the attack.

From her hospital bed 70-year-old 'Aseila Ba'ayu told Amnesty International:



'Aseila Ba'ayu © Amnesty International

*"We were sleeping, it was about 2.00am when the shelling started. We rushed out of the house in our nightclothes, without shoes. Shells were landing all around. My son 'Ali tried to get the women and children into the car when a shell struck. He was killed along with my daughter Fatima, my grandson 'Abdelnour, my neighbour Nadia, her daughter 'Aisha and her granddaughter Nadia. Everyone else was injured, my grandchildren and their mother and everyone.*

*Our family has been decimated. Our homes were destroyed. We live in a poor neighbourhood, the houses are simple old houses and they crumbled under the shelling. We had only just returned home after it had been announced that Gaddafi's forces had gone out of the city centre. We thought we would be safe at home but instead they bombed the city from far with heavier bombs than before. Is there anywhere safe for ordinary people in our city? What are we supposed to do to protect our children?*

*Can somebody please help us? Every day there is more bombs, missiles, shells hitting Misratah; I don't know what is happening with my children and grandchildren, if more of them have been killed."*

'Aseila sustained multiple shrapnel wounds to her head, chest and limbs. Her most serious



wound, to the right arm, where shrapnel tore away her flesh down to the bone, requires surgery but this has been delayed by her poor health condition.

She and two or her most seriously wounded relatives, her son Miftah and 10-year-grandson 'Abdelsalam, have been evacuated from Misratah to a hospital in Benghazi. With the telephone network in Misratah cut off, they have no way of keeping in touch with their injured and grieving relatives back home, adding to their anxiety.

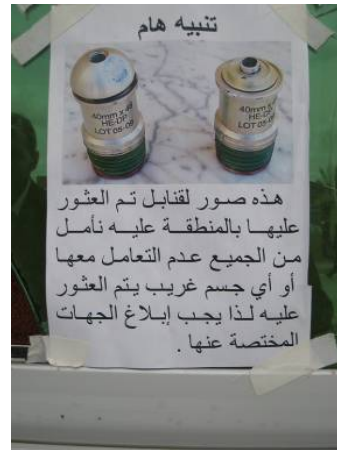
A 25-year old from the Al-Jazeera area on the western outskirts of Misratah was injured in a rocket attack on the neighbourhood on 28 March at about 6.00pm. He told Amnesty International that there had been confrontations in the area in the past few days and that most families had fled, but his elderly father had decided to stay at home. He said that he was home when he heard explosions, and got out unarmed to the main street shouting "God is Great", when another rocket exploded nearby. He sustained shrapnel injuries to his legs, right thigh and stomach and was evacuated for treatment in Tunisia on 4 April.

Amnesty International also met a 15-year-old boy in a clinic in Sfax, who was recovering from an injury to his left leg. He said he had heard explosions at about noon on 1 April near his home on Mujamadat Street, which had been a bubbling commercial centre in Misratah before the unrest started. He went outside, curious to see what was happening and was with five other youths, when he was hit by what he believes was machine gun fire. His cousin who was with him at the clinic and who lives in the same part of Misratah, told Amnesty International how the area had come under attack that day by Colonel al-Gaddafi's forces, who were targeting small factories and stores in the street used for storing sugar, pasta and flour supplies.

## USE OF CLUSTER BOMBS

Colonel Mu'ammar al-Gaddafi's forces have launched frequent mortars attacks, including with 120mm mortars containing cluster submunitions, into the city centre near the "frontline" prior to their withdrawal from the area in the third week of April. On 15 April, Amnesty International's delegate found several cluster submunitions in the area, as well as parts of the MAT-120 cargo mortar projectiles (designed and manufactured by the Spanish company Instalaza S.A.) which contained the cluster submunitions.

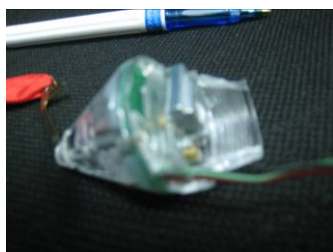
Cluster munitions, which have now been banned by more than 100 countries, present an



Leaflet warning about UXOs (unexploded munitions) at a hospital in Zawia al-Mahjoub neighbourhood in Misratah, April 2011. The same leaflet was displayed elsewhere in town. © Amnesty International



Company brochure acquired in 2001. Sourced through Mispo.org. © Mispo.org



Top and above, safe / arming devices for the MAT 120 cluster munition. © Amnesty International



A man holds a remnant tail section from an MAT-120 cluster munition used in Misratah, Libya, 15 April 2011. © Amnesty International



Cluster bomb - Misratah, Libya, 15 April 2011. The text on the side of the bomb says: "SMM MAT-120 LOT 2-07". © Amnesty International

enormous danger. Cluster munitions are dropped from the air or fired from the ground and designed to break open in mid-air, releasing the submunitions over an area. This means they cannot discriminate between civilians and soldiers.<sup>6</sup> Many of the submunitions fail to explode on impact. Unexploded cluster submunitions effectively become anti-personnel mines.

Moreover, they are imprecise and cannot be targeted at specific objects. According the Defense publication Jane the MAT-120 mortar projectile: "...spreads the submunitions to fall freely in a near-vertical trajectory, reaching the target in a random pattern covering a circle some 50 to 60 m in diameter. The hit probability on a target with the dimensions of a main battle tank within the target area is close to 20 per cent..."

The Spanish company that used to manufacture the MAT 120mm cargo bombs claims that the submunitions have a zero per cent failure rate.<sup>7</sup> The MAT 120mm is nonetheless prohibited by the Cluster Munitions Convention. Spain sold these to Libya in 2007. In June 2008, it declared a unilateral moratorium on use, production, and transfer of cluster munitions, and signed the Convention on 3 December 2008.<sup>8</sup>

Because they are inherently indiscriminate weapons, cluster munitions should never be used in any circumstances. Their use in residential areas is a flagrant violation of the prohibition on indiscriminate attack. Even though most residents fled the immediate areas of the city centre where armed confrontation took place between opposition fighters and Colonel Mu'ammarr al-Gaddafi's forces prior to the latter's withdrawal from the area in the third week of April, some residents remained in their homes in and around areas where these munitions were dropped. It has not been possible to establish how many residents were killed or injured by shrapnel from the mortar projectiles themselves or from the cluster submunitions released by the projectiles. In some cases residents described to Amnesty International multiple explosions from a single projectile, these might in fact have been explosions of cluster submunitions dispensed by the mortar projectiles.

On 16 April **Samir Sharfeddin Sidahmed**, a 57-year-old Sudanese accountant who lives in the centre of Misratah, was injured along with two of his children when a mortar

crashed through the wall of their first floor apartment at 5pm. He sustained shrapnel wounds to the face, head, neck and hands. Two of his two daughters, Nihad and Souna, aged 11 and eight, also sustained shrapnel wounds to the head and limbs. According to the description he gave to Amnesty International, the projectile which struck his home was likely to have been a MAT-120 mortar, though it could not be established if it carried cluster submunitions.

## SNIPER FIRE TARGETING RESIDENTS

There have been consistent reports of sniper fire from Colonel Mu'ammara al-Gaddafi's forces' positions against residents who are in areas under opposition control (under the control of opposition fighters). Residents who have themselves been targeted and relatives of victims have told Amnesty International that such attacks are carried out to intimidate residents and hinder their movements in areas under opposition control. Residents also told Amnesty International that some individuals, including a group of Filipino nurses, remained trapped for weeks in areas near the frontline particularly around Tripoli Street, unable to leave for fear of being shot at by snipers.



Nihad Sharfeddin Sidahmed, aged 11, who was injured (as well as her father and her eight-year-old sister) when a mortar crashed through the wall of her family's apartment in the centre of Misratah. © Amnesty International

On 23 March at 10.20pm **Ibrahim Ahmad al-Dernawi**, a 33-year-old father of three boys aged four years to six months was shot and killed in his parents' house. His father told Amnesty International:

*"We had just come home and were sitting in the living room. I was sitting under the window and my son was sitting facing the window, diagonally opposite me. My wife brought us coffee and I moved away from the window to the corner of the room, nearer to my son. He was holding his six-month-old son in his lap and we were talking. I suddenly heard the sound of the glass breaking but the window did not shatter. Then I saw blood pouring from my son's face. He had been shot in the head. He died instantly."*

At the family home, Amnesty International inspected the bullet hole in the window and the line of fire to the south-west, leading to an area where at the time several buildings were occupied by Colonel Mu'ammara al-Gaddafi's forces. His family said that the house has been previously targeted from the same direction, pointing to several large caliber bullet holes in the wall which surrounds the house.

**Samir Sharfeddin Sidahmed**, the 57-year-old Sudanese accountant whose house was attacked by mortar on 16 April, told Amnesty International that on 9 April at around 5pm he was shot at while he was in the street outside his house on his way back from the bakery. He was hit by a single bullet which broke three fingers in his left hand. He stated that the shot was fired from the direction of the buildings where Colonel Mu'ammara al-Gaddafi's forces were positioned.

Ten-year-old **Mohammad Hassan al-Naffar** was shot in the head as he played in his home. His mother told Amnesty International: “He was playing with his cousins in the house; I don’t let him go out anymore and we also don’t use the second floor of the house anymore because there are Gaddafi snipers on the buildings nearby. The door was open on the side of the buildings occupied by Gaddafi snipers and the shot came from there. A fragment of a bullet went through his head from side to side. I pray that he recovers; he is my only child; he is everything that I have.” In this case too, a map of the house and of the area drawn by another relative confirms the family’s version regarding the direction of the gunshot which injured Mohammad.

**Mostepha Fathallah Al-Na’as**, aged 42, told Amnesty International that on 13 April at 3.30pm he was shot while in his car in the Kharouba area of Misratah. He told Amnesty International: “I was coming out of a small street into the main road north of the fourth ring-road when a bullet came through the back of the car, hit me in the back and came out from my abdomen and went through the front seat. The shot came from snipers in a building on the corner of the main road a few hundred metres to the south”. The map he drew of the area shows a clear line of fire between the building where the presence of sniper was reported and the place where the car was hit. A relative showed Amnesty International the car in which Mostepha was hit and pointed to the bullet hole in the back seat, which is one and a half centimetres higher than the hole in the front seat, indicating a downward trajectory, consistent with reports that the shot had been fired from a higher position.

The available information for the above and other reported cases indicates that the shots which killed and wounded the residents were indeed fired from positions held by Colonel al-Gaddafi’s forces. As well, in some of these areas Amnesty International’s delegate witnessed firing by Colonel al-Gaddafi’s forces into residential areas under opposition control where there was no indication of any armed activity by opposition fighters. Given the obvious dangers of getting too close to the front line area where armed confrontations and exchanges of fire were liable to occur, it was not possible for Amnesty International to investigate the exact context of the shootings or to investigate reported cases in great depth and detail, and so to determine whether residents not involved in the fighting had been deliberately targeted or were fired on in error after being mistaken for opposition fighters – and if there were such errors, whether these arose from a failure on the part of Colonel al-Gaddafi’s forces to take all necessary precautions to try and distinguish between civilians and fighters.

## USE OF ‘HUMAN SHIELDS’

*"This is a government and a regime that's opted to use the tops of hospitals, of mosques, parking their tanks beside schools and hiding themselves behind men and women to make sure that we do not attack them."*

Lieutenant General Charles Bouchard, head of NATO operations in Libya.<sup>9</sup>

In Gheiran, a neighborhood south-west of the city centre from which Colonel al-Gaddafi’s forces withdrew on 19 April, Amnesty International saw two tanks which had been positioned in between residential homes. One was parked in the courtyard of a house, between the house and a tile-cutting workshop, and the other right next to a house which had a bakery and a small grocery shop on the ground floor. These two tanks had been destroyed, apparently by NATO airstrikes, and the houses next to them had sustained considerable damage.

In a third house nearby a tank had been parked in the large living room, where the entire front wall had been smashed through. When Amnesty International visited the scene, the tank had been moved to an empty space across the road and set alight but tank-tracks were still plainly visible in the dust and rubble strewn in the wrecked room and in the courtyard of the house.

These tanks had apparently been positioned next to civilian buildings, even though there were many open spaces away from the houses, in a deliberate though ultimately vain attempt to shield them from possible air strikes. The practice of shielding is in violation of international humanitarian law and constitutes a war crime.

Even if such conduct did not amount to 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 civilians areas.



House in Gheiran neighbourhood where pro-Gaddafi forces parked a tank in the living room to conceal it.  
© Amnesty International



## STRANDED MIGRANTS CAUGHT UP IN THE CONFLICT



Egyptian (and some Tunisian) migrant workers camping by the roadside outside Misratah's port waiting to be evacuated, Libya, 15 April 2011. © Amnesty International

Since the beginning of the conflict, some 500,000 foreign nationals have fled or have been evacuated from Libya, including from Misratah. Others have been unable to escape up to now, and have remained trapped in the besieged city. According to the International Organization for Migration (IOM), over 8,000 migrants were living at the city's port in April in dire conditions and urgent need of humanitarian aid. At the time of writing, IOM had evacuated over 5,000 people, mostly migrants but also injured Libyans, since 14 April, but was reporting that thousands of others continued to be trapped and in urgent need of assistance.<sup>10</sup>

Those who are left behind are vulnerable to attacks particularly as the city's port is increasingly targeted by forces loyal to Colonel al-Gaddafi as they strive to deprive the city's remaining residents of this, their last remaining lifeline to the outside world.

In Sfax, Tunisia, Amnesty International delegates met a 45-year-old Egyptian man who had lived in Libya for 25 years and, having been evacuated for medical treatment, was recovering

from the loss of one arm as a result of being hit by shrapnel from a shell fired from a tank in Misratah. The shell exploded on Zibla Street at about noon on 24 March near a café where the man was meeting with two other Egyptians; they were killed instantly.

He questions why he and his companions were targeted as there were no armed confrontations taking place at the time and he and those with him were clearly unarmed. The tank that he believes fired the fatal shell was positioned beside the Ta'min Building on Tripoli Street. He told Amnesty International that he hoped soon to be able to return to Misratah where his two children are still living.

Five other Egyptian migrant workers, who had been stranded with thousands of others near the port entrance desperately waiting to be evacuated since the beginning of the conflict, were among those killed in the bread queue on 14 April.

On 4 May four members of a Nigerian family, including two young children (eight and 18 months old) and their aunt and uncle, were killed in a rocket attack as they were waiting to be evacuated from Misratah. The children's mother lost a leg and sustained other serious injuries in the attack.



Egyptian migrants show a Grad rocket which landed nearby, 15 April 2011. © Amnesty International

# EXCESSIVE/UNWARRANTED USE OF LETHAL FORCE – CIVILIANS TARGETED

**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 with their parents in the centre of Misratah on the afternoon of 21 March.**

The children's father, Ali Abu Fanas, a 51-year old anaesthesia technician at one of Misratah's hospitals, believes that the projectile which killed his children was a tank shell fired by Colonel Mu'ammara al-Gaddafi's forces. He told Amnesty International:

*"We left our home in the centre of town to go to my wife's parents. All of us were in the car; my wife Lotfia next to me in the front and the children at the back. It was about 4 or 4.30pm. As we got near the Medical College, there was a lot of shooting coming from Gaddafi's soldiers whose tanks were by the roundabout at the intersection of the fourth ring-road and Benghazi Street. There were no thuwwar anywhere near there. My wife tried to get down and I tried to stop the car. There was a big explosion as a shell landed on top of the car at the back where the children were sitting. I looked back and I saw that my children had been killed - their bodies were in shreds. My wife was screaming 'my children, my children'.*

*We stayed down and then four soldiers came to the car and told me to get out. My wife did not want me to get out. I told her I had no choice. She wanted to look at the children; I made her sit on the floor. The soldiers took us to the other side of the roundabout, where there were many other soldiers. They put us in a toilet which is used by the workers of the butcher shops next door. In the toilet we found a woman whose husband had just been killed as they were passing nearby and a young man and his sister. We were kept there for two or two and a half hours. My wife kept asking about the children; I told her that there was nothing more we could do as all our children had been killed.*

*Then one of the soldiers came and said 'when you hear shooting open the door and run'. I told him that I'd rather stay however long and that they could leave and leave us there. They the soldiers took us out of the toilet and put us in one of their tanks and took us to the housing complex of the medical college. They got us out of the tank in the courtyard. My wife kept asking about the children. A soldier told her to shut up but she kept asking about the children and a soldier fired four shots in the air from his Kalashnikov and said 'consider them martyrs and celebrate' (l'tabarihim shuhada` wa zaghart). They had Kalashnikovs, machine guns, RPGs, four-barrel anti-aircraft machine guns, and some had handguns and hand grenades. We stayed there (in the courtyard of the housing complex of the medical college) for about one hour and by then the thuwwar were coming closer.*

*The soldiers wanted to take us with them to the Saheli road (further south). I told the soldiers to leave us there and go and we would go to some family nearby. We eventually got to a house nearby and the family there told us to stay there till things calmed down. We stayed until the following morning, unable to sleep. I had been injured when our car came under attack and was in pain (his medical records show that a bullet went*



*through his right flank and a piece of shrapnel got lodged into his back and was later surgically removed). At about 7am people from the family told us that some people had taken the bodies of our children to hospital and they took us home. We left our home immediately and went to stay with relatives. We have not returned home since then; it is not safe for now as there are Gaddafi's soldiers in the area and clashes."*

On the same day (21 March), according to hospital records and testimonies, some 20 other people were killed by live ammunition and shrapnel from tank and mortar shells, more than 120 sustained injuries which required their admission to hospital, and scores of others were treated for minor injuries. By then more than 100 protesters and bystanders had already been killed and several hundreds others injured by Colonel al-Gaddafi's forces in Misratah. Many of victims were struck while demonstrating against the Libyan ruler. Others, like the Abu Fanas family (mentioned above), were uninvolved bystanders.

Without having been present to witness the demonstrations and subsequent confrontations between demonstrators and Colonel al-Gaddafi's forces in Misratah it is not possible to establish with absolute certainty what happened in each case. However, consistent testimonies from people across Misratah – 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 already in the first few days of the demonstrations which started on 19 February and especially from the second week of March, when Colonel al-Gaddafi's forces returned to (try to) take control of parts of the city from which they had previously withdrawn. Protesters from Misratah told Amnesty International that they took to the streets initially in support of similar protests in Benghazi, being affected by reports of violence against anti-government demonstrators. They initially chanted slogans expressing solidarity with Benghazi protesters, but as security forces utilized force and firearms, protesters started calling for the "downfall of the regime". One 25 year-old protestor explained to Amnesty International: "[Colonel Mu'ammār] al-Gaddafi lives in an era, and we, the disillusioned youth live in another era. We wanted to break the chains of slavery". Eyewitnesses told Amnesty International that security forces, including members of the riot police [*da'm markazī*] and the Internal Security Agency (ISA) as well as members of the Revolutionary Committees started shooting at protesters without providing any warning.

The first protester who was killed in the demonstrations in Misratah was **Khaled Abushahma**, a 42-year-old fireman and a father of seven children, the youngest a newborn baby boy. He was shot dead on 19 February. His cousin and friend, Dr Ayman Abushahma, an abdomen specialist in the intensive care unit at Misratah's main hospital, told Amnesty International:

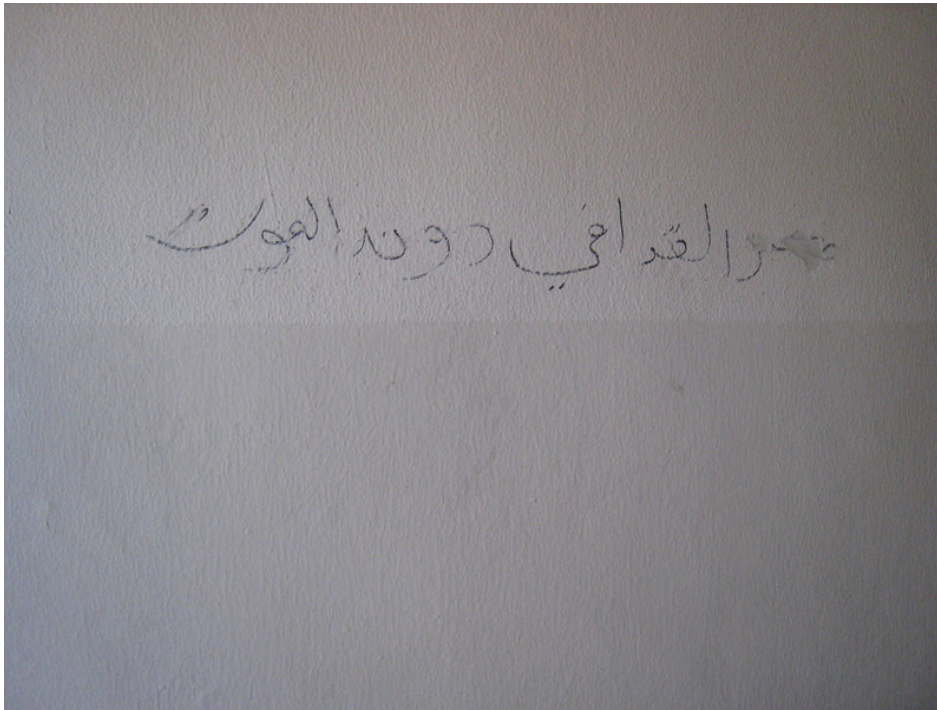
*"On 19 February at about 3pm Khaled called a common friend and said he was going to the demonstration. I was at the hospital and at about 3.15 was told that two people had just been brought in with abdomen injuries and that one case was particularly serious. I rushed to see the patient and found it was my friend Khaled. He had been shot twice in the chest with small calibre bullets, from a pistol. He was having difficulty breathing. He died on the operating table. His brother, who was with him, and other witnesses have said that he was shot at close range by a well-known member of Gaddafi's revolutionary committees. Khaled's injuries were consistent with these reports as he was shot at close range with a small calibre weapon. The revolutionary committees' member who shot him is believed to have left Misratah."*

More protesters were killed in the following days and weeks. Among the demonstrators killed on 21 March was **Miftah Ramadhan al-Jabu**, a 27-year-old stationary shop owner. His brother, a medical doctor at one of Misratah's hospitals, told Amnesty International that Miftah had gone out to join a protest in the town centre and that he was killed by two bullets to the upper right chest. **Khaled Ibrahim al-Sriti**, aged 30, was similarly shot dead at the same demonstration. One of his neighbours told Amnesty International that he and Khaled had been together at the demonstration when soldiers opened fire and people had run off in different directions, and that shortly afterwards he learned that Khaled had been killed.

A 25 year-old man, interviewed by Amnesty International in a clinic in Sfax, told the organization that he sustained shrapnel injuries in his right knee during the same demonstration on Tripoli Street on 21 March. He said that protesters marched from Abdelaziz Street to the People's Congress locale on Tripoli Street, convinced that the pro-Gaddafi forces will not shoot at them following Colonel Mu'ammara al-Gaddafi's declaration of a ceasefire in response to UN Security Council Resolution 1973. He estimated that some 5,000 people participated in the protest, including children as young as eight. He said that forces loyal to Colonel Mu'ammara al-Gaddafi opened fire at about 1.30pm, using weapons not designed for crowd control, including machine guns, RPGs and anti-aircraft machineguns – allegedly of 14.5mm and 24mm calibre. He also said that he saw snipers shooting at protesters from the roofs of buildings on Tripoli Street.

Several other people who participated in protest demonstrations on that day and on previous and subsequent days told Amnesty International that they were convinced that al-Gaddafi's forces would not keep shooting at peaceful protesters. One of them said: "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 more people every day."

# DISAPPEARANCES, EXTRAJUDICIAL EXECUTIONS AND OTHER FORMS OF REPRISALS



Graffiti in a house ransacked by pro-al-Gaddafi forces in Gheiran neighbourhood. © Amnesty International

Residents told Amnesty International that from early to mid-March, when Colonel al-Gaddafi's forces returned to retake control of neighbourhoods, which they had left in the previous weeks, they carried out reprisals against residents and their property, seemingly because they suspected them of supporting the opposition or in a bid to intimidate them into submission. Scores, possibly hundreds, of mostly young men were taken into custody and subjected to enforced disappearance by Colonel al-Gaddafi's forces. Many were taken from their homes, in full view of their families, and often after having been subjected to violence. The families were not told why they were being detained or where they were being taken, leaving them to fear their safety.

Yousef,<sup>11</sup> 85 years old from the Gheiran neighborhood, told Amnesty International:

*"The kata'ib came to my house and wanted to go to the women's quarters. I was standing*

*there with my five sons. My son 'Othman, a father of four children, objected and they locked him in a room but he came out of the window and again told them to leave. They shot him in the neck; they shot him dead in cold blood and left."*

Mostafa, a father of nine, told Amnesty International:

*"On 16 March, when the kata`ib came to Gheiran they shelled the area. A mortar exploded in the courtyard of our family house and killed my 69-year-old relative, Fatima 'Ali al-Karzab. On 18 March at 5pm the kata`ib came to our house and took my seven sons (one of them aged 17) one of my brothers and two sons of my other brother (aged 14 and 15). They put them in a pick-up truck and took them away and to this day we don't know what has happened to them."*

Another man from the same neighborhood, also called Mostafa, told Amnesty International:

*"Some 25 members of the kata`ib jumped over the wall of our house on 17 March at about 10am and they handcuffed my five sons and the 10 sons of my brother with plastic handcuffs and banged their heads against the wall and beat them with rifle butts. They told them to say 'Allah, Mu'ammara, Libya wa bas' ('God, Mu'ammara [al-Gaddafi], Libya and that's it'). They locked us in my brother's house next door. We were 35 people in all and we were imprisoned in that house for a week. They took me back to my house to open the safe; we are traders and had lots of cash in the safe. They took the money and the women's jewellery. They took my five sons, one of them a father of seven and another a father of four, and until now we have had no news of them and don't know where they are or if they are alive or dead."*

A medical student (F) also from Gheiran told Amnesty International:

*"On 16 March the kata`ib came to the neighborhood with tanks and they were shelling and shooting in the area. The mobile telephone network was disconnected on that day and on 18 March the landlines were disconnected too. We left our house because it was by the main road and near to where they took position, and went to stay with relatives further into the neighbourhood. There were 40 of us in that house. That evening the kata`ib came and searched the house and told us to stay indoors. My father's sister has kidney failure and needs dialysis treatment three times a week and we asked the soldiers to let us take her to hospital but they refused and said that nobody could leave. We asked the soldiers if we could go to into the courtyard to take water from the well but they said 'if you stay indoors you'll be ok but we cannot guarantee what will happen if you go out'. Four days later, on 20 March, five of them came into the house and took our father. We asked why they were taking him and they said that we have three doctors in the house and were providing medical treatment for fighters at home. We told them that the three doctors were not in the house (they had been at work when the trouble broke out and they remained at the hospital). They took our father away and we have had no news of him since then. After a few days we smuggled my aunt out of the neighbourhood through back streets and avoiding the main roads where the kata`ib were positioned".*

An 87-year-old man, who was evacuated from Misratah to Sfax, Tunisia on 4 April for medical treatment, told Amnesty International that Colonel al-Gaddafi's forces entered his

home in the outskirts of the city and took away his son-in-law and his 26-year-old grandson. Since then, he said, he has had no news of them and he does not know their whereabouts. The rest of his family, comprising women and children, fled from their home and are now sheltering with five other families in a house further away from the centre of Misratah.

The 87-year-old was injured several days prior to his relatives' enforced disappearance when the pick-up truck in which he was travelling from his home to his fields several kilometres south of Misratah came under fire in the area Gheiran. The truck driver escaped injury but the elderly man was wounded and required an operation and was eventually evacuated from Misratah.

Another man from Misratah, who participated in the fighting and wished to remain anonymous, told Amnesty International that forces loyal to Colonel al-Gaddafi forcibly entered his grandfather's home in the area of Kharouba in late March apparently looking for him. As he was not present, they took his uncle away instead – since when there has been no news of him or his whereabouts.

Halima (F), from Tammina, south-east of Misratah, told Amnesty International:

*“On 6 March the kata`ib came to our house, searched it and stole some money and telephones. Then they shot dead my brother `Issa. He was 60 years old and the father of four sons and two daughters. On the same day we left our home and came here where we are staying with our relatives. On 20 March the kata`ib took my son, `Abdelsalam and I have had no news of him since.”*

'Aisha, a mother of five from Tammina, told Amnesty International:

*“We had moved into our new house just five months ago. It is a big house on three floors with six apartments, for me and my five sons and their wives and children. When the kata`ib came at the beginning of March they caused much damage to the house and destroyed the farm; they went up and down the field with tanks. One of my sons and my nephew had a car dealer business together and most of the cars were destroyed. They even killed our horses and camels. We left and have been living as refugees for the past two months now.”*

Some who were able to return to their homes after Colonel Mu`ammar al-Gaddafi's forces retreated from neighborhoods in late April, found their homes damaged or ransacked.

In Gheiran, a family found that their home had been used by Colonel Mu`ammar al-Gaddafi's forces as a military position. On the roof terrace holes for sniper fire had been created in the surrounding walls, the floor was littered with spent bullet cartridges, and discarded military boots and bits of uniforms had been left behind. The house had been totally ransacked. In every room, the contents had been thrown onto the floor and virtually every breakable item had been smashed. One of the sons of the house's owner, a final year medical student pointed to the books and papers scattered among the debris in his room and on the staircase and wondered despairingly: “These are my books, my work of the past six years. What can I do now?”

One resident from Misratah told Amnesty International that he was badly beaten by members

of Colonel al-Gaddafi's armed forces as he drove from Misratah to Zintan on 7 March to get medical supplies. Mounir Saihi, a 23 year-old native of Benghazi, who was working between Benghazi and Misratah as a goods distributor before the conflict started, was stopped at a checkpoint some 30 kilometres west of Misratah. The men, who were in army uniform and carrying Kalashnikov rifles, ordered Mounir Saihi out of the car before one screamed at him, "you are the reason for the destruction of Libya" in reference to his Benghazi license plate. Mounir says that four of the soldiers then beat him with the back of their rifles all over his body including his face, stomach, feet and genitals, knocking him to the ground, until an older man intervened and took him away. Doctors in Tunisia, to where Mounir Saihi had been brought for treatment said he was recovering well from his physical injuries but remained traumatized by what was done to him.

# LIBYA'S OBLIGATIONS UNDER INTERNATIONAL LAW

## OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW

There is currently a non-international armed conflict between the Tripoli-based Libyan government and opposition fighters/the Benghazi-based Interim Transitional National Council. There is also currently an international armed conflict in Libya between the NATO-led coalition forces and the Libyan government.

While international human rights law applies at all times, international humanitarian law (IHL) applies only in situations of armed conflict. It contains the rules and principles that seek to protect primarily those who are not participating in hostilities, notably civilians, but also certain combatants, including those who are wounded or 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 international humanitarian law and are thus binding on all parties to any conflict.<sup>12</sup> Violations of many of these rules may amount to **war crimes**.

A fundamental rule of international humanitarian law is that Parties to any 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>13</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>14</sup> **Civilians** are protected against attack unless and for such time as they take a direct part in hostilities.<sup>15</sup> (In this report, Amnesty International uses the term “civilians” to refer to civilians who are not taking a direct part in hostilities.)

**Civilian objects** are all objects (that is, 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>16</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>17</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>18</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>19</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>20</sup>

The corollary of the rule of distinction is that “indiscriminate attacks are prohibited”.<sup>21</sup> **Indiscriminate attacks** are those that 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 international humanitarian law.<sup>22</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>23</sup> The use of inherently indiscriminate weapons such as **anti-personnel landmines 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.

International humanitarian law 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>24</sup> Intentionally launching an indiscriminate attack resulting in death or injury to civilians, or a disproportionate attack (that is, knowing that the attack will cause excessive incidental civilian loss, injury or damage) constitute war crimes.<sup>25</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>26</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>27</sup> Parties must give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit.<sup>28</sup>

Warring parties also have obligations to take all feasible **precautions in defence** to protect civilians and civilian objects under their control against the effects of attacks by the adversary.<sup>29</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>30</sup>



International humanitarian law applicable in non-international armed conflicts 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 of the 1949 Geneva Conventions and customary IHL include the following rules: humane treatment is required; discrimination in 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 is **enforced disappearance**, 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>31</sup> Depending on the particular rule in question, many or all acts that violate these rules will also constitute war crimes.<sup>32</sup>

As noted above, IHL also prohibits the use of “**human shields**”. This means intentionally bringing civilians or persons hors de combat into proximity with a military objective, or locating a military objective in proximity to civilians or persons hors de combat, with the specific intent of trying to prevent the targeting of the military objective.<sup>33</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.

## 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 (CAT); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); 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. The International Court of Justice as well as the UN Human Rights Committee have affirmed that 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>

Of particular relevance to this briefing are Libya’s international human rights law obligations related to the right to life, the prohibition of torture and other ill-treatment, the prohibition of enforced disappearance, the prohibition of arbitrary detention and the right to freedom of assembly.<sup>35</sup> Certain violations, such as torture and enforced disappearance, amount to crimes under international law and states are required to make such violations a criminal offence in domestic legislation. States are also obliged to bring to justice those responsible for these and other serious crimes, including extra-judicial executions.

## ENFORCED DISAPPEARANCES

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.

As a state party to the ICCPR, Libya is under an obligation to prevent arbitrary arrest and detention; to respect the rights of those arrested to be promptly informed of the charges against them; to bring them before the judicial authorities within a reasonable time; and to allow them to challenge the lawfulness of their detention (Article 9).

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 any civilian population, with knowledge of the attack, enforced disappearances constitute crimes against humanity (Article 7 of the Rome Statute of the International Criminal Court, which reflects customary international law).

#### DEMONSTRATIONS/EXCESSIVE USE OF FORCE

States have a duty to uphold the right to freedom of assembly. According to 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.<sup>36</sup> 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 Libya's 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 has not been tolerated since the beginning of Colonel Mu'ammār al-Gaddafi's rule in 1969 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>37</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 security forces have gone 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, Libyan security forces used excessive force, in contravention of international standards, most notably the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,<sup>38</sup> and the Code of Conduct for Law Enforcement Officials.<sup>39</sup> Libyan security forces did not even comply by those more limited safeguards provided for in 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. Article 2 stipulated that security forces must first issue an audible verbal warning for protesters to disperse, using a loudspeaker if necessary. Should protesters fail to disperse after two such warnings, the head of the security operation can order the use of tear gas or water cannon, and allow for the use of batons and rifle butts to disperse the crowd. If such measures fail, or if protesters attack persons or public property, security forces can use firearms, initially aiming at their feet.

Libyan security forces' unnecessary and excessive use of force in response to demonstrations violated the state's obligations to uphold the right to life and the prohibition of freedom from torture and other ill-treatment.

## INTERNATIONAL CRIMINAL LAW

Individuals, whether civilians or military, can be held criminally responsible for certain violations of international human rights law and international humanitarian law.

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

## WAR CRIMES

Grave breaches of the Geneva Conventions and Additional Protocol I and most other serious violations of international humanitarian law are war crimes. Definitions of these crimes are included in the 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.

Article 86(1) of Additional Protocol I requires: "[P]arties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches of the [1949 Geneva] Conventions or of this Protocol which result from a failure to act when under a duty to do so."

## CRIMES AGAINST HUMANITY

According to the Rome Statute, certain acts, if directed against a civilian population as part of a widespread or systematic attack, and as part of a state or organizational policy, amount to crimes against humanity. Such acts include, among others, 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.

# CONCLUSIONS AND RECOMMENDATIONS



A queue for bread in Misratah © Amnesty International

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On 26 February, the situation in Libya was referred to the International Criminal Court (ICC) by the UN Security Council under Resolution 1970. On 4 May ICC Prosecutor Luis Moreno-Ocampo informed the UN Security Council that in a few weeks he will request the judges of the International Criminal Court to issue arrest warrants against three individuals for crimes against humanity committed in Libya since 15 February 2011.<sup>40</sup>

Based on the research it has carried out so far Amnesty International believes that some of the violations of international humanitarian law committed by Colonel al-Gaddafi's forces in Misrata and elsewhere in the country could constitute war crimes. Security forces have also committed widespread, grave violations of human rights, including the systematic shooting of peaceful protesters (resulting in scores of deaths) and widespread enforced disappearances and arbitrary detention, which may amount to crimes against humanity.

**Amnesty International calls on the authorities in Tripoli to:**

- Put an immediate end to direct attacks against civilians or civilian objects, and indiscriminate attacks (which do not distinguish between military targets and civilians or civilian objects); or attacks which, although aimed at a legitimate military targets, have a disproportionate impact on civilians or civilian objects;
- End and prohibit the use of inherently indiscriminate weapons including cluster bombs, and anti-personnel land mines; refrain from using artillery, mortars and rockets in residential areas;
- End and prohibit the use of civilians to shield tanks, artillery and other military objectives from attack. Take all feasible precautions to avoid locating military objectives within or near civilian areas;
- Ensure that any civilians including foreign nationals who want to leave the country are allowed safe passage including if necessary through the establishment of humanitarian corridors;
- Ensure that humanitarian aid can be delivered to Misratah including via its port; and guarantee the safe passage of humanitarian convoys;
- Grant immediate and unhindered access to humanitarian agencies and an independent multi-agency needs assessment team, including protection experts, to identify needs and gaps in assistance for the civilian population;
- Ensure that the families and lawyers of those detained are informed immediately of the place of detention and the specific allegations against them, and allow immediate independent access to these places of detention in order to ensure the safety and wellbeing of those detained;
- Immediately and unconditionally release all those detained solely on account of their opinions or peaceful activities in support of the protest demonstrations, and guarantee them safe passage to their homes;
- Take immediate steps to ensure that any alleged or known fighters captured are treated humanely in accordance with the requirements of international law and ensure that their families are informed of their capture and place of detention and are allowed to communicate with them;
- Carry out impartial and thorough investigations, in accordance with international standards, of the evidence indicating that Libya's forces have committed serious violations of international human rights and humanitarian law, including war crimes, and wherever there is sufficient admissible evidence, prosecute any alleged perpetrator in proceedings that fully respect international fair trial standards and with no possibility of the the death penalty;
- Co-operate with and allow unhindered access to the ongoing investigations by the ICC and by the Commission of Inquiry established by the UN Human Rights Council, including access to all relevant documents, other evidence and persons; and

- Do not subject to reprisals persons who may provide information or testimonies to these or other investigations.

**Amnesty International calls on the international community to:**

- Provide full support and co-operation to the ongoing investigations by the Office of the Prosecutor of the ICC and by the Commission of Inquiry established by the UN Human Rights Council, including by providing sufficient resources for them to accomplish their tasks effectively and promptly; obtain access to all relevant documents, other evidence and persons; and be in a position to protect from reprisals all persons who provide information.

## ENDNOTES

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<sup>1</sup> As anti-government protests rocked Misratah – Libya’s third largest city – on 19 February, the first protester was killed by forces loyal to Colonel Mu’ammarr al-Gaddafi. His funeral the following day drew large crowds and, as was happening elsewhere in eastern Libya, most members of the army and security forces left the town (and a small percentage joined the protesters). The (mostly light) weapons left behind by the departing forces were seized by the *thuuwar* (or revolutionaries, referring to the protesters who took up arms against Colonel al-Gaddafi’s regime) and shortly after, the city declared its allegiance to the Interim Transitional National Council (TNC) based in Benghazi (Libya’s second city, in the east of the country).

<sup>2</sup> *Crisis Situation Report No. 32*, 1 May 2011, UN Office for the Coordination of Humanitarian Affairs (UN OCHA), at: [http://reliefweb.int/sites/reliefweb.int/files/resources/Full\\_Report\\_449.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_449.pdf)

<sup>3</sup> NATO, “ Mines discovered in the approaches to Misratah”, 29 April 2011: [http://www.nato.int/cps/en/natolive/news\\_72961.htm](http://www.nato.int/cps/en/natolive/news_72961.htm)

<sup>4</sup> An International Organization for Migration (IOM) ship was delayed from docking and the International Committee of the Red Cross (ICRC) has suspended sea operations temporarily. See: *Crisis Situation Report No. 32*, 1 May 2011, UN OCHA, at: [http://reliefweb.int/sites/reliefweb.int/files/resources/Full\\_Report\\_449.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_449.pdf)

<sup>5</sup> Residents resorted to erecting home-made barricades (using sand-filled containers, discarded fridges, washing machines and furniture) to prevent Colonel al-Gaddafi’s forces from advancing deeper into the city and civilian residents-turned-opposition-fighters fought the forces and their snipers initially mostly with light weapons previously left behind by the forces. More recently they have acquired additional weapons (notably rifles, RPGs and 106mm rockets), some seized from the retreating forces and others smuggled to Misratah by boat from the opposition fighters’ stronghold of Benghazi.

<sup>6</sup> Cluster Munitions Coalition: <http://www.stopclustermunitions.org/>

<sup>7</sup> 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”. <http://www.instalaza.es/eng/des2.html> (Website last updated on 20 April 2011 and last accessed 4 May 2011).

<sup>8</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 Cluster Munitions Convention on 3 December 2008 and ratified on 17 June 2009.

<sup>9</sup> Lewis, Aidan, “ Misratah: a city under siege”, BBC, 19 April 2011: <http://www.bbc.co.uk/news/world-africa-13118724>

<sup>10</sup> IOM, “ Another IOM mission to rescue stranded migrants from Misratah underway as more migrants escape Libya”, 29 April 2011: <http://www.iom.int/iahia/Jahia/media/press-briefing-notes/pbnAF/cache/offonce/lang/en?entryId=29600>

<sup>11</sup> Name withheld upon request

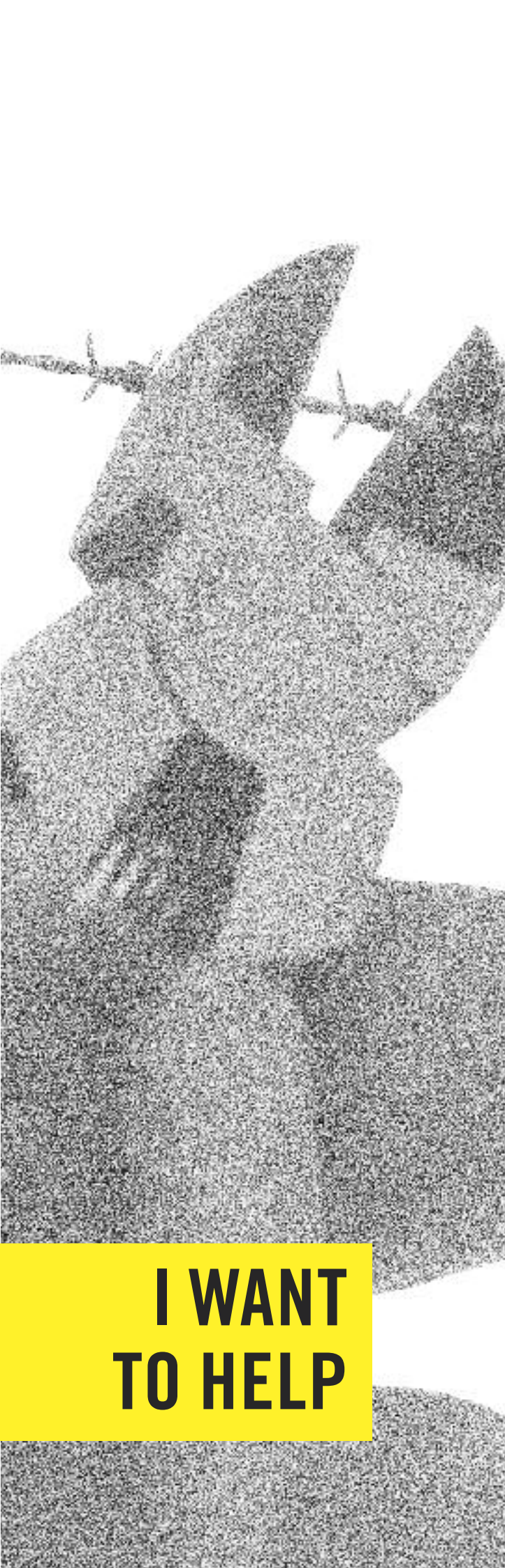


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- <sup>12</sup> Red Cross study, *Customary International Humanitarian Law: Volume 1: Rules*, J-M Henckaerts and L Doswald-Beck, eds, 2005 (“*ICRC Customary IHL Study*”)
- <sup>13</sup> *ICRC Customary IHL Study*, Rule 1; see also Protocol I, Article 48 and Protocol II, Article 12(2).
- <sup>14</sup> *ICRC Customary IHL Study*, Rule 5; see also Protocol I, Article 50.
- <sup>15</sup> *ICRC Customary IHL Study*, Rule 6; see also Protocol I, Article 51(3); Protocol II, Article 13(3).
- <sup>16</sup> *ICRC Customary IHL Study*, Rules 8 and 9; Protocol I, Article 52.
- <sup>17</sup> *ICRC Customary IHL Study*, Rule 10.
- <sup>18</sup> Protocol I Article 52(3). See also *ICRC Customary IHL Study*, pp34-36.
- <sup>19</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>20</sup> *ICRC Customary IHL Study*, Rule 2; see also Protocol I, Article 51(2) and Protocol II articles 12(2).
- <sup>21</sup> *ICRC Customary IHL Study*, Rule 11; Protocol I, Article 51(4).
- <sup>22</sup> *ICRC Customary IHL Study*, Rule 12; Protocol I, Article 51(4)(a).
- <sup>23</sup> *ICRC Customary IHL Study*, Rule 13; Protocol I, Article 51(5)(a).
- <sup>24</sup> *ICRC Customary IHL Study*, Rule 14; Protocol I, articles 51(5)(b) and 57.
- <sup>25</sup> *ICRC Customary IHL Study*, Rule 156, pp599-601.
- <sup>26</sup> *ICRC Customary IHL Study*, Rule 15. See also Protocol II, Article 13(1).
- <sup>27</sup> *ICRC Customary IHL Study*, Rules 16-19.
- <sup>28</sup> *ICRC Customary IHL Study*, Rule 20.
- <sup>29</sup> *ICRC Customary IHL Study*, Rule 22.
- <sup>30</sup> *ICRC Customary IHL Study*, Rules 23 and 24.
- <sup>31</sup> *ICRC Customary IHL Study*, Rules 87-105.
- <sup>32</sup> *ICRC Customary IHL Study*, Rule 156, pp590-603.
- <sup>33</sup> *ICRC Customary IHL Study*, Rule 97, pp337-340.
- <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 No. 31, para 11.
- <sup>35</sup> ICCPR articles 6, 7, 9, 21.
- <sup>36</sup> Article 21 of the ICCPR.
- <sup>37</sup> For more information see Amnesty International, *Libya of tomorrow: what hope for human rights?* (Index: MDE 19/007/2010), 23 June 2010, Chapter 2: <http://www.amnesty.org/en/library/info/MDE19/007/2010/en>

<sup>38</sup> The relevant provisions of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials are – Principle 3: “The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.” Principle 5: “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: “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.” Principle 10: “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.”

<sup>39</sup> The relevant provision of the Code of Conduct is: Article 3: “Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.” Paragraph (c) 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 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.”

<sup>40</sup> ICC, “The Office of the Prosecutor will request an arrest warrant against three individuals in the first Libya case. Judges will decide”, 4 May 2011: <http://www.icc-cpi.int/NR/exeres/DCBD3E2C-C592-4FB8-B7CB-E18E67F692D1.htm>



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## MISRATAH – UNDER SIEGE AND UNDER FIRE

*“When the kata`ib (Colonel Mu`ammar al-Gaddafi’s armed forces) came to our area around mid-March they were shooting in all directions and it became very unsafe. I saw one of their tanks 200 metres from our building, in between the houses. Many residents fled the area and some were killed as they were fleeing. We had 92 children in the orphanage... We took all the children to the basement and stayed there for a week.”*  
Khadija, a carer in Misratah’s orphanage

The 300,000 residents of Misratah, Libya’s third largest city, have been living under siege and under fire since March 2011 when forces loyal to Colonel al-Gaddafi began a brutal military campaign to retake control of the only major opposition-held city in the west of the country.

Scores of residents not involved in armed confrontations have been killed and hundreds injured in increasingly frequent and often indiscriminate attacks by Colonel al-Gaddafi’s forces, who have launched rockets, mortars, artillery shells and cluster bombs into the city’s residential neighbourhoods.

Families have taken refuge with relatives or in schools, which are now functioning as shelters for those displaced by the conflict. Humanitarian conditions in the city are becoming increasingly desperate. Water, electricity, internet and telephone lines have been cut for weeks.

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Index: MDE 19/019/2011  
May 2011

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