



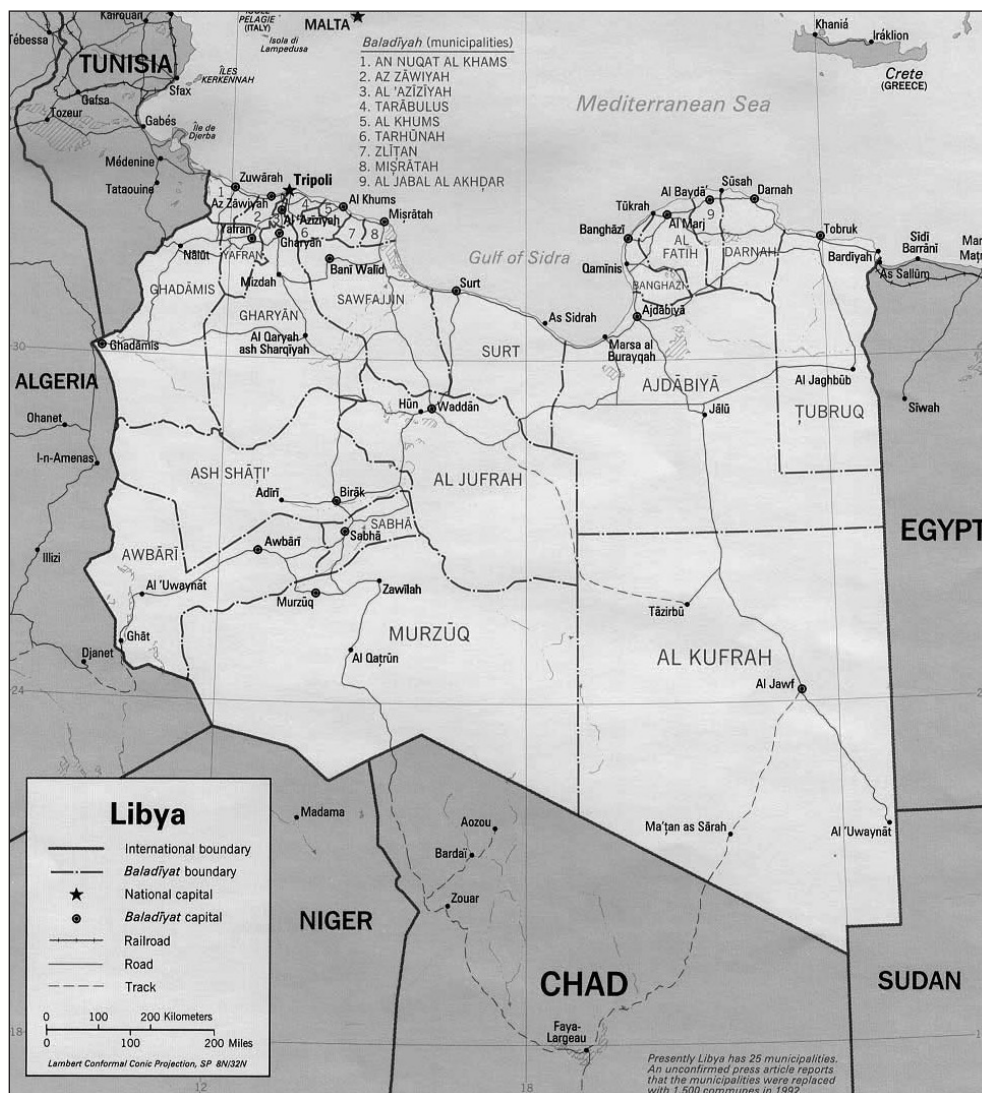
The Observatory  
for the Protection  
of Human Rights Defenders

# LIBYA

## BETWEEN A MULTIFACETED CONFLICT AND THE BREAKDOWN OF THE STATE: CHALLENGES TO THE DEFENCE OF HUMAN RIGHTS

International Fact-Finding Mission Report

February 2015



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# Table of contents

<b>TABLE OF CONTENTS</b>	<b>1</b>
<b>LIST OF ACRONYMS</b>	<b>2</b>
<b>I. INTRODUCTION</b>	<b>3</b>
I.1 Background	3
I.2 Methodology	3
<b>II. EVOLUTION OF THE HUMAN RIGHTS SITUATION AND OF ACTION     BY DEFENDERS IN LIBYA</b>	<b>5</b>
II.1 The Qadhafi years (1969-2011)	5
II.2 Revolution, armed conflict and the difficult transition to democracy (2011-2014)	8
II.3 Breakdown of institutions against a backdrop of civil war (mid-2014 to the present)	14
<b>III. DEFENDERS AT TREMENDOUS RISK ON A DAILY BASIS</b>	<b>17</b>
III. 1. Cases of violation of defenders' rights	17
III.2 Defenders forced into exile	20
III.3 Perspectives	22
<b>IV. CONCLUSION</b>	<b>23</b>
<b>V. RECOMMENDATIONS</b>	<b>24</b>

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## LIST OF ACRONYMS

AI	Amnesty International
AQIM	Al-Qaida in the Islamic Maghreb
CIHRS	Cairo Institute for Human Rights Studies
EMHRN	Euro-Mediterranean Human Rights Network
FIDH	International Federation for Human Rights
GNC	General National Congress (Libya)
HR	House of Representatives in Libya
HRC	United Nations Human Rights Committee
HRW	Human Rights Watch
ICC	International Criminal Court
LFJL	Lawyers for Justice in Libya
LLHR	Libyan League for Human Rights
LNLA	Libyan Network for Legal Aid
NTC	National Transition Council (Libya)
OHCHR	Office of the High Commissioner for Human Rights (United Nations)
OMCT	World Organisation Against Torture
NDPC	National Dialogue Preparatory Commission for Libya
RSF	Reporters without Borders
UNHCR	Office of the United Nations High Commissioner for Refugees
UNSMIL	United Nations Support Mission in Libya

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# I. INTRODUCTION

## I.1 Background

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The aim of this report is, first, to describe the environment in which Libyan human rights defenders carry out their activities, as well as the obstacles and dangers they face, and second, to formulate recommendations for their protection. The report will begin by looking back at the near-impossibility of carrying out human rights activities in Libya under the Qadhafi dictatorship. During his 40-year dictatorship (1969-2011), anyone who spoke out against those in power was reduced to silence by means of an arsenal of repressive legislation and practices that were contrary to international standards on the protection of human rights, particularly freedom of expression, freedom of association and the right to a fair trial. Those rare individuals who mobilized on behalf of political prisoners or denounced abuse at the hands of the regime were imprisoned or killed. Thus, apart from international or regional organizations, only individuals or organizations in exile, for example, the Libyan League for Human Rights (LLHR), have voiced their opinions on the situation of human rights in that country.

The report goes on to analyse the emergence of a Libyan civil society and human rights organizations, beginning with the Revolution of 2011 and the fall of the regime. Despite the difficult security conditions and the need for capacity-building, women and men became involved with the support of non-governmental organizations (NGOs), United Nations agencies and human rights donors, denouncing violations committed by the parties to the conflict but also supporting pro-human rights institutional and legislative reforms.

However, this bold and promising momentum was brought to a major halt with the conflict that broke out in mid-2014 between several armed groups and the collapse of the State. Institutions proved incapable of protecting anyone, including defenders who were victims of harassment, threats or kidnapping. This report illustrates the desperate situation of defenders today through numerous firsthand accounts demonstrating that exile has once again become just about the only way out for those seeking to voice an opinion on the human rights situation in Libya.

## I.2 Methodology

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This report is a departure from previous publications of the Observatory for the Protection of Human Rights Defenders (the Observatory). Ordinarily, reports published by the Observatory are the result of a fact-finding mission on the ground by an international delegation commissioned by OMCT and FIDH, working with partner organizations in the country. In the case of Libya, the Observatory decided not to dispatch a mission on the ground in view of the political and security situation and the risks that such a mission could entail for its participants. Moreover, most of the defenders who were carrying out activities in the country these past few years are in exile today. Thus, contrary to usual practice, the report does not include the opinion and reaction of public authorities or of various parties to the conflict on the situation of defenders in Libya.

This report is therefore based on:

- a. series of discussions and interviews organized with Libyan human rights defenders in exile in Tunisia<sup>1</sup>;

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1 In particular, the round table organized by OMCT on 25 and 26 November 2014 entitled "Defending the defenders: realities and challenges – the protection of human rights defenders in Libya" and the workshop organized on 26 and 27 January 2015 in Tunis by the Office of the United Nations High Commissioner for Human Rights and the United Nations Information Centre in Cairo entitled "Towards a safer climate for human rights defenders in the Arab world".

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- b. analysis of questionnaires completed by a dozen human rights defenders in exile in Tunisia. These questionnaires include not only questions on their living and working conditions as defenders and their perception of the Libyan political, historical and legal situation but also their analysis of forms of harassment as well as factors of vulnerability. They were also invited to express their views on perspectives, needs and solutions that might be sought at the national and international levels.
  - c. the work carried out by OMCT and FIDH with Libyan human rights defenders;
  - d. discussions with international organizations carrying out activities in Libya, in particular, the United Nations Support Mission in Libya (UNSMIL), the European Union delegation in Libya, Reporters without Borders (RSF), the Euro-Mediterranean Human Rights Network (EMHRN) and the Cairo Institute for Human Rights Studies (CIHRS); and
  - e. the compilation of reports and documents published by various Libyan and international human rights institutions and associations<sup>2</sup>.

It must be noted that the Libyan interlocutors often expressed their fear of being identified and asked to remain anonymous. For this reason, the report refers to certain defenders by their first name or initials only. Moreover, anything in these accounts that would have made it possible to identify the defenders has been deleted.

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<sup>2</sup> See *infra*.

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## II. EVOLUTION OF THE HUMAN RIGHTS SITUATION AND OF ACTION BY DEFENDERS IN LIBYA

### II.1 The Qadhafi years (1969-2011)

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Although it remained a dictatorship for 42 years, Libya ratified a considerable number of international human rights conventions:

- International Convention on the Elimination of All Forms of Racial Discrimination<sup>3</sup>;
- International Covenant on Economic, Social and Cultural Rights<sup>4</sup>;
- International Covenant on Civil and Political Rights<sup>5</sup> and its Optional Protocol<sup>6</sup>;
- African Charter on Human and Peoples' Rights<sup>7</sup>;
- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity<sup>8</sup>;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>9</sup>;
- Convention on the Elimination of All Forms of Discrimination against Women<sup>10</sup>;
- Convention on the Rights of the Child<sup>11</sup> and its Optional Protocols<sup>12</sup>;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>13</sup>;
- Arab Charter on Human Rights<sup>14</sup>.

Despite these ratifications, the Qadhafi regime ruled the country with an iron hand, prohibiting any expression of opinion that was at variance with official rhetoric and setting up exceptional or parallel courts in order to keep justice under his control.

According to the Office of the United Nations High Commissioner for Human Rights, "a parallel judicial system was used as a tool of political repression, most often through the State security courts, where the rights of the accused were routinely violated, even in instances where these rights were guaranteed in Libyan law. In addition, judges, prosecutors, State lawyers and members of the legal department in the Government constituted one single corps and the practice of appointing judges to other non-judicial legal positions within the corps was often used by the regime to punish or intimidate judges known for their integrity and independence"<sup>15</sup>. The Penal Code in force under Qadhafi was also a key tool of repression<sup>16</sup>, in particular, its provisions concerning police custody, freedom of opinion, freedom of expression and freedom of association. For example, the Penal Code and the Code of Criminal Procedure provided for a pre-trial detention period of up to 90 days or longer<sup>17</sup>, depending on the crime, as well as corporal punishment, and did not criminalize genocide, war crimes or crimes against

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3 Ratified on 3 July 1968.

4 Ratified on 15 May 1970.

5 Ratified on 15 May 1970.

6 Ratified on 16 May 1989.

7 Ratified on 19 July 1986.

8 Ratified on 16 May 1989.

9 Ratified on 16 March 1989.

10 Ratified on 16 May 1989.

11 Ratified on 15 April 1993.

12 Ratified on 18 June and 29 October 2004.

13 Ratified on 18 May 2004.

14 Ratified on 7 August 2006. Libya also signed the Convention on the Rights of Persons with Disabilities, but has not yet deposited its instrument of ratification.

15 See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 27.

16 See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 63.

17 See articles 176 and 177 of Law No. 3, promulgated in 2003.



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humanity. Moreover, the death penalty was prescribed for a broad range of offences<sup>18</sup> and not only the “most serious crimes” as defined by international human rights standards<sup>19</sup>.

Under the Qadhafi regime, a number of committees examined the human rights situation in Libya and were critical of its failure to comply with its human rights obligations<sup>20</sup>.

For example, the United Nations Human Rights Committee, in considering the fourth periodic report of Libya<sup>21</sup>, reported numerous human rights violations committed by the regime. It emphasized the following violations in particular: the broad application of capital punishment and of corporal punishment such as amputation and flogging prescribed by law; numerous enforced disappearances and extrajudicial executions; the systematic use of torture and other cruel, inhuman or degrading treatment or punishment in detention facilities and the impunity surrounding them; the excessive length of pre-trial detention; failure to reform the Penal Code; numerous restrictions on freedom of expression, in law and in practice, in particular on peaceful opposition to, or criticism of, the regime; and discrimination against ethnic minorities.

Moreover, after analysing individual communications from 2007 to 2010, the same Committee concluded that the Libyan State had violated articles 2 and 7 of the International Covenant on Civil and Political Rights in the case of the disappearance and death of Mr. Abu Bakar El Hassy<sup>22</sup> and Mr. Bashasha<sup>23</sup>, and of article 9 in the case of the disappearance, arbitrary detention and torture of Ms. Aboussedra<sup>24</sup>. In particular, the Committee requested the Libyan Government to conduct thorough investigations and to bring to justice those responsible for the violations<sup>25</sup>.

According to the defenders interviewed, under Qadhafi, human rights issues were handled by entities under the regime’s control, for example, the Libyan Human Rights Commission as well as associations for the defence of women’s and children’s rights<sup>26</sup>. Finally, during this period, special procedures of the United Nations Human Rights Council were denied access to the country<sup>27</sup>.

Defenders did point out, however, that in the final years of his regime – between 2001 and 2006 – Qadhafi had allowed his son, Seif al-Islam, to free hundreds of political prisoners,

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18 The main crimes punishable by death were: homicide, terrorism, drug trafficking, treason, espionage, military offences and the formation of associations. The death penalty was systematically imposed for membership in groups that opposed the principles of the 1969 revolution, for high treason and for violent subversion against the State. Premeditated murder and crimes against the State were also capital offences in Libya. See: <http://www.abolition.fr/fr/pays/libye> (available in French only). Moreover, the United Nations High Commissioner for Human Rights, in her report of 13 January 2014 (United Nations document A/HRC/25/42), called on Libya to establish a moratorium on the use of the death penalty, aiming to abolish it, and pending abolition, to ensure full compliance with the restrictions prescribed in particular in article 6 of the International Covenant on Civil and Political Rights, including by limiting the use of the death penalty only to the most serious crimes.

19 See United Nations Human Rights Committee, *Concluding observations on the Libyan Arab Jamahiriya*, United Nations document CCPR/C/LBY/CO/4, 15 November 2007, para. 13.

20 See, for example, United Nations document A/54/44 (26 June, 1999), United Nations document CRC/C/15/Add.209 (4 July 2003), United Nations document CERD/C/64/CO/4 (10 May 2004), United Nations document E/C.12/LYB/CO/2 (25 January 2006), United Nations document CCPR/C/LBY/CO/4 (15 November 2007), United Nations document CEDAW/C/LBY/CO/5 (6 February 2009).

21 See United Nations Human Rights Committee, *Concluding observations on the Libyan Arab Jamahiriya*, United Nations document CCPR/C/LBY/CO/4, 15 November 2007.

22 See Human Rights Committee of the United Nations, Communication No. 1422/2005, *Edriss El Hassy and Abu Bakar El Hassy v. the Libyan Arab Jamahiriya*, (Views adopted on 30 October 2007, ninety-first session). See also OMCT Statement of 27 November 2007.

23 See Human Rights Committee of the United Nations, Communication No. 1776/2008, *Ali Bashasha and Hussein Bashasha v. the Libyan Arab Jamahiriya*, (Views adopted on 20 October 2010, 100th session).

24 See Human Rights Committee of the United Nations, Communication No. 1751/2008, *Aboussedra et al. v. the Libyan Arab Jamahiriya*, (Views adopted on 25 October 2010, 100th session).

25 See OMCT press release, 4 November 2010, available on <http://www.omct.org/assistance-to-victims/statements/libya/2010/11/d21008/>.

26 The “Qadhafi Foundation for Development” and a number of so-called charitable organizations were administered by Seif al-Islam Qadhafi, the son of Colonel Qadhafi.

27 See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 9.



including prisoners of opinion<sup>28</sup>. The regime also seemed to be slightly more open to international organizations. Thus, after 15 years of being denied entry, an Amnesty International delegation was finally authorized to visit the country in February 2004 to meet with government representatives and was given access to certain detention facilities<sup>29</sup>. However, the same treatment was not accorded to a Human Rights Watch research team, which had to cancel a scheduled mission after its members were denied visas<sup>30</sup>. Beginning in 2009, most international organizations had to cope with fresh restrictions and were not able to travel to Benghazi to meet with families of the victims of enforced disappearances.

Even if the actions by Qadhafi's son were merely a public relations tactic to mask the reality and give the appearance that a reform movement was under way, they created an environment that was sufficiently open to be conducive to exposing the scale of violations committed under the dictatorship. For example, in 2001-2002, the Libyan authorities began speaking publicly about the massacre of prisoners, mostly political prisoners, by security services during the night of 28 to 29 June 1996 at the Abu Salim prison<sup>31</sup>. This suppression of a prisoners' protest movement resulted in more than 1,200 deaths in a single day<sup>32</sup>. The occurrence of the massacre had been officially communicated by Qadhafi himself to the families of the victims in 2004. Libyans generally consider the Abu Salim massacre to be the spark that ignited the Libyan revolution, as the February 2011 uprising began following a demonstration in Benghazi by the families of the Abu Salim victims, who were protesting against the arrest of their attorney, **Fethi Terbel**<sup>33</sup>.

All the defenders interviewed were adamant about one thing: under the Qadhafi regime, there were no independent human rights organizations.

Only organizations in exile were in a position to denounce violations committed under the dictatorship. Among them were the Association for the Prisoners of Opinion, which, (thanks to the support of OMCT and Human Rights Solidarity), contributed to the submission of communications to the United Nations Human Rights Committee on acts of torture and enforced disappearances<sup>34</sup>. The Libyan League for Human Rights, a member organization of FIDH, in exile in Germany at the time, also denounced human rights violations internationally.

While independent human rights organizations were not authorized to carry out their activities in Libya, certain individuals did attempt to take action to promote or protect human rights. And they felt the full effects of retaliation by the regime.

Dr. **Idris Bufayed** and 10 other Libyan human rights defenders, including, in particular **Al Mahdi Humaid, Al Sadiq, Salih Humaid, Faraj Humaid, Jamal Al Haji and Ahmed Yusif Al Ubaidi**, were arrested between 16 and 17 February 2007 and arbitrarily detained for more than a year, awaiting trial<sup>35</sup>. Finally, on 10 June 2008, they were sentenced to prison terms ranging from 6 to 25 years for planning a peaceful demonstration that was to be held on 17 February 2007 to commemorate the first anniversary of the Benghazi demonstration at which a dozen protesters had been killed<sup>36</sup>. Along with other charges, and after meeting

28 See United Nations Human Rights Committee, *Concluding observations on the Libyan Arab Jamahiriya*, United Nations document CCPR/C/LBY/CO/4, 15 November 2007, para. 23.

29 See <http://www.amnesty.org.uk/press-releases/libya-new-report-human-rights-climate-fear-coincides-first-gaddafi-visit-europe-15>.

30 See <http://www.hrw.org/news/2004/12/05/libya-blocks-visit-rights-group>.

31 In June 2013, the General National Congress ordered the establishment of a Commission of Inquiry on the murders committed at the Abu Salim prison in 1996 (Law No. 31 of 2013). However, this law was never implemented.

32 See Human Rights Watch, *News Libya: June 1996 killings at Abu Salim prison*, 27 June 2006. Amnesty International called for an independent investigation into the massacre (See Amnesty International, *News: Libya: Investigation needed into prison deaths*, 9 October 2006).

33 See LFJL press release, 28/29 June 2012.

34 See OMCT press release, 4 November 2010, available on <http://www.omct.org/statements/libya/2010/11/d21008/> See also Communication No. 1295/2004, *El Alawni v. Libya*, submitted by OMCT and Human Rights Solidarity to the Human Rights Committee of the United Nations on grounds of torture, enforced disappearance and arbitrary execution. The Views adopted on 11 July 2007, at the ninetieth session, found Libya guilty of all those violations of human rights.

35 See OMCT urgent appeals LBY 031207 and LBY 031207.1-3, 3 and 6 December 2007, 9 April 2008, 15 May 2008.

36 See OMCT urgent appeal LBY 031207.4, 16 June 2008.

with foreign officials, they were accused, and convicted, of planning a coup d'état against the government. A few days before his arrest, Jamal Al Haji had published an article calling for respect for liberty, democracy and the rule of law, and for a constitutional State in Libya. Although he is of Danish nationality, the Danish consular authorities were not permitted to visit him, in clear violation of the 1963 Vienna Convention on Consular Relations<sup>37</sup>. However, Dr. Bufayed was ultimately released in 2008, and on 1 December, he was authorized to go to Switzerland for appropriate medical treatment<sup>38</sup>. Eight other persons from among those who were arrested with him were released at the same time<sup>39</sup>.

Another noteworthy case is that of **Fathi El-Jahmi**. In 2002, he was arrested and sentenced to five years in prison for human rights and pro-democracy activities. He was imprisoned in October 2002 in inhuman conditions, with no access to medical treatment despite serious health problems. Released in 2004 after a United States senator intervened, he publicly denounced the inhuman conditions and torture he had suffered in prison, was kidnapped by members of security groups, and briefly disappeared before his detention was confirmed<sup>40</sup>. On 21 May 2009, he was found dead, soon after being urgently evacuated by Libyan authorities stationed in Jordan because of his deteriorating health. On 29 May 2009, the Libyan League for Human Rights (LLHR), the Observatory for the Protection of Human Rights Defenders and the Euro-Mediterranean Human Rights Network (EMHRN) condemned the death of Mr. Fathi El-Jahmi in a joint letter addressed to the United Nations High Commissioner for Human Rights and the corresponding special rapporteurs<sup>41</sup>.

## II.2 Revolution, armed conflict and the difficult transition to democracy (2011-2014)

The Qadhafi regime managed to hold up for 24 years until the popular uprising that erupted in Benghazi in February 2011, backed up by an international military intervention as from 19 March 2011. This uprising culminated in the fall of Tripoli on 23 August 2011 and finally Qadhafi's capture and summary execution in October 2011. All the armed clashes tied to the Revolution, the suppression of the protest movement and the ensuing conflict between the army loyal to Qadhafi and armed groups supported by an international coalition were punctuated by **serious violations of human rights and international humanitarian law, some of which could be characterized as war crimes and crimes against humanity**<sup>42</sup>.

Defenders say that abuse and violations did not end with the fall of the former regime, quite the contrary. Indeed, the new institutions issued a statute for the benefit of numerous armed non-State groups claiming allegiance to various tribes, towns, warlords or religious persuasions, legalizing their existence as such and even funding them. These groups went on to replace State institutions by infiltrating them and rendering them dysfunctional.

**During the armed conflict, populations were displaced** and forced into mass exodus<sup>43</sup>. Makeshift camps were set up in a number of places<sup>44</sup>. **Armed groups took possession of**

<sup>37</sup> See press release of Front Line Defenders, 17 June 2008, <https://www.frontlinedefenders.org/node/1471>.

<sup>38</sup> See OMCT urgent appeal, LBY 031207.5, 16 October 2008, <http://www.omct.org/urgent-campaigns/urgent-interventions/libyan-arab-jamahiriya/2008/10/d19587/>.

<sup>39</sup> See OMCT urgent appeal LBY 031027.6, 22 December 2008, <http://www.omct.org/urgnet-campaigns/urgent-interventions/libyan-arab-jamahiriya/2008/12/d19720/>.

<sup>40</sup> See open letter to Muammar Qadhafi from the Observatory, 20 April 2004.

<sup>41</sup> See joint press release by the Libyan League for Human Rights, the Observatory and the Euro-Mediterranean Human Rights Network (EMHRN), 3 June 2009.

<sup>42</sup> See Human Rights Council, *Report of the International Commission of Inquiry on Libya*, United Nations document A/HRC/19/68, 28 January 2014.

<sup>43</sup> UNHCR estimates that after the 2011 conflict, nearly 60,000 persons belonging to various groups were displaced. (See fact sheet on Libya, <http://www.unhcr.org/4c907ffe9.html>).

<sup>44</sup> These camps were initially constructed to shelter the people of Tawergha, a town of nearly 30,000 inhabitants that was completely destroyed by the insurgents. However, little by little, and further to increasingly violent tribal, ethnic and regional conflicts, other populations, including, in particular, the Warshefanas, were also displaced towards the camps and towards other towns. All of these camps are in extreme disrepair and far from adequate to shield their occupants from very frequent attacks and raids. (See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 17).

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**prisons or established their own private detention centres.** The number of weapons in circulation in Libya continued to multiply. Corruption grew worse. The Ministry of Defence, the Ministry of the Interior and the Ministry of Justice were weakened and the various State structures and apparatuses under reconstruction were decaying. **Moreover, various armed groups were absorbed into the army and security forces with no prior training.**

The report of the United Nations International Commission of Inquiry, urgently dispatched to Libya to investigate respect for human rights and international law during the armed conflict<sup>45</sup>, describes<sup>46</sup> numerous violations committed by pro-Qadhafi armed forces and revolutionary forces alike. It concludes that international crimes, in particular, crimes against humanity and war crimes, were committed by Qadhafi-controlled armies, including killings, enforced disappearances, and acts of torture and rape in a context of systematic attacks against the civilian population<sup>47</sup>. On the other side, the revolutionary forces also committed serious human rights violations and war crimes, including killings, acts of torture, acts of pillage and indiscriminate attacks, especially against certain Libyan ethnic minority communities. The Commission also reported the use of child soldiers during the conflict. It should be recalled that international armed intervention also resulted in civilian casualties, especially during attacks against non-military targets<sup>48</sup>.

In the wake of these events, the United Nations Security Council established the United Nations Support Mission in Libya (UNISMIL) with a mandate to “promote the rule of law and monitor and protect human rights, in accordance with Libya’s international legal obligations”<sup>49</sup>.

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After the downfall of the Qadhafi regime, many Libyans (jurists, lawyers or magistrates, journalists, teachers, doctors, artists, etc.) engaged in actions in defence of human rights. This was reinforced by the presence and support of international non-governmental organizations (NGOs) (such as Amnesty International, OMCT, FIDH, the Red Cross, the Euro-Mediterranean Foundation of Support to Human Rights Defenders), which provided material and financial assistance, as well as training, to new NGOs and defenders. Thanks to this international support, civil society associations and networks were considerably strengthened. Thus, for example, OMCT<sup>50</sup> supported numerous associations, including the Libyan Group for Monitoring Human Rights Violations, the Al-Rahma Association, the Al-Sabeel Foundation, the Libyan Observatory for Human Rights, the Association of Human Rights Victims, the Tripoli Bar Association and the Libyan Organization for Legal Support<sup>51</sup>.

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45 See Resolution of the Human Rights Council, *Resolution S-15/II*, 25 February 2011.

46 See Human Rights Council, *Report of the International Commission of Inquiry on Libya*, United Nations document A/HRC/19/68, 28 January 2014.

47 In particular, the cases of Saif al-Islam Qadhafi and Abdullah al-Senussi were referred by the Security Council of the United Nations to the Prosecutor of the International Criminal Court in 2011. In 2014, the first case was ruled admissible while the second was ruled inadmissible, invoking the principle of complementarity with the national judicial system. However, with the escalation of violence in Libya in recent months, many judges and magistrates have been threatened, undermining the proper functioning of the justice system. The Prosecutor is in the process of deciding whether to call for a review of the judges’ decision of inadmissibility in the case of Abdullah al-Senussi (See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, paras. 52 and 53).

48 See Human Rights Council, *Report of the International Commission of Inquiry on Libya*, United Nations document A/HRC/19/68, 28 January 2014.

49 See Security Council of the United Nations, *Resolution S/RES/2095(2013)*, 14 March 2013. However, with the escalation of violence in the second half of 2014, Mission staff was relocated outside Libya beginning in July 2014. (See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, para. 8.)

50 OMCT was in Libya from May 2012 to July 2014, when the deteriorating security situation forced it to close its office in Tripoli.

51 For a more detailed, if not exhaustive, list, see the box below.

*Libyan human rights organizations established after the 2011 Revolution (non-exhaustive list)<sup>52</sup>:*

**1. Al-Sabeel Foundation**

- Established: August 2011 (4 employees and 5 volunteers)
- Principal mission: monitoring prison conditions and provision of legal aid to victims of torture and enforced disappearances

**2. Al-Rahma Association**

- Established November 2011 by about 30 volunteers
- Headquarters: Tripoli
- Principal mission: to provide material, legal and medical assistance to displaced persons
- Status: Its President and some of its members had to flee Libya following assassination threats.

**3. Libyan Group for Monitoring Human Rights Violations**

- Established: December 2011 by 19 lawyer volunteers
- Principal mission: to document human rights violations
- Status: Dissolved in May 2013.

**4. Libyan Group for the Investigation of Human Rights Violations**

- Established: in 2012 by young lawyers
- Headquarters: Tripoli
- Principal mission: to document human rights violations committed during and after the revolution

**5. Libyan Magistrates Organization**

- Established: 16 April 2012
- Headquarters: Benghazi
- Principal purpose: to defend the independence of the justice system and the rights of judges and prosecutors

**6. Tawerghan Youth Association**

- Established: by Tawerghan youth
- Principal mission: to build the capacity of Tawerghan youth and tell their story

**7. Sheikh Tahar El-Zawiya Foundation**

- Headquarters: Zawiya
- Principal mission: to help and provide assistance to regions in need. To encourage access to education and cultural activities.

**8. "The Observer" Organization**

- Principal mission: support to political prisoners

**9. Libyan Network for Legal Aid (LNLA)**

- Established: in Sabha (south) and currently operating out of Tripoli (west)
- Status: Most of its members had to leave Libya.

**10. Association of Human Rights Victims**

- Established: 2013
- Headquarters: Benghazi
- Principal mission: to provide necessary support to victims of violations of human rights and civil liberties committed by government authorities

**11. Libyan Network for the Protection of Human Rights Defenders**

- Established: 2014

<sup>52</sup> It was impossible to draw up a more complete list. Indeed, even the units of the Libyan Ministry of Culture seemed unable to provide a list of declared and authorized associations. The transliteration of the names of the associations from Arabic into English was done by the editors of this report and could not be confirmed by a competent authority.

- Headquarters: Tripoli
- Principal mission: to protect human rights defenders, support their action, and put the various human rights organizations in contact with each other

## 12. Libyan Organization for Legal Support

- Established: 2014
- Headquarters: Tripoli
- Principal mission: legal support to victims of human rights violations in general and torture in particular

One thing mentioned during these interviews was that the development of a Libyan civil society and the initiation of actions by non-governmental organizations were possible only because there was no strong power capable of controlling the situation and institutions were very weak. Even if that claim seems exaggerated, it shows the state of mind of the defenders interviewed and their perception of the events<sup>53</sup>.

The new NGOs and defenders initially focused their efforts on helping the victims of the uprising and providing them access to medical treatment, food and justice. Supported by their international counterparts, these associations<sup>54</sup> took a particular interest in protecting files, documenting cases of torture and ill-treatment and improving, if only slightly, the lives of the displaced populations in the makeshift camps during the armed conflict, particularly near Tripoli (El Fellah and Ganzour) and Benghazi (Gar Younis and Heless). Special attention was also focused on some 8,000 persons being held, sometimes secretly, in various detention centres, some of which escaped any oversight whatsoever by the State<sup>55</sup>.

The NGOs and defenders also spearheaded a major plea for the National Transition Council (NTC) (established in February 2011<sup>56</sup>), and later the General National Congress (GNC) (elected on 7 July 2012) to enact legislative reforms and adopt new laws based on respect for human rights, paving the way for a genuine democratic transition.

Thus, in April 2013, special courts and tribunals were eliminated and prosecution of civilians in military courts was prohibited<sup>57</sup>.

On 3 August 2011, the NTC adopted a **Constitutional Declaration**<sup>58</sup>. This crucial step marked the integration of human rights at the highest level in the hierarchy of norms. Indeed, this text incorporates references to the cultural and linguistic rights of minorities (article 1); civil and political rights (article 6); and respect for international instruments on the protection of human rights (article 7), economic and social rights (article 8) and the right of asylum (article 10).

In December 2011, the NTC established the **National Council for Civil Liberties and Human Rights**, which became an independent Libyan national institution tasked with promoting human rights and documenting human rights violations. Its mandate was established in

53 On the other hand, this situation of instability and violence prevented visits by the United Nations Working Group on Enforced or Involuntary Disappearances and the Working Group on the Use of Mercenaries scheduled for May 2013, which were postponed for security reasons (See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 9).

54 See the above (non-exhaustive) list of associations in defence of human rights established after the February 2011 uprising.

55 A joint report of the United Nations High Commissioner for Human Rights and UNSMIL dated October 2013 "sets out how prolonged detention and interrogation at the hands of armed brigades without experience or training in the handling of detainees, as well as the lack of effective judicial oversight or accountability, has created an environment conducive to torture or other ill-treatment". (See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 22).

56 The National Transition Council (NTC) was the political authority for transition and opposition to the Qadhafi regime, established during the February 2011 Revolution to coordinate the insurgents. The NTC was dissolved on 7 July 2012 when the General National Congress (GNC) was elected.

57 See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 29.

58 See Constitutional Declaration of Libya, 3 August 2011, text available on [http://www.wipo.int/wipolex/fr/text.jsp?file\\_id=246953](http://www.wipo.int/wipolex/fr/text.jsp?file_id=246953) (in English only).



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conformity with the Paris Principles<sup>59</sup>. Unfortunately, due to a lack of allocated staffing and financial resources, the Council could only begin operating in January 2013<sup>60</sup>. A **Human Rights Committee** was also established within the GNC, an initiative hailed by the United Nations High Commissioner for Human Rights<sup>61</sup>.

On 9 April 2013, the GNC adopted a **law criminalizing torture, enforced disappearances and discrimination**. This law imposes a minimum prison term of five years for subjecting a prisoner to physical or mental suffering<sup>62</sup>.

As for progress in transitional justice, a national consultation open to civil society<sup>63</sup> was organized and a **law on transitional justice**<sup>64</sup> was finally voted on in December 2013, with the support of UNSMIL<sup>65</sup>. Unfortunately, this law, which set a deadline of 2 April 2014 for adjudicating all cases stemming from the post-revolution armed conflict, has not yet been set up and victims have not yet seen justice done.

Moreover, with a view to guaranteeing respect for the Amazigh, Tabu and Tuareg communities, in July 2013, the GNC adopted **Law No. 18**, which recognizes and protects languages as the linguistic and cultural heritage of Libyan society. Rules on distribution of seats to ensure egalitarian representation of the various ethnic and regional components of Libya were also incorporated into the **electoral law** adopted by the Congress that same month. That law provided for equal political representation of the three historic regions of Libya (Tripolitania, Fezzan and Cyrenaica) and the assignment of two seats to each of the communities.

Finally, on 19 February 2014, the Libyan Government adopted a **decree granting war-victim status to female victims of rape and violence**<sup>66</sup> during the eight months of the 2011 Revolution leading up to the overthrow of Qadhafi. In particular, the decree guarantees these Libyan women medical and financial assistance. It is a very important and positive piece of legislation for the country, as affirmed by Souhayr Belhassen, Honorary President of FIDH. She stressed that this decree had been awaited by thousands of women in Libya and expressed the hope that it would be an inspiration to other countries, calling it a "world premiere". FIDH had also strongly urged the Libyan Parliament to adopt this draft law<sup>67</sup>.

Also worth noting is the United Nations Human Rights Council finding, in early 2014, that while the Libyan Government had made reform and reconstruction of the **Ministry of the Interior** a priority, the effective decision to reform and build this institution had still not been implemented in practice<sup>68</sup>.

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59 See National Council for Civil Liberties and Human Rights, Strategic Plan of the National Council for Civil Liberties and Human Rights, 19 December 2014, available on [http://9bri.com/wp-content/uploads/2014/01/20141219-NCCLHR-Strategic-Plan-English\\_FINAL.pdf](http://9bri.com/wp-content/uploads/2014/01/20141219-NCCLHR-Strategic-Plan-English_FINAL.pdf) (available in English and in Arabic only). Moreover, the UNSMIL Human Rights, Transitional Justice and Rule of Law Division has provided the Council technical support to facilitate its conformity with the Paris Principles. (See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 60).

60 In October 2014, it shut down under pressure from armed groups.

61 See Human Rights Council Resolution 25/37 on Technical assistance for Libya in the field of human rights, United Nations document A/HRC/RES/25/37, 15 April 2014, para. 4.

62 See joint press release by LFJL, DIGNITY, REDRESS and OMCT, 25 April 2013, <http://www.omct.org/statements/libya/2013/04/d22237/>.

63 See joint press release by the Libyan National Council for Human Rights and OMCT, 6 November 2013, <http://www.omct.org/fr/events/libya/2013/11/d22426/>.

64 Law 29/2013.

65 See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 42.

66 This was also accomplished with the support of the Women's Empowerment Section of UNSMIL. (See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014, para. 12).

67 See joint press release by FIDH and the Observatory on Gender Crisis, 19 February 2014, <https://www.fidh.org/La-Federation-internationale-des-ligues-des-droits-de-l-homme/maghreb-moyen-orient/libye/14717-la-fidh-appelle-le-parlement-libyen-a-adopter-sans-delai-le-projet-de-loi>. (Available in French only.)

68 See Human Rights Council, Technical assistance for Libya in the field of human rights, Report of the United Nations High Commissioner for Human Rights, United Nations document A/HRC/25/42, 13 January 2014.

While the adoption of the aforementioned laws represented undeniable progress towards building a State governed by the rule of law, very little in the way of concrete results has been achieved with respect to the democratic transition of the Libyan State and its institutions, rendering the situation of human rights defenders precarious.

The situation of insecurity in which defenders find themselves is aggravated in particular by the **quasi-total impunity** enjoyed by the authors of human rights violations. In this connection, it should first be stressed that the promulgation of a **law granting amnesty**<sup>69</sup> to all those who helped bring about the Revolution (regardless of the acts or crimes they committed) clearly adds to the country's prevailing climate of impunity.

The **failure to revise the Penal Code**, especially as concerns corporal punishment and the duration of pre-trial detention, has had a similar effect. The failure to apply (up until the end of 2013) **Law 29/2013 on transitional justice** is equally telling in respect of this situation of widespread impunity.

The still considerable limitations on fundamental freedoms are also a source of insecurity for defenders. For example, **Law No. 65/2012** on the right of peaceful assembly, adopted by the GNC, places restrictions on that right, in violation of international standards<sup>70</sup>.

Another obstacle to activity by defenders: the proliferation of non-State armed groups perpetrating acts of violence against civilians, particularly human rights defenders' groups and associations.

The pressure on defenders that began in the weeks following the ouster of the former regime has, little by little, turned into very serious threats, especially since 2013. In the last three months of 2012, acts of violence began to be specifically directed at defenders. The number of attacks swelled in 2013 and the situation has been growing worse ever since. Here are some examples:

**Abdallah Mismari**, a lawyer, was killed when a bullet struck him in the chest as he was leaving a mosque in Benghazi. His murder is considered the first political assassination in post-Qadhafi Libya. Abdullah El-Mesmari was at the forefront of the uprising. He became known for taking positions against human rights violations committed by Islamist groups, in particular extrajudicial executions. After the assassination of El-Mesmari, HRW denounced inaction by the Libyan Government, evoking the failure to conduct an exhaustive inquiry and make arrests. This murder was followed by a wave of political assassinations in the eastern part of the country (Cyrenaica, Benghazi and Derna)<sup>71</sup>.

In early 2013, **Hanene Al-Nouisri**, an attorney and human rights defender, was beaten up outside a courthouse by unknown individuals. In June 2013, she was kidnapped and again beaten up by other unknown individuals, who also threatened to rape her. According to the information obtained, these acts of harassment came further to her activities in defence of human rights. Other threats have also been directed at Ms. Hanene Al-Nouisri's father, **Mustapha Al-Nouisri**, who is a children's rights defender.

In 2013, three magistrates, **Najib Huidi**, **Mourad Al-Raubi** and **Jomaa Al-Jazuri**, as well as freelance journalist **Mohammed Al-Hashem**, were also kidnapped in retaliation for their involvement in promoting the right to a fair trial and freedom of expression and their professional activities to that end. Finally, in August 2013, **Izzeddine Kukade**, a "Free Libya" television announcer who promoted human rights, was shot dead by unknown individuals.

69 See Law No. 38-2012 of 2 May 2012 granting amnesty to persons who committed crimes if their acts were aimed at "promoting or protecting the revolution against Qadhafi".

70 See LFJL press release, 3 December 2012. See also the analysis of the law by EMHRN, Freedom of assembly – legislative framework: Libya, 2013, available on [http://euromedrights.org/wp-content/uploads/2015/03/FOA2013\\_EN\\_FULL-REPORT\\_WEB\\_26NOV2013.pdf](http://euromedrights.org/wp-content/uploads/2015/03/FOA2013_EN_FULL-REPORT_WEB_26NOV2013.pdf), pp. 81-91.

71 HRW press release, 8 August 2013 (<http://www.hrw.org/news/2013/08/08/libya-wave-political-assassinations>).



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## II.3 Breakdown of institutions against a backdrop of civil war (mid-2014 to the present)

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Ever since certain factions refused to accept the June 2014 legislative election results and the establishment of the new Parliament – called the House of Representatives – an institutional rift has divided the country. Indeed, there are now two Parliaments: one elected Parliament recognized by the international community and known as the Tobruk Parliament<sup>72</sup>, and another formed by a minority of former GNC members, for the most part representing several Islamist parties which are still based in Tripoli<sup>73</sup>. There are also two governments: the first is recognized by the international community and, following the outbreak of violence in the capital, was transferred to al-Bayda; the second is loyal to the former GNC and based in Tripoli<sup>74</sup> with its government bodies. However, the regional divisions are not so clear-cut; many regions of the State have ties to Islamist groups and certain regions in the western part of the country are loyal to the al-Bayda government. In addition, other regions are self-governing and have no relations with either of those two governments.

This political divide is accompanied by conflicts between various rival armed factions. On one hand, in the territory of Benghazi, a coalition formed by a number of army units, ex-revolutionary groups and other armed groups called “Libyan National Army”<sup>75</sup> is carrying out “Operation Karama”<sup>76</sup> against an alliance of fundamentalist Islamist forces called “the Benghazi Revolutionaries Shura Council”, composed of “Ansar al-Shari’a”, an Al-Qaida<sup>77</sup>-affiliated group, and other armed groups. On the other hand, Tripoli is witnessing clashes between armed groups affiliated with “Operation Fajr Libya”<sup>78</sup> and other rival armed groups such as Warshefana and Zintan<sup>79</sup>.

In this context, violence has plunged the country into a fresh and intense phase of chaos. **State institutions have collapsed and political, economic, social and sanitary conditions have deteriorated considerably.** “Fajr Libya”-affiliated groups gained access to public archives, particularly those in the Ministry of Defence, the Ministry of the Interior and the Ministry of Justice. Many files were transferred to Misrata<sup>80</sup>. The loyalist army, for its part, in its operations to guarantee security in Benghazi, has contributed to the escalation of violence and widespread chaos<sup>81</sup>. The situation is currently so precarious and unstable that Libya’s unity is at stake and there is a genuine risk of its collapse as a State.

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72 According to the Constitutional Declaration, it was established in Benghazi, but for security reasons, since 4 August 2014, it has always convened in Tobruk.

73 Normally, the GNC should have ceased to exist on 5 July 2014 with the inauguration of the new Parliament following the 23 June 2014 legislative elections, which were deemed to be transparent by the international community. However losing Islamist factions and their representatives in the GNC refused to recognize the new Parliament. Those factions subsequently took control of Tripoli and resorted to force pretty much all over the country, particularly in Benghazi, in an attempt to take control of more territory.

74 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para. 6.

75 In August 2014, this faction was incorporated into the Libyan Army loyal to the Tobruk Parliament (see Security Council of the United Nations, *Letter dated 23 February 2015 from the Panel of Experts established pursuant to resolution 1973(2011) addressed to the President of the Security Council*, United Nations document S/2015/128, 23 February 2015).

76 Operation Karama (“Operation Dignity”) was launched in May 2014, in Benghazi, by General Khalifa Haftar (See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para. 3.).

77 This group was listed by the United Nations Security Council sanctions committee as a terrorist group (see Security Council of the United Nations, *Letter dated 23 February 2015 from the Panel of Experts established pursuant to resolution 1973(2011) addressed to the President of the Security Council*, United Nations document S/2015/128, 23 February 2015).

78 Fajr Libya, (“Operation Libya Dawn”), is an alliance of Islamist armed groups, mainly from Misrata but also from other towns, including Al-Zawiya and Gheryan, and Tripoli-based armed groups (see Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para. 4).

79 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015.

80 See report of the Office of the United Nations High Commissioner for Human Rights and UNSMIL, *Update on violations of international human rights and humanitarian law during the ongoing violence in Libya*, 23 December 2014 (available in English only).

81 See Security Council of the United Nations, *Letter dated 23 February 2015 from the Panel of Experts established pursuant to resolution 1973(2011) addressed to the President of the Security Council*, United Nations document S/2015/128, 23 February 2015, paras. 39 and 40.

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In this critical context, the **National Council for Civil Liberties and Human Rights**, one of the most important post-revolutionary achievements, **slowly ceased to function**. After receiving threatening phone calls from persons claiming to be affiliated with the “Fajr Libya” armed group, staff members left the Council in October 2014, and on 9 November 2014, the headquarters was locked by armed men in military uniform who publicly proclaimed the shutdown of the Council and threatened to arrest members and employees who attempted to reopen it. A number of them were therefore forced into exile<sup>82</sup>.

Following the escalation of violence in July 2014, **most international institutions and organizations were forced to leave the country**, and some had to relocate their international staff outside the country, in particular, the European Union<sup>83</sup> and the United Nations Support Mission in Libya (UNSMIL), which had been in Libya since 2011, to pursue their activities in a safer environment<sup>84</sup>.

Furthermore, on 27 August 2014, in view of the gravity of the situation in the country, the United Nations Security Council adopted a resolution<sup>85</sup> calling for the application of sanctions against individuals who violate international humanitarian and human rights law in Libya.

The human rights situation throughout the country has steadily deteriorated<sup>86</sup>. It is characterized not only by **violations of international human rights law** (cases of arbitrary detention, kidnapping, summary executions, torture and acts of violence against journalists, officials, political figures and human rights defenders), but also by **violations of international humanitarian law** (indiscriminate attacks in areas with a high population density, use of unconventional weapons, etc.) with total impunity. These violations have occurred since the takeover of Tripoli and its civilian airport by Islamist militias on 24 August 2014.

The United Nations High Commissioner for Human Rights explicitly stated, in his last report<sup>87</sup>, that **Libya was undergoing the most serious crisis situation since the beginning of the anti-Qadhafi uprising in 2011**. He also stated that the deterioration of the security environment had heavily impacted the judiciary system, which has completely shut down in certain parts of the country, where thousands of persons remain imprisoned (most of them under the exclusive control of non-State armed groups) with no hope of access to justice<sup>88</sup>.

The United Nations High Commissioner for Human Rights believes that the situation in Libya could topple into all-out civil war and cites reports that dozens of civilians have been abducted in Tripoli and Benghazi solely on the basis of their actual or suspected tribal, family or religious affiliation<sup>89</sup>. Similarly, clashes between rival militias, in particular in Misrata and Zintan, have destabilized the country and permanently hindered any possible democratic transition. The chief consequence of this is the rise in the number of civilian victims, internally displaced persons and refugees. UNSMIL estimates that at least 400,000 Libyans were internally

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82 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para. 81.

83 See Resolution of the European Parliament, Resolution on the situation in Libya (P8\_TA-PROV(2015)0010), 15 January 2015, para E.

84 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para. 8.

85 See United Nations Security Council, resolution 2174(2014), para. 4.

86 For a detailed analysis of events in Libya in recent months, see also the report of the Office of the United Nations High Commissioner for Human Rights and UNSMIL, *Update on violations of international human rights and humanitarian law during the ongoing violence in Libya*, 4 September 2014 and 23 December 2014 (available in English only).

87 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015.

88 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015. Along those lines, Human Rights Watch, in introducing its World Report.2015, states that the human rights situation in Libya regressed during 2014. See Human Rights Watch annual report, 29 January 2015.

89 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para.18.

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displaced between May and November 2014<sup>90</sup>, and that several hundred thousand others, including many migrant workers, have left the country<sup>91</sup>. Many Libyans concerned about security conditions had to go abroad. Thus, the number of Libyans currently living in Tunisia is estimated at more than 1 million persons.

Certain defenders say that the police have virtually ceased to exist as such, as have judicial institutions. Members of the judiciary are paralysed by fear, and dozens of judges and prosecutors have received death threats or been killed for carrying out their responsibilities, such as ordering the release of persons detained by non-State armed groups, while hundreds of others have been subjected to intimidation or harassment<sup>92</sup>. Conditions of detention are another disturbing aspect of the justice system: according to official data of March 2014, only 10 per cent of those detained had been tried and were serving prison sentences<sup>93</sup>.

As concerns human rights defenders more particularly, in October 2014, the United Nations High Commissioner for Human Rights reported that rights defenders, political activists, bloggers and media professionals in Libya have been under increasing attack by non-State armed groups since the fighting in Benghazi and Tripoli intensified<sup>94</sup>. Abductions, enforced disappearances and even the killing of journalists, lawyers and human rights defenders are becoming more and more frequent. Coupled with this distressing situation is the destruction wreaked by non-State armed groups that set fire and lay waste to public and private property.

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90 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para.14. See also UNHCR information available on <http://www.unhcr.org/5465fdb89.html>.

91 See publication and press releases of the Office of the United Nations High Commissioner for Refugees (UNHCR):, *UNHCR position on returns to Libya*, November 2014, [www.refworld.org/pdfid/54646a494.pdf](http://www.refworld.org/pdfid/54646a494.pdf) ; UNHCR, *News Stories: Mediterranean crossings more deadly a year after Lampedusa tragedy*, 2 October 2014, [www.unhcr.org/542d12de9.html](http://www.unhcr.org/542d12de9.html); UNHCR, *News Stories: More than 100,000 Libyans flee fighting over past month*, 14 November 2014, <http://www.unhcr.org/5465fdb89.html> (available in English only).

92 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para.48.

93 See Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para.41.

94 Press release by the United Nations News Centre: UN rights chief Zeid condemns attacks on human rights defenders in Libya – 14 October 2014, <http://www.un.org/apps/news/story.asp?NewsID=49075> and <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15168&LangID=Eh>.

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## III. DEFENDERS AT TREMENDOUS RISK ON A DAILY BASIS

### III. 1. Cases of violation of defenders' rights

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In such an environment, threats and attacks have become the daily lot of the civilian population. And in the second half of 2014, the proliferation and radicalization of Islamist fundamentalist armed groups only aggravated a situation that was already very critical. In this context, **human rights defenders are the chief targets of persecution**<sup>95</sup>. In fact, according to certain sources<sup>96</sup>, Islamist armed groups keep "black lists" of defenders selected for attack: they contain the names of persons who promote democratic ideals and defend human rights and gender equality, ideologies and values that are diametrically opposed to those of the Islamist armed groups.

The categories of persons most often targeted by acts of violence are **lawyers, judges, representatives of government institutions and national or international human rights organizations, journalists and all media personnel**, defenders from **ethnic minority groups** or **ordinary male and female citizens promoting respect for human rights and democratic principles**.

The main types of harassment and violence against defenders are: **acts of defamation, break-ins of private property or workplaces, threatening phone calls or physical threats against them or their families, physical attacks, arson at workplaces and other attacks on property, abductions, arbitrary arrests** and in the most serious cases, **murder**. Today in Libya, the climate of intimidation, persecution and impunity is the daily life of human rights defenders, and most of the time, it makes their work impossible, forcing them to cease their activities and even go into exile.

Today, the authors of violations are mainly members of various **non-State armed groups**, particularly those belonging to the fundamentalist Islamist movement (especially "Fajr Libya") which are fighting over Libyan territory. Attacks on Libyan human rights defenders by these armed groups are clearly aimed at hampering their human rights activities.

The accounts gathered to prepare this report provide additional details of the violations experienced by human rights defenders in Libya<sup>97</sup>.

**Manel al-Bousefi**, a Benghazi journalist, is engaged in the promotion of women's rights. Manel is also a member of the Libyan Organization for Human Rights, in charge of the women's rights sector. She also had a small factory in the al-Lithi neighbourhood, dominated by extremist religious groups. Following the October 2012 publication of an article on women's rights – in particular, asking the GNC for legislative -reform on divorce, alimony and child custody – an unknown individual claiming to belong to an armed group, made a telephone call to Manel threatening to kill her and kidnap her son. In November 2012, Manel found a small note taped to her windshield warning her that her house was on fire. When she checked, Manel she noticed that someone had attempted to short-circuit her factory. In June 2013, Manel received photos of naked women with deep cuts and clearly bearing the scars of torture as well as a photo of a young boy who had been beheaded that read "Your son...". This happened following the publication of an article on foreign workers' rights and her involvement in organizing a demonstration as part of her activities as an activist in the Libyan Organization for Human Rights. On 25 August 2013, an unidentified individual attacked Manel while she was in her car, stopped at a red light,

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<sup>95</sup> In addition to long-time political, territorial and ethnic tensions already raging in Libyan territory, internal strife was redefined by Islamist fundamentalism in 2014, incorporating new jihadist threats, including threats against women, demolition of mausoleums considered not to conform to their beliefs, execution of non-Muslims.

<sup>96</sup> See posting by Front Line Defenders, 26 February 2015, <http://www.frontlinedefenders.org/node/28150>.

<sup>97</sup> For security reasons and out of respect for the wishes of those providing accounts, defenders will remain anonymous if necessary.

striking and fracturing her left arm with a blunt object. The attacker shouted that he was sorry he could not smash her right hand with which she did her writing. In November 2013, unknown individuals were about to set fire to her car when her neighbours intervened and saved it. In December 2013, she received a threat warning her that she would lose her factory. Finally, on 25 February 2014, her factory was burned down. In August 2014, Manel went into exile in a neighbouring country, where she continues her human rights activities. She continues to receive threats. Recently a man threw coffee at her from a car with a Libyan license plate and told her that because she was an activist and a journalist, the next time it would be acid.

**Messaud** is a lawyer and a member of the Commission on documentation and monitoring of cases relating to detainees, mercenaries and disappeared persons under the jurisdiction of the NTC. He is also active in the Libyan Organization for Legal Support. In January 2012, following a dispute with members of the extremist religious group "Cavalry Brigade" over his insistence on documenting a case of abduction and torture, he was threatened and physically attacked. An unidentified individual telephoned him and ordered him to cease his human rights activities. He was subsequently the victim of an abduction during which his assailants terrorized him and threatened to shoot him. In January 2014, Messaud, who had in the meantime joined the ranks of an international organization, again received a death threat from the commander of the national army brigade in an attempt to force him to cease his human rights activities. In July 2014, the same commander threatened him again. Messaud was forced to choose the path of exile.

**W.** is a lawyer, a board member of the Council of Order and a founding member of the Libyan Group for the Investigation of Human Rights Violations. He is also on the Commission for Trial Observation, and has, among other things, rescued the archives of the Abu Salim Prison and conducted several inquiries into human rights violations. W. repeatedly escaped abductions (mid-2012, early 2014 and 9 April 2014) in the Tripoli court complex. He was a target while standing in the courthouse complex with the Prosecutor. And it is only with the help of his colleagues that W. has survived. W.'s attackers accused him, in particular, of defending foreigners objecting to the High Commission for Security as well as detainees imprisoned in camps controlled by non-State armed groups and for his appearance on television, in particular to criticize the legislative or executive branch, or to denounce illegal acts by non-State armed groups.

**Ahmad** is a lawyer who has defended prisoners of opinion. He is also one of the founding members of the Libyan Group for the Investigation of Human Rights Violations and has cooperated with a number of international organizations. He helped draw a map of detention sites, in particular in the western region. Ahmad was also appointed administrative director of the National Council for Civil Liberties and Human Rights. A group claiming it was acting on behalf of "Fajr Libya" entered the headquarters of the Council a number of times (26 September and 4 April 2014) looking for him with the intention of seizing seals and official documents, and of abducting him. Ahmad escaped from his attackers but the Council was padlocked and to this day, remains under the control of the armed group.

**Samy** is a lawyer and a founding member of the Libyan Organization for Legal Support. In the course of his professional activity, he came to the defence of his half-sister Thuraya al-Jebali after she was kidnapped, doing his utmost to find her. He made various television appearances to talk about her and contacted representatives of the United Nations and OMCT to make her case known – which earned him several threats, including armed physical attacks and an attempted abduction right in the Tajura court complex on 16 December 2013.

**Ali** is a freelance journalist. On 24 August 2014, following the occupation of Tripoli by various "Fajr Libya"-affiliated militias, he publicly criticized the dismantling of the gazelle archaeological statue decorating the "rue de Tripoli" (Tripoli Street). After that, he received many threatening phone calls and was branded an apostate, an infidel and a renegade.



On 2 September 14, two vehicles circled his home in kidnapping attempt. On 20 October 2014, he received an anonymous threat in the mail, calling him a renegade artist.

**Slah** worked in the National Council for Civil Liberties and Human Rights. He was in charge of documenting violations committed at detention centres. He was also an active member of the Libyan Organization for Legal Support. In January 2014, unidentified persons followed him into the street. In March 2014, he was threatened in a national army barracks where he had gone to meet a female victim. In July 2014, the "Janzur Brigade" (a very violent extremist cell engaged in fighting in Tripoli) attempted to abduct him from his home after he lodged a complaint against them.

**B.** is a magistrate. He was among the human rights defenders who volunteered to safeguard State archives and documents. He also served as an investigator, exposed various violations in cases of torture and enforced disappearances and helped to create a defenders' network (which was ultimately not granted authorization by the authorities). He has publicly denounced the daily suffering of the civilian population on various television channels. He has denounced the proliferation of weapons, and violations committed by armed groups. Following the occupation of Tripoli by the "Fajr Libya" Islamist armed forces in mid-2014, he was briefly arrested. His family was also threatened, driving him to leave the country. He is now attempting to organize exiled Libyan defenders in Tunisia and denounces the state of the justice system at home, maintaining that the courts no longer convene and that attorneys' offices have been closed down.

**Amara Abdallah al-Khatibi**, editor-in-chief of a Tripoli newspaper (Al Umma), published an article in November 2012 exposing the implication of magistrates in corruption. In November 2014, he was sentenced in absentia to a five-year prison term, ordered to pay a fine of 250,000 Libyan dinars (around 170,000 euros) and stripped of his civil rights for defamation of the justice system. After four months in prison, Mr. Khatibi was released in April 2013 for health reasons, placed under house arrest and prohibited from travelling although he had never been summoned to trial.

**Tawfik Bensaud** and **Sami al-Kawafi**<sup>98</sup>, two youths 18 and 17 years of age, respectively, were deliberately killed in Benghazi on 19 September 2014 (along with about a dozen other people) after participating in a demonstration. The two youths were known for publicly taking positions against the terrorist movement and organizing demonstrations condemning violent acts by religious extremist cells.

**Taeib Issa**, a Tuareg from the south, was the founder of a regional television channel. In October, 2014, his body was found on the side of the Obari-Gat road. Even if no one ever claimed responsibility for the murder, the perpetrators were reportedly seeking to silence a voice defending Tuareg rights.

**R.** was a substitute prosecutor. After the 2011 uprising and conflicts, his mission was to dispense justice expeditiously and with impartiality. His troubles began with criminals and family members of common law prisoners. He subsequently decided to conduct investigations into cases of human rights violations on behalf of an international organization. As a result of his activities, he received several direct and telephone threats and there were several attempts to abduct him (as well as members of his family). In the summer of 2014, unable to move about easily or guarantee the safety of his family, he had to seek refuge in a neighbouring country. The international organization he was working with also had to close down its office in Libya.

**Salwa Bouguiguis**<sup>99</sup> was an eminent lawyer who advocated for gender equality and fought for the participation of women in politics. An emblematic Benghazi figure, she was, with

<sup>98</sup> See also Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para.38.

<sup>99</sup> See press release of the Observatory for the Protection of Human Rights of 27 June 2014.

her sister Iman, among the first anti-Qadhafi activists. Salwa had already had to contend with Qadhafi's tyranny before the February 2011 uprising when she defended Islamist activists. She also participated actively in the 2011 revolution and held a seat on the NTC, the governing body of the revolution. She subsequently served as Vice-Chair of the National Dialogue Preparatory Commission for Libya. After the revolution, she denounced Islamist groups attempting to impose practices detrimental to women's rights. She was not daunted by their incessant threats against her and her family. On 25 June 2014, on her way home from the polling station, she was stabbed and shot five times by five armed and hooded men. Just before her murder, Salwa Bouguiguis had granted an interview to a television channel. In that interview, she discussed the deteriorating security situation in Benghazi, including civilian casualties following clashes between army units and militias. Furthermore, Mr. **Abdel Nasser al-Jaroushi**, a southern Benghazi Court prosecutor who was investigating the death of Ms. Bouguiguis, was captured on 20 October 2014 by the armed group Shuhada al-Zawiya. As of the date of publication of this report, he was still detained in the military wing of the Gernada prison.

On the morning of 24 February 2015, the bodies of Ms. **Intissar Al-Hasairi**<sup>100</sup> and her aunt were discovered by security forces in the trunk of the defender's car in Tripoli. The defender and her aunt were reportedly killed by members of an armed group. Ms. Intissar Al-Hasairi had helped to launch the Tanweer Movement, an apolitical group whose goal was to promote peace and culture in Libya. She had also participated in several demonstrations for democracy and the rule of law. The bodies were transferred to the Abu Salim Hospital in Tripoli for identification. According to some accounts, both women were allegedly killed by bullets fired by unidentified individuals belonging to a non-State armed group.

These are but examples. The objective of this report is to provide an overview of the typology of the victims and attacks. Moreover, the weakening of Libyan civil society following the assassinations and exile of its most active members, and the danger confronting anyone who stayed behind, (threats and attempted attacks, abduction and arbitrary arrest) prevented any exhaustive documentation of the violations suffered by human rights defenders.

### III.2 Defenders forced into exile

Today, the Libyan authorities are incapable of providing protection and combating the impunity with which defenders are subjected to violations. The failure to establish the rule of law over the past several years has left a gaping institutional and legal vacuum, which has been filled by the violence of rival armed groups.

Coupled with this is the fact that Libyan civil society is still in an organizational and formative phase after nearly 40 years of ferocious repression and secrecy. Human rights associations, especially those established after the Revolution, are not yet sufficiently solid and durable. Apart from that, the political instability, climate of violence and impunity that currently prevail would cause difficulties even for a well-established civil society. **Today, no institution is capable of protecting defenders.**

**Numerous human rights defenders are therefore compelled, if they want to survive and continue fighting for human rights, to take the path of exile**<sup>101</sup>. Most international organizations, whether they are United Nations agencies or NGOs supporting humanitarian issues or defending human rights<sup>102</sup>, have also had to close down their offices and pursue their activities from neighbouring countries (such as Tunisia).

100 See posting by Front Line Defenders of 26 February 2015, available on <http://www.frontlinedefenders.org/node/28150>.

101 See also Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para.38.

102 See also Human Rights Council, *Report of the High Commissioner for Human Rights on the situation of human rights in Libya and related technical support and capacity-building needs*, United Nations document A/HRC/28/51, 12 January 2015, para.8.



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**Exile in itself poses many problems for defenders.** In fact, in most cases, defenders who have been threatened leave the country with their families. But **the host countries** – first and foremost, Tunisia, which is taking in a huge number of Libyans – **are a long way from guaranteeing those in exile living conditions adequate to enable them to pursue their human rights activities.**

Currently, Libyans can enter Tunisia with their passports; there are no visa requirements. Thus, many of them reside in Tunisia and can have access to many services, such as health or education<sup>103</sup>. The duration of their stay is limited to three months, but there are no limits or conditions placed on extending it. This situation used to be sufficient to respond to the needs of Libyan defenders who had left their country after being threatened. Libya recently informed the Tunisian authorities that passports issued prior to 2006 were no longer valid and that holders of such passports would have to renew them. Thus, many Libyans can no longer leave Tunisia owing to difficulties with their passport renewal<sup>104</sup>. Furthermore, following the events of July 2014, numerous Libyan defenders are more pessimistic about the possibility of returning to Libya in the near future and wish to benefit from a less precarious status that offers greater protection. Thus, some of them would like to obtain refugee status in Tunisia. Several hope to go on to resettle in another country as part of a UNHCR resettlement programme, given the deficiencies in the refugee protection system in Tunisia.

In fact, Tunisia does not yet have a national system of asylum even if a draft law is currently under consideration<sup>105</sup>. Thus, the Office of the United Nations High Commissioner for Refugees (UNHCR) is the only agency in Tunisia that can decide on applications for asylum by defenders who have fled persecution in Libya. To cope with the huge flow of asylum-seekers from Libya in recent months, the United Nations agency also set up a pre-registration office in a container near the Libyan border where it interviews those arriving and determines which of them are in need of international protection<sup>106</sup>.

Furthermore, in practice, Libyan defenders face numerous obstacles that prevent them from leading a normal life in Tunisia. They are victims of discrimination in many daily situations<sup>107</sup>. They are also often wrongly associated with conflicts occurring in their country, or with movements operating there, in particular Islamist extremists.

Hence, today most of the exiled Libyan defenders **in Tunisia have no legal status: they are not legal residents nor do they benefit from international protection granted under refugee status.** Even if they do benefit from some advantageous provisions of bilateral conventions between Tunisia and Libya<sup>108</sup>, **they are deprived of the right to participate in civil society, which prevents them from establishing associations or other structures in order to defend their rights.**

**Despite the dangers, human rights defenders continue to carry out human rights activities in Libya, thereby exposing themselves to probable retaliation.** Some are still able to benefit from training offered by some international organizations that have continued their activities in Libya. Their main objective is to succeed in establishing ongoing relations with the rare defender organizations that have remained in Libya and those in exile by working to **create a permanent coordination structure that strengthens the Libyan human rights movement.**

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<sup>103</sup> While this is true in principle, the daily reality is that Libyans have to cope with discrimination and attempted extortion.

<sup>104</sup> In fact, only the authorities operating on Libyan soil can renew the passports, not the consular services. Thus, defenders who return to Libya to renew their passports are exposed to major security risks.

<sup>105</sup> See UNHCR profile, *2015 UNHCR subregional operations profile – North Africa: Tunisia*, available on: <http://www.unhcr.org/pages/49e486166.html> (available in English only).

<sup>106</sup> Refugees and asylum-seekers in Tunisia; facing an uncertain future, 26 December 2014, available on [http://www.unhcr.org/549d93ff6.html#\\_ga=1.86771096.162112421.1430845225](http://www.unhcr.org/549d93ff6.html#_ga=1.86771096.162112421.1430845225).

<sup>107</sup> For example, the majority of Libyan interlocutors have reported suffering various forms of abuse on a daily basis: exploitation by landlords, blackmail and extortion by service providers and other merchants and security agents, acts of defamation, etc.

<sup>108</sup> See <http://www.unhcr.org/549d93ff6.html>. See also Law No. 74-13 of 18 March 1974 and Law No. 74-14 of 18 March 1974.

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### III.3 Perspectives

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The defenders interviewed shared their short- and long-term views on the role of the international community and foreign countries, but also engaged in a critical self-assessment.

They are convinced that the only long-term solution will come from instituting the rule of law and thereby resuming the **national reconciliation process in Libya with assistance from the international community**.

Pending the accomplishment of this long reconciliation process and in the shorter term, the defenders are calling on **international organizations with the necessary expertise to return to Libya**, (at least in the regions and towns where security conditions allow) **in order to support local civil society**. Some have said that their meeting of 28 October 2014 with the United Nations Special Rapporteur on the situation of human rights defenders gave them hope and opened up new perspectives. They further call on the United Nations, the European Union and the United States to provide them financial, logistical and training assistance with the aim of strengthening daily support to defenders<sup>109</sup>.

**The granting of refugee status by host countries to Libyan defenders who apply for it is another basic issue for them**<sup>110</sup>.

The defenders interviewed also did a critical analysis of their shortcomings and they all hoped for the **creation of a coalition or network of defenders, both inside Libya and beyond its borders**. The majority were clearly bitter over their failure to **establish ongoing relations with human rights organizations in the host country**. They emphasized Tunisia in particular. They believe that the human rights struggle is indivisible and that the fate of rights and freedoms in Libya and in Tunisia cannot be separated. A meeting of representatives of various ethnic groups, tribes and regions of Libya, held in Tunis in the final week of January 2015, was therefore warmly welcomed by our interviewees.

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<sup>109</sup> Most of the defenders interviewed said they need training in investigation and documentation, gathering evidence, testimony and accounts and elaborating advocacy strategies.

<sup>110</sup> The Office of the High Commissioner for Refugees estimates that a total of 130,000 Libyans fled to Italy in 2014 (See UNHCR Communiqué, *UNHCR position on returns to Libya*, November 2014, [www.refworld.org/pdfid/54646a494.pdf](http://www.refworld.org/pdfid/54646a494.pdf) (available in English only)).

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## IV. CONCLUSION

After the fall of the dictatorship, Libya entered a phase of instability. Reconciliation is not moving forward and armed groups rule, spreading violence across the country. Racial, ethnic, political, tribal, religious interregional and inter-town conflicts are the protagonists in this chaotic phase. In this context, international entities and organizations have deserted the country, which did not help the situation of defenders being persecuted at the time.

Civil society, stifled under Qadhafi, has not had sufficient time to build structures, organize and acquire adequate methods and means to consolidate its field of activities. Human rights defenders, who no longer have an interlocutor in either the justice department or other government entities which have been all more or less eliminated, are now in great difficulty. Today they are the targets of choice for acts of violence by various belligerents. Physical attacks and other forms of intimidation have intensified and become abductions, torture or even murder.

Accordingly, more and more defenders, and their families, are forced into exile in neighbouring countries. Exile diminishes the effectiveness of their activities and puts them in a precarious situation owing to the lack of any adequate support structure and the near-impossibility for them of organizing. It also disrupts the continuity of their actions and the durability of the human rights associations they created in Libya, and it seriously threatens their development. The difficulties of subsistence owing to financial problems and protracted exile have become the foremost concern of human rights defenders. Hence, the necessity for a large number of them to obtain protective status, namely refugee status, whether in Europe, North America or in neighbouring countries, particularly in Tunis and in Egypt.

Only a national reconciliation process with the support of the international community, better organization of exiled defenders within an effective action network and their recognition as political refugees abroad can contribute to improving the desperate situation of Libyan defenders.

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## V. RECOMMENDATIONS

### To the Libyan authorities:

- Undertake to end all human rights violations, combat impunity in accordance with international law and condemn all forms of violence, particular on grounds of ideology, gender, political choice, nationality, religion or ethnic, regional or tribal affiliation.
- Implement a clear strategy conducive to initiating a democratic transition and setting up a transitional justice system, in particular by applying the 2013 law on transitional justice, which has not yet been acted upon. This strategy should also recognize, guarantee and promote the role of civil society as a safeguard of the democratic transition process.
- Establish a legal framework for the promotion and protection of human rights in accordance with international standards, both in the draft Constitution and through national legislative reforms to be undertaken. These reforms must be based on a full examination of legal and regulatory protections of civil liberties and human rights, in particular those relating to women, children, refugees, minorities and human rights defenders.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto; amend the national legal framework to ensure that is in line with the international human rights instruments ratified by Libya.
- Monitor the implementation of recommendations by regional and international organizations for the protection of human rights, in particular, the Concluding Observations of the United Nations Human Rights Committee and other treaty bodies in their analyses of the periodic reports of Libya cited in this report.
- Guarantee the physical and psychological integrity of human rights defenders in Libya in all circumstances and end all forms of harassment against them so that they may exercise their human rights activities freely and unimpeded.
- Focus special attention on the specific protection needs of vulnerable groups, in particular female human rights defenders.
- Set up mechanisms to protect human rights defenders from all violence, threats, reprisals, de facto or de jure discrimination, pressure or other arbitrary actions. Such mechanisms must also recognize the specific risks and vulnerabilities confronting female human rights defenders.
- Conduct exhaustive, independent, effective, rigorous, impartial and transparent inquiries, without delay, into acts of harassment against the aforementioned defenders in order to identify the perpetrators, bring them before an independent, competent and impartial tribunal in accordance with international and regional instruments for the protection of human rights, and apply the criminal, civil and/or administrative penalties prescribed by law.

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- Comply with the provisions of the Declaration on Human Rights Defenders adopted by the General Assembly of the United Nations on 9 December 1998, and in particular;
    - article 1, which provides that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”;
    - article 5, subparagraphs (a) and (b), which provide that “for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; to form, join and participate in non-governmental organizations, associations or groups; to communicate with non-governmental or intergovernmental organizations”;
    - article 6(b), whereby “everyone has the right, individually and in association with others, , as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”; and
    - article 12.2, which provides that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitration action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”.

**To all the parties to the conflict in Libya:**

- Respect international humanitarian law, in particular all its provisions relating to the protection of civilians and property.
- Respect the rights guaranteed by international and regional instruments for the protection of human rights which have been ratified by Libya, in particular with regard to freedom of expression, the right to physical integrity, and the prohibition of arbitrary arrest and detention, torture and cruel, inhuman or degrading treatment.
- Respect the work of human rights defenders so that they may make their precious contribution with a view to the effective elimination of all human rights violations, as recognized in the United Nations Declaration on Human Rights Defenders. Defenders must be regarded as independent and non-partisan actors and must be in a situation where they are free to criticize human rights violations committed by any armed group without being perceived as supporting one of the parties to the conflict.

**To the international community and, in particular, the European Union:**

- Exert institutional, political and diplomatic pressure on the Libyan State to reconstruct its State apparatus and its institutions, restore unity and build the capacity of government authorities, in particular, the judiciary apparatus and the judiciary police as well as establish norms and procedures in accordance with international law.
- Examine with the host countries (Tunisia, first and foremost, but also Egypt and the countries of Europe or North America) possibilities for supporting and facilitating the granting, at the earliest opportunity, of refugee status to Libyan human rights defenders who apply for it.

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**To private, institutional and State donors and investors:**

- Mobilize the necessary funds to compensate host countries for their efforts in receiving refugees and support a democratic transition in Libya and the dissemination of a human rights culture (in particular, for the establishment of defender networks, protection of defenders, etc.), on the basis of the 1998 United Nations Declaration on Human Rights Defenders and the European Union Guidelines on Human Rights Defenders.

**To the United Nations Support Mission in Libya (UNSMIL):**

- Establish a permanent and effective coordination mechanism bringing together all the partners involved in the defence of human rights in Libya (for example, the Delegation of the European Union in Libya) for the essential purpose of establishing a common agenda for diplomatic intervention; enumerating political, social and human rights-related priorities; and dividing the work among the various actors in order to achieve lasting political and social reconciliation in the country.
- Exert institutional, political and diplomatic pressure to ensure that independent inquiries are opened into all human rights violations, war crimes and crimes against humanity perpetrated thus far and focus special and strategic attention on the universal periodic review of Libya by the Human Rights Council of the United Nations scheduled for 2015.
- Integrate human rights into the five-prong political dialogue, either by making it a specific point or a cross-cutting theme, and have defenders participate in the dialogue.
- Scale up direct consultations with Libyan human rights defenders to ensure that their action plans include priorities determined on the basis of the circumstances and needs of defenders on the ground.

**To the United Nations Human Rights Council:**

- Include a special session on Libya in its agenda and establish a mechanism for investigating violations committed by all the parties to the conflict.

**To the United Nations Security Council:**

- Renew the mandate of UNSMIL, amend the mandate to ensure better alignment with the current Libyan context and build monitoring capacities;
- Integrate a "protection of human rights defenders" dimension into the UNSMIL mandate and encourage better connections between the Mission and human rights organizations still present in Libya, capacity-building, and their integration into the process of monitoring human rights violations.

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**To the host country:**

- Particularly in Tunisia, guarantee the existence of a national system for the protection of refugees, in accordance with the Geneva Convention relating to the Status of Refugees, ratified by Tunisia in 1957. Collaborate directly with the High Commissioner for Refugees to guarantee that the asylum system established is in compliance with international standards on the protection of refugees.
- Grant refugee status to all Libyan defenders who are persecuted in Libya on account of their peaceful human rights activities and who apply for such status.
- Guarantee Libyan human rights defenders residing in their territory access to a legal status, protecting their access to economic and social rights (education, health, social protection, right to work, etc.).
- Guarantee Libyan human rights defenders living in their territory access to an effective remedy in the event that their rights are violated.

**Suggestions to defenders based on needs expressed during this fact-finding mission:**

- Maintain contact between defenders operating in Libya and those operating abroad with a view to mutually supporting each other's activities and organizing themselves better. Organize themselves in a network or accelerate the creation of a unique agency that would bring together all Libyan defenders. Such coordination can lead to many common projects, including, in particular, some of those listed below.
- Establish an Observatory for every nature of attack committed, and ensure that it is systematically and periodically updated with specific cases. Set up the Observatory outside Libyan territory in order to ensure its security.
- Establish a mechanism for the prevention of and/or response to attacks on defenders. Establish a (secure) list of defenders, maintain regular contact and build prevention and early warning system and networks facilitating both the coordination of their activities and urgent takeover of their responsibilities or evacuation if necessary.
- Ensure follow-up to training received in order to gauge the genuine impact of such training and make improvements, eliminating redundancies, and coordinate with a view to defining a uniform training programme.
- Discuss action plans and priorities directly with missions, delegations and international organizations.
- Ensure official coordination of these actions, if possible, or at least cooperation on some level.





Created in 1986, the World Organisation Against Torture (OMCT) is today the main coalition of international non-governmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment.

With 297 affiliated organisations in its SOS-Torture Network, OMCT is the most important network of NGOs working for the protection and the promotion of human rights in the world.

Based in Geneva, OMCT's International Secretariat provides personalised medical, legal and/or social assistance to victims of torture and ensures the daily dissemination of urgent interventions across the world, in order to prevent serious human rights violations, to protect individuals and to fight against impunity. Moreover, some of its activities aim at protecting specific categories of vulnerable people, such as women, children and human rights defenders. OMCT also carries out campaigns relating to violations of economic, social and cultural rights. In the framework of its activities, OMCT also submits individual communications and alternative reports to the United Nations mechanisms, and actively collaborates in the respect, development and strengthening of international norms for the protection of human rights.

OMCT has either a consultative or observer status with the United Nations Economic and Social Council (ECOSOC), the International Labour Organisation, the African Commission on Human and Peoples' Rights, the Organisation Internationale de la Francophonie, and the Council of Europe.

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### **Establishing the facts**

Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis. FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### **Supporting civil society**

Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### **Mobilising the international community**

Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### **Informing and reporting**

Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

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## Activities of the Observatory

The Observatory is an action programme based on the belief that strengthened co-operation and solidarity among human rights defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression of which defenders are victims.

With this aim, the Observatory seeks to establish:

- a mechanism of systematic alert of the international community on cases of harassment and repression of defenders of human rights and fundamental freedoms, particularly when they require urgent intervention;
- the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- international missions of investigation and solidarity;
- a personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- the preparation, publication and world-wide dissemination of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- sustained action with the United Nations and more particularly the Special Rapporteur on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- sustained lobbying with various regional and international intergovernmental institutions, especially the Organisation of American States (OAS), the African Union (AU), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States, the Association of Southeast Asian Nations (ASEAN) and the International Labour Organisation (ILO).

The Observatory's activities are based on consultation and co-operation with national, regional, and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by OMCT and FIDH: "Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his or her commitment, exercised individually or in association with others, in conformity with international instruments of protection of human rights, to the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by the different international instruments".

**To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger. This system, called Emergency Line, can be reached through:**

E-mail: [Appeals@fidh-omct.org](mailto:Appeals@fidh-omct.org)

**FIDH** Tel: + 33 1 43 55 25 18 - Fax: + 33 1 43 55 18 80

**OMCT** Tel: + 41 22 809 49 39 - Fax: + 41 22 809 49 29