

LIBYA: RULE OF LAW OR RULE OF MILITIAS?

**AMNESTY
INTERNATIONAL**



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1. INTRODUCTION

‘[The militiamen] would not listen. They beat me with belts on my back, hands, legs. They threatened to kill me. Eventually I said “just write what you want, and I will sign”.’

A 23-year-old man describing his treatment while detained in March 2012 by a militia in eastern Libya

Two sisters aged 27 and 32 were stopped by a militia at a checkpoint in February 2012 and forced at gunpoint to a nearby farm. One was suspended from a door for hours, had boiling water poured over her head, and was beaten and stabbed while being accused of supporting the former government of Colonel Mu’ammar al-Gaddafi. The other was also suspended and beaten. The husband of one of them, who was detained at the same time, has disappeared.

This family is among the mounting toll of victims of an increasingly lawless Libya, where the transitional authorities have been unable or unwilling to rein in the hundreds of militias formed during and after the 2011 conflict that ended the rule of Colonel Mu’ammar al-Gaddafi. The militias are now threatening the very future of Libya and casting a shadow over landmark national elections scheduled for 7 July 2012.¹ They are killing people, making arbitrary arrests, torturing detainees and forcibly displacing and terrorizing entire communities, often solely for reasons of revenge. They are also recklessly using machine-guns, mortars and other weaponry during tribal and territorial battles, killing and maiming bystanders. They act above the law, committing their crimes without fear of punishment.

Government shortcomings and delays in addressing militia abuses are undermining the aspirations of the Libyan people, who bravely took to the streets in early 2011 to end decades of repression and injustice. Unless urgent action is taken to establish the rule of law and respect for human rights, there is a very real risk that the patterns of abuse that inspired the “17 February Revolution” will be reproduced and entrenched.

The militias initially took up arms to overthrow Colonel al-Gaddafi or to fill the security vacuum left after his state collapsed. They quickly accumulated their own caches of weapons and consolidated control over entire neighbourhoods and areas. Many refuse to disarm or join the army or police, and do not answer to the central authorities.

The National Transitional Council (NTC)² and the government it appointed have appeared unable or unwilling to confront the militias. Officials frequently cite security concerns and the widespread availability of weapons to justify their approach of negotiating with the

militias rather than confronting them, and to explain delays. The Deputy Minister of Interior, Omar al-Khadrawi, told Amnesty International that the Ministry of Interior had dismantled four “lawless” armed militias in Tripoli by early June 2012 – a tiny proportion of the total. Efforts that have been made to bring militias under official bodies have not been accompanied by systematic vetting to ensure that those who have ordered, committed or acquiesced to human rights abuses are neither rewarded nor given positions where they can repeat similar crimes. It remains unclear whether any members of militias have been prosecuted for human rights abuses.

During and in the immediate aftermath of the conflict, armed militias captured thousands of suspected al-Gaddafi soldiers and loyalists, as well as alleged foreign “mercenaries”. Militias continue to seize people outside the framework of the law and hold them in secret detention facilities, albeit on a significantly reduced scale.

The Minister of Justice, Ali Ashour, told Amnesty International on 7 June that some 3,000 detainees were being held in prisons under the control of the Directorate of the Judicial Police, but was unable to estimate the number of detainees and detention facilities outside of government control. The UN Support Mission in Libya (UNSMIL) estimated that 4,000 people were held outside of government control in mid-May.³ Exact numbers are difficult to determine, given the fluidity of the situation, but recent estimates put the total at about 7,000.⁴

The transitional government made some progress in bringing prisons under the oversight of relevant ministries. By early June 2012, 33 prisons had been transferred to the Directorate of the Judicial Police, according to the Minister of Justice. Officials at the Ministry of Defence confirmed that the military police prison in Benghazi, holding some 380 individuals in early June, was under its control. Local Supreme Security Committees, which were brought under the umbrella of the Ministry of Interior by decree in December 2011, also oversee a number of detention facilities. The authorities still need to ensure that the transfer of prisons to central government control is accompanied by the establishment of an effective vetting mechanism to exclude any administrators and guards reasonably suspected of committing human rights abuses.

Since March 2011, Amnesty International has visited over 30 places of detention in Libya, including official, semi-official and unrecognized ones. Follow-up visits in 2012 to several facilities confirmed that while treatment generally improves for longer term detainees, new arrivals continue to suffer abuse. In May and June 2012, Amnesty International found evidence of recent abuses, including torture, in 12 of 15 detention facilities where it was allowed to interview detainees in private.

Detainees are particularly vulnerable to revenge beatings and vigilante-style “justice” when held by victims or relatives of victims of human rights violations perpetrated by al-Gaddafi forces or when held in cities where they allegedly committed the violations. The common practice of transferring detainees to such locations increases the risk of torture, and further undermines their right to fair trial.

The most commonly reported methods of torture include suspension in contorted positions and prolonged beatings with various objects, including metal bars and chains, electric

cables, wooden sticks, plastic hoses, water pipes (known locally as Tube PPR) and rifle butts. Some detainees also said they were given electric shocks, burned with cigarettes and had hot metal applied to their flesh. Since late August 2011, when al-Gaddafi forces lost control of the capital and most of the country, Amnesty International has gathered detailed information about at least 20 people who died in custody after they were tortured or shot in detention⁵ by armed militias. The latest victim, whose case was documented by Amnesty International, was taken to a morgue on 6 June. Amnesty International has also received credible information about other cases.

Despite releases and the referral of some suspects to relevant civilian or military prosecution offices, progress in charging detainees with recognizably criminal offences has been extremely slow. Some detainees have been held without charge for a year. With rare exceptions, detainees have no access to lawyers and are interrogated alone, despite guarantees stipulated in the Libyan Code of Criminal Procedure.⁶ The Minister of Justice told Amnesty International that by June 2012, 164 people had been convicted in common law cases since the end of the conflict. To Amnesty International's knowledge, by early June, only three trials have begun in civilian courts in relation to crimes committed in the context of the conflict, leaving thousands of people detained without trial.



Remnants of weapons found by Amnesty International following clashes in the cities of Sabha and Kufra. May 2012. ©Amnesty International

Sporadic clashes between armed militias recklessly using weapons such as machine-guns and mortars in residential areas have led to deaths and injuries of bystanders and others not involved in fighting. Fuelled by long-standing animosities and power struggles over strategic routes or infrastructure, such clashes have the propensity to pit entire communities against each other, entrenching divisions along regional, tribal and ethnic lines. Armed clashes between Arab and black Tabu communities in the south of Libya in February and March 2012 resulted in dozens of deaths, including of men, women and children not involved in armed confrontations, and widespread destruction of property. The clashes are frequently accompanied by arbitrary detention and torture by both sides. Such confrontations are facilitated by the absence of long-term solutions addressing the root causes of the tensions and impunity for violations.



Displaced Tawargha children in poorly resourced classrooms inside the Janzour Naval Academy IDP camp. May 2012. ©Amnesty International

The authorities have also failed to resolve the situation of entire communities displaced during the conflict and unable to return to their homes, which were looted and burned by armed militias seeking revenge. Entire towns and villages were deliberately rendered uninhabitable by the militias, which accused the displaced communities of supporting the toppled government and of committing crimes on its behalf. The entire population of the city of Tawargha, estimated at 30,000, was driven out by Misratah militias and remains scattered across Libya, including in poorly resourced camps in Tripoli and Benghazi.⁷ The Mashashiya community from the areas of Awaniya, Zawayat al-Bajoul and Omer in the Nafousa Mountain faces a similar plight at the hands of Zintan militias. Their suffering intensified following armed assaults on Sgeiga and Mazda in June – home to Mashashiyas – including those who sought shelter after being displaced during the conflict. The violence led to 105 deaths, according to government estimates, and further displacement.⁸ Not only are such communities barred from going home; they also continue to face arbitrary arrest and other reprisals.

Foreign nationals in an irregular situation, particularly those from Sub-Saharan Africa, remain at risk of abuse in Libya. Although they are no longer being arrested on a large scale on suspicion of being “foreign mercenaries” in the pay of Colonel al-Gaddafi, they are still being routinely rounded up from their homes or seized at checkpoints or from streets by armed militias. Their “crime” is to have entered or remained in the country “illegally”. They are held indefinitely in detention facilities under the control of armed militias in poor conditions, without any possibility to challenge the legality of their detention. Some have complained of

beatings, in some cases amounting to torture. They are also vulnerable to labour exploitation and other abuses by those who know that foreign nationals in an irregular situation dare not complain.

Individuals in need of international protection are treated similarly to irregular migrants. They cannot apply for asylum as Libya has no functioning asylum system and is not a state party to the 1951 UN Convention relating to the Status of Refugees, and its 1967 Protocol. Their plight is compounded by the authorities' failure to tackle prevailing racism and xenophobia against dark-skinned Libyans and Sub-Saharan African nationals.



Tripoli Appeals Court. The trial of Abuzed Dorda, former head of the External Security Agency, started in the court in June. June 2012©Amnesty International

These human rights violations are taking place against the backdrop of a judicial system that simply cannot cope with the volume of cases and is failing to provide justice and redress. It also suffers from the legacy of being a tool of repression under al-Gaddafi's rule, where a parallel judicial system was designed for "political cases". Even when victims and relatives of those extrajudicially executed or tortured to death have lodged complaints, few meaningful investigations have been initiated, perpetuating a climate of impunity and facilitating the repetition of violations. In a meeting with Amnesty International on 4 June 2012, General Prosecutor Abdelaziz al-Hasadi confirmed his commitment to prosecute all crimes equally, but was unable to provide any details of *thuwwar* (revolutionaries), as anti-Gaddafi fighters were commonly known, being brought to justice for torture or other human rights abuses. Some prosecutors and criminal investigators willing to address violations by *thuwwar* lack the capacity to enforce summons or arrest orders. Several have faced intimidation and even violent attacks at the hands of armed militias.

Public criticism of the *thuwwar*, who are widely hailed as heroes, is uncommon. Even officials, activists, journalists, lawyers and victims of human rights violations who privately acknowledged the prevailing lawlessness and abuses committed by the *thuwwar* do not raise

their concerns in public, fearing reprisals. Their fears are justified. Outspoken individuals have been dubbed the “fifth column”, as alleged al-Gaddafi loyalists are commonly called, and faced threats and intimidation – entrenching the climate of self-censorship. Blogger and activist Ghaida al-Tawati told Amnesty International that she regularly receives threatening and defamatory messages on her Facebook and email accounts.⁹

In a welcome move in June 2012, the Libyan Supreme Court ruled unconstitutional Law 37 of 2012, which criminalized the “glorification of al-Gaddafi” and placed undue restrictions on freedom of expression.¹⁰ The Libyan authorities need to do more to signal that such “red lines” ended with the fall of Colonel al-Gaddafi, and that no one is beyond criticism, even the *thuwwar*.

During the 2011 anti-government demonstrations and subsequent armed conflict, Amnesty International reported and condemned war crimes, crimes against humanity and serious human rights violations committed by al-Gaddafi forces, calling for perpetrators to be held to account. Those reasonably suspected of committing such crimes are yet to face justice. Instead, entire communities and families are being victimized due to their or their relatives’ real or perceived political affiliation and support for the toppled government.

The NTC’s public commitment to break with the legacy of the past and uphold human rights stands in sharp contrast with the reality on the ground. While promising to investigate all human rights violations and breaches of international humanitarian law brought to its attention, the NTC passed legislation granting immunity from prosecution to *thuwwar* for military, security and civilian acts committed with the “purpose of rendering successful or protecting the 17 February Revolution”.¹¹ The same law gave legal weight to interrogation reports and other information collected by *thuwwar*, legitimizing their actions of seizing, detaining and interrogating detainees outside the framework of the law and disregarding evidence of the widespread pattern of torture or other ill-treatment during interrogations.¹² Despite this mounting evidence of widespread patterns of human rights abuses, Libyan officials continue to downplay their scale and gravity, maintaining that these are individual acts that need to be seen within the context of abuses suffered under Colonel al-Gaddafi’s rule. When confronted with information about human rights violations, several officials blamed remnants of the al-Gaddafi government or criminal elements released from prisons by his government in 2011.¹³

Amnesty International has raised its concerns about patterns of abuse by armed militias on many occasions privately with the NTC and through public reports.¹⁴ Similar concerns have been raised by other international NGOs and UN bodies.¹⁵ At the 19th session of the Human Rights Council in March 2012, the UN Commission of Inquiry on Libya concluded that war crimes and crimes against humanity had been committed by *thuwwar* and that breaches of international human rights law were continuing in a climate of impunity.¹⁶ Rather than investigating these allegations and taking concrete steps to prevent their recurrence, the Libyan authorities rejected calls to include human rights monitoring in the resolution on the “Assistance to Libya in the field of human rights” passed during the same session. This refusal sent a message that independent scrutiny of Libya’s human rights record was no longer welcome.

As an interim body without a democratic mandate, the NTC has struggled to exert control and

to enforce the rule of law. Elections for a 200 member General National Congress, scheduled for 7 July, present an important milestone on Libya's route to recovery, institution building and consolidation of the rule of law. The Constitutional Declaration, promulgated by the NTC on 3 August 2011, gives the General National Congress key tasks of naming a body to draft the country's constitution, appointing an interim government and passing legislation for general elections. Despite some calls to boycott elections emanating from proponents of federalism in protest of what is perceived to be an unequal distribution of seats between the country's regions, many Libyans express enthusiasm for the elections giving them a stake in shaping their government and future. Over 2.8 million Libyans are registered to vote, with 2,639 individual candidates and 374 political entities competing. Arguably, the General National Congress can have the upper edge over its predecessor as a legitimately elected body in its efforts to reign in militias and establish the rule of law.

The challenges facing the soon-to-be elected Libyan authorities are immense. They will inherit a country with weak and unaccountable institutions and devoid of independent civil society organizations and political parties. The legacy of powerful officials and security forces acting above the law will not be easy to dismantle. Libyans are used to seeing a parallel judicial system dealing with "political cases" and opponents of the government stripped of rights. The country is emerging not just from an eight-month conflict, but also from 42 years of repression of dissent and systematic human rights violations. Many people, including members of armed militias, saw loved ones perish and witnessed injustices and atrocities. Some are still searching for missing relatives. Powerful emotions wanting vengeance abound.

On these shaky foundations, the new General National Congress and the provisional government it appoints face the monumental task of building a country based on respect of human rights and the rule of law. Particularly important is the reining in of the militias, holding them to account for abuses, and establishing strong national institutions able to provide justice and redress. Failure to do this will sow the seeds of a deeper human rights crisis in the future.

Among other things, Amnesty International is calling on the new Libyan authorities to implement the following recommendations as a matter of urgency:

- Publicly admit the scale and gravity of human rights abuses, unequivocally condemn them and make clear their intention to bring to justice all perpetrators – regardless of rank or affiliation.
- Establish and implement without delay a disarmament, demobilisation and reintegration process that complies with human rights standards. It must include an independent vetting mechanism to prevent integration into the army, police and security forces of militia members or other individuals who are reasonably suspected of having committed or participated in crimes under international law or other human rights abuses, pending investigation and prosecution.
- Take concrete measures, in conformity with international human rights standards, to ensure the prompt cooperation of all militias in the disarmament, demobilisation and reintegration and vetting processes.

- Lift immunity from prosecution for crimes under international law and other serious human rights abuses, and ensure that those reasonably suspected of abuses are removed from positions where they can repeat them, pending investigation and prosecution.
- Ensure that all detainees are treated humanely and held only in official detention centres, and that the lawfulness of their detentions is promptly reviewed by a judge, in line with internationally recognized standards. Detainees must either be charged with a recognizably criminal offence and promptly brought to trial in fair proceedings, or released. In particular, ensure that no statements extracted under torture are accepted as evidence.
- Ensure that prompt investigations are carried out into all known or reported cases of unlawful killings and torture or other ill-treatment, and where there is sufficient admissible evidence, bring suspects to justice in fair trials.
- Ensure that people who have been forcibly displaced are allowed to promptly return to their homes, that their safety is guaranteed, and that they receive redress, including compensation and assistance to rebuild their homes and their lives.

ABOUT THIS REPORT

This report is based on the findings of an Amnesty International visit to Libya in May and June 2012. The visit included fact-finding in and around Benghazi, Kufra, the Nafousa Mountain, Sabha, Tripoli and al-Zawiya.

In May and June 2012, Amnesty International sought access to 19 detention facilities in al-Zawiya, Benghazi, Gharyan, Kufra, Tripoli and surrounding areas, and Sabha, including official prisons and detention centres run by armed militias and semi-official security and military bodies. It was able to speak to detainees in private in 15 of these centres.

Amnesty International visited five prisons under the control of the Directorate of the Judicial Police, namely Kuweifiya in Benghazi, Ain Zara in Tripoli, Jedayem in al-Zawiya, Hofra in Tajoura, and Sabha local prison. Despite having written authorization from the head of the judicial police to visit prisons, Amnesty International was not allowed to interview detainees in private in Jedayem. Amnesty International was denied access to two detention facilities in Tripoli run directly by *thuwwar*: one located in the Fernaj area and controlled by the Revolution Support Brigade (Katibat Isnad al-Tawra); the other near the main market in Abu Salim and controlled by a local militia. It gained access to 10 facilities controlled directly by *thuwwar* or recognized security or military structures, including al-Sareya al-Oula (formerly a women's prison) and Silaa Tamwiniya in al-Zawiya; al-Tamna and Bou Rashada migrant detention centre in Gharyan; Amn al-Wikai and Ganfouda in Benghazi; the Kufra migrant detention centre and prison;¹⁷ and the Tweisha detention centre and the Land of Men Brigade (Katibat Ard al-Rijal) in Tripoli. The organization also visited the military police prison in Bouhdima in Benghazi and a preventative detention facility managed by the Directorate of National Security under the Ministry of Interior in Tripoli.

Amnesty International met activists, detention administrators, hospital staff, doctors, lawyers, detainees, former detainees, relatives of people killed or abused in detention, as well as militia members and local officials. The organization also met and raised concerns with members of the NTC responsible for judicial affairs and human rights, the Minister of

Justice, the head of the Directorate of the Judicial Police, the Deputy Minister of Interior, the General Prosecutor, the spokesperson of the military prosecution, as well as other officials.

Some names and other identifying details of individuals whose cases are featured in this report, as well as the names and exact locations of some detention facilities and some militias, have been withheld to protect people from further abuse and reprisals, or to respect their wishes.

Amnesty International is grateful to all the individuals and organizations who assisted in gathering information on human rights abuses in Libya, particularly the victims of human rights violations and their relatives willing to share their experience.

2. ABUSIVE AND FLAWED JUSTICE SYSTEM

‘Of course people get beaten up when they first arrive, it is routine.’

17-year-old youth from Beni Walid held without charge by a militia in western Libya since October 2011, speaking to Amnesty International in May 2012



Detainee beaten in Ain Zara prison in May 2012.
©Private

Thousands of detainees continue to be held across Libya on suspicion of having fought for or supported the former government¹⁸. An estimated 7,000 are detained, although the exact number is unknown.¹⁹ Very few have been charged with any crime. With rare exceptions, detainees have no access to lawyers or the possibility to challenge the legality of their detention.

On 2 May, the NTC adopted Law 38 of 2012 on Procedures relating to the Transitional Period, which granted the ministries of defence and interior a maximum of 60 days to refer cases of detainees held by the *thawwar* to relevant prosecutions – civilian or military. In meetings with Amnesty International in early June, officials from the ministries of defence, interior and justice as well as the General Prosecutor expressed optimism regarding their ability to meet this deadline. They were, however, unable to provide any detailed information on the number of detainees held outside of government control.

In early June, some 3,400 detainees were being held in facilities controlled by the ministries of justice and defence.²⁰ In a meeting on 7 June, Amnesty International was told by the Minister of Justice, Ali Ashour, that 33 prisons were under the control of the Directorate of the Judicial Police, but a comprehensive list was not provided. On 23 May, officials at the Directorate of the Judicial Police gave Amnesty International a list of 11 prisons under their control: Ain Zara, Jdeida, Open Prison (Maftuh) and Tajoura (known as Hofra) in Tripoli and its suburbs; Dafniya, Tomina and Wehda in Misratah; Khums Prison; Zliten Prison; and Jedayem Prison in al-Zawiya. They also said that a new prison had opened in Zintan on 15

February 2012. According to the list, the latest prison to come under government oversight was Tajoura, on 21 April 2012. The head of the judicial police told Amnesty International that 30 prisons were under his control, 25 of them holding detainees.

The remainder of detainees are held in semi-official detention centres by security or military entities²¹ or by militias in secret locations. In mid-May, the UNSMIL estimated that some 4,000 detainees were in the custody of militias.²² The exact number of makeshift detention facilities remains unknown as militias continue to hold individuals in unrecognized locations, including villas and farms. For instance, Misratah militiamen told Amnesty International in May 2012 that there were aware of 12 places in Tripoli alone used by various Misratah militias to detain suspects.

ARBITRARY ARRESTS

Sweeping arrests by armed militias, acting independently or through local military councils or security committees, mostly took place when territories first came under the control of forces supporting the NTC. Decree 388 by the Ministry of Interior issued in December 2011 granted local Supreme Security Committees the right to arrest, detain and interrogate suspects. This provided a legal basis for the arrest and detention of suspects by the plethora of committees created by civilian or military councils and militias at the local level.

Despite these limited attempts by the Ministry of Interior to regulate the number of bodies authorized to carry out arrests, armed militias continue to seize people without warrant. The Deputy Minister of Interior, Omar al-Khadrawi, admitted to Amnesty International in a meeting on 6 June that despite calls and decrees by the Ministry forbidding arrests by “revolutionary brigades”, unlawful arrests continued.

In addition to taking captive individual suspects, armed militias target entire communities accused of having supported al-Gaddafi forces and committed crimes during the conflict. Particularly vulnerable to such arrests are people from Tawargha at the hands of Misratah militias and people from Mashashiya at the hands of Zintan militias.²³

Suspects are seized at home by groups of heavily armed men, frequently riding in pick-up trucks with machine-guns mounted at the back. Arrest warrants by the prosecution are never presented,²⁴ and *thuwwar* rarely identify themselves or tell distraught families where their relatives are being taken. Amnesty International also documented cases of individuals seized from their workplace and bundled into cars or pick-up trucks, who then disappeared without



Tawargha man shows Amnesty International his torture marks. May 2012.

©Amnesty International

trace. Militias also take suspects captive from the streets or at checkpoints. Easily identifiable targets, such as black Tawarghas or Sub-Saharan African nationals, are particularly vulnerable to such practices, severely impeding their freedom of movement.

In May 2012, in a makeshift detention centre in Tripoli controlled by the Ard al-Rijal militia from Misratah, Amnesty International interviewed three Tawargha men arrested in recent days or weeks. One of the detainees told Amnesty International that on 8 May he left a camp for internally displaced people in Tripoli, where he had been sheltering since Tawarghas fled their homes in August 2011, to go to the hospital. He was arrested by two men in military dress who approached him in the street and asked for his identity card. He said that since his arrest, he had not been questioned and did not know the reasons for his detention. He shrugged: "I am Tawargha, that's enough reason". The other two Tawargha men were taken from the street in April in separate incidents. Both were apprehended by other militias before being handed over to Misratah *thuwwar*.

Four Tawargha men in their late twenties and early thirties were arrested at Tripoli International Airport on 6 May upon their arrival from Benghazi. According to a female relative travelling with them, three men in civilian clothes, who did not identify themselves, singled out the Tawarghas and asked them for their identity cards. All other passengers were left to collect their baggage and leave. They told the Tawargha woman that her relative would be released after a quick investigation. Instead, the four men disappeared. Several days later, one of them managed to call a relative informing her that he was being held in Misratah.

Such abductions are frequently accompanied by violence, particularly when suspects resist or demand to know the reason for their arrest. Widespread looting and theft are also reported. A father of three children from Sirte, in detention since 24 April, told Amnesty International that he was apprehended by several armed men after he left a relative's house in Benghazi. He said:

"I didn't know who they were. Some were in military dress, others in civilian. They did not have a warrant, and looked like they were waiting for me to come out. I asked them what they wanted. Without explanation, they just punched me in the ear; and hit me with their rifle butts on my back... Before I could even react, I found myself at their base."

A man detained in al-Zawiya, who had yet to be brought in front of a prosecutor and charged, described to Amnesty International his arrest at the hands of a local militia:

"In late January at about 2am, we were sleeping, when some 50 armed men in pick-up trucks with mounted anti-aircraft raided my house. They had no warrant, did not tell me why I was wanted and did not respect the sanctity of the home, entering the bedroom, and taking my laptop and even my children's playstations."

A distraught man told Amnesty International that at 2am on 26 April 2012 a group of *thuwwar* riding in pick-up trucks with anti-aircraft machine-guns mounted at the back surrounded his brother's house in Tripoli, barged in and detained him without warrant. The *thuwwar* alleged that he was a loyalist and an "enemy of the revolution", and took him to a makeshift detention centre in the neighbourhood. For 10 days, his relatives were unable to confirm his whereabouts. He had already been held by another Tripoli militia for three

months before being released without charge.

Some individuals are rearrested by armed militias after being released by other *thuwwar*. A deputy head of a Misratah militia based in Tripoli told Amnesty International: "If I release a Tawargha, he will just be rearrested anyway". A few detainees showed Amnesty International release orders. One such case involved a military officer from Benghazi stationed in Tripoli, who was initially arrested on 18 September 2011 from his Tripoli home by *thuwwar* from Tajoura. After he signed a confession following seven days of beatings, he was transferred to the military police prison in Benghazi. Amnesty International was shown his release order, dated 11 March 2012, and signed by "the head of the military prosecution of the region". The man was rearrested on 11 April. He was unaware of the charges against him and the reasons for his rearrest as he had not appeared before a prosecutor.

A member of Libya's former intelligence service, who was interviewed by Amnesty International at a detention centre controlled by an armed militia in al-Zawiya, described his rearrest:

"On Thursday [probably 10 May] I was going to the market when a group of thuwwar from Souq al-Jumaa [Tripoli] driving in a Land Cruiser stopped me. They knew me by name and forced me to get in. They took me to a building in the area, still under construction, and brought me downstairs to a basement, where I stayed for about five or six days in a room alone. During that time, I was interrogated and beaten by some seven people using sticks, electric cables and Tube PPR [water pipes]. They beat me all over the body, legs, back, and buttocks. They also gave me electric shocks. I think the current came from the socket. This lasted for about three hours. Other people were detained there as well, I could hear them being questioned and could hear their screams... I tried telling them that I was already detained by thuwwar from Souq al-Jumaa in Mitiga [military base] back in September and got a release order, but they wouldn't listen. They just kept saying that I worked for al-Gaddafi's security services and insulting me."

Known figures are not exempt from such arbitrary detentions. For instance, media professional Sliman Dogha was taken captive by the Saadoun Suwihli Brigade on 20 June 2012 on a street in Tripoli. At a press conference following his release, he described being insulted, beaten and given electric shocks after being handed over to another Misratah militia, which drove him to Misratah. The militias accused him of being an al-Gaddafi loyalist and spreading lies about Misratah.²⁵ He was released later that night following a public outcry. In another case, the Saadoun Suweihli militia detained two British journalists, Nicholas Davies-Jones and Gareth Montgomery-Johnson, and their Libyan colleagues on 21 February. The militia only handed them over to central authorities on 14 March.²⁶

TORTURE AND OTHER ILL-TREATMENT

Torture and other ill-treatment continue, particularly in detention facilities controlled by armed militias. Detainees appear to be most vulnerable upon capture, in the first days of detention, and during interrogation. Several detainees told Amnesty International that they were still being beaten sporadically, either to punish them for some infraction or to exact revenge for their alleged crimes.

Most frequently, detainees are beaten for hours, sometimes while suspended in contorted

positions, with various implements such hoses, rifle butts, electric cables, water pipes and belts. Other forms of torture include electric shocks; burns inflicted by cigarettes, boiling water or heated metal; threats of murder or rape; and mock executions.



Detainee shows Amnesty International fresh torture marks inflicted on him at a prison under the control of the Ministry of Justice. May 2012.

©Amnesty International

A school teacher and father of two detained by an armed militia in al-Zawiya at the end of April described his ordeal:

"They took me from home without warrant claiming that I was co-operating with the former regime. Since my arrest 17 days ago, I have been beaten four times... Each time, a group of them, up to eight, take me out to the courtyard and beat me all over my body – legs, buttocks, head, face. They usually use water pipes and whatever else they find. The first time it happened I lost consciousness."

When Amnesty International interviewed him some five days after his last beating, there were visible injuries on his arms and legs. A detainee sharing his cell was unwilling to provide details, but did point to his own fresh torture wounds and to his legs, whispering that he was unable to walk. He had been detained for nine months.

At another militia-run detention centre in al-Zawiya, detainees said that minutes before the arrival of an Amnesty International delegate, guards removed two other detainees bearing visible marks of torture from their cells. One of the detainees, a 47-year-old police officer, said:

"When I was first brought here in January, I was interrogated in their office, and beaten all over my body with electric cables, sticks and water pipes... I am no longer beaten, but all new arrivals are. Sometimes, I cannot sleep until 4am because of the screams reverberating across the prison."

Detainees held in other cells also said that they frequently heard screams, especially at night, as recently as 21 May.

Another detainee at the same centre, arrested on 4 May, complained about being hit with belts and water pipes on the back intermittently during his first two days in detention. The beatings did not stop:

"I was last beaten on 19 May... they accused me of having some publications glorifying al-Gaddafi, but I haven't been questioned yet... They just take me out into the courtyard and beat me... I am not the only one beaten recently, [name withheld] was given electric shocks two days ago."

At a detention centre in Benghazi, Amnesty International interviewed a 43-year-old military officer, who walked with difficulty. It transpired that he had been severely beaten by guards on 29 May with sticks and water pipes all over his body after being caught with unauthorized items in his cell. Other detainees held in the same section of the prison confirmed hearing his screams the night he was beaten. As punishment, he was also held in solidarity confinement and denied family visits for 30 days. Another detainee in solitary confinement had visible marks on his face when Amnesty International visited, but said he preferred not to talk and expose himself to more beatings.

An engineering student from the al-Gaddafi tribe, whose brother is perceived to be a supporter of the former government, was driving his car on 7 May when armed men in civilian dress stopped him. They took him to a former security agency building, then being used as a base for a local militia. He described what happened:

"About eight people dragged me inside a cell. I was blindfolded and my hands were tied behind my back. They beat me like that for some two hours. They said I was responsible for his [al-Gaddafi's] crimes because I am from the same tribe. They also used swear words. They left me like that, standing facing the wall, until the next morning. Every once in a while, one of them came in and hit me. I was not allowed to use the toilet."

After five days there, he was brought in front of a prosecutor, accused of a common law crime and transferred to an official prison. He did not dare to complain about his treatment. Two other detainees, one Libyan and one foreign, both accused of common law crimes, complained about being given electric shocks during April at the same location.

Detainees are frequently shuffled between various makeshift detention facilities before being transferred to official or semi-official prisons or detention centres. They are particularly vulnerable to vigilante-style justice and revenge when held in detention facilities in towns where their alleged crime took place or at the hands of their alleged victims or relatives of victims.

Neurosurgeon **Hisham Anour Ben Khayal** was abducted in Tripoli on 1 April by a militia from al-Zawiya which blamed him for the death of their relative, Fathi Mohamed Abou Shanaf. They claim that Fathi Mohamed Abou Shanaf died as a result of medical neglect while being treated in the Sbi'a Hospital, where Hisham Anour Ben Khayal headed the neurosurgery department. They held him at their base, where he was beaten with sticks and whips. His treatment improved once he was taken out of their custody. Fathi Mohamed Abou Shanaf was transferred to Sbi'a Hospital some 35



Hisham Anour Ben Khayal was beaten with sticks and whips by an armed militia in al-Zawiya in April. ©Private

days after his initial injury. In court, Hisham Anour Ben Khayal said that wasn't even the treating physician in the case, and two operations were conducted at the Sbi'a Hospital in an attempt to save the patient.²⁷ He is nonetheless being accused of murder and being tried in the city of al-Zawiya, where there is strong public sentiment against him.

On 26 March, a militia from al-Zawiya detained a university professor from Surman, **Mohamed Imara Sariba**, on the street without a warrant. They held him for about 12 days at their base before referring him to the prosecution, which transferred him to the official Jedayem Prison. According to his lawyer, he was beaten and insulted at their base. He is allegedly accused by one of his former female students from al-Zawiya of threatening her and "offending the Libyan people", when she publicly condemned al-Gaddafi's government in his lecture hall. The incident dates back to April 2011, when al-Zawiya was under the control of al-Gaddafi forces after a brutal crackdown on protesters. The professor denied the allegations, arguing that he merely told her that the lecture hall was not an appropriate forum for such discussions and warned her to be careful in expressing her opinions given the climate of repression. Prior to his arrest, armed men in civilian clothes entered the university grounds looking for him on two occasions, in November 2011 and March 2012.

Ahmed Fathi Lahbouli, 25, from Asabee was stopped in his car at a checkpoint near Gharyan on 13 October 2011. He was detained for three months by two different armed militias in Gharyan, which accused him of killing seven people from their town. He told Amnesty International that during his first three days in detention, he was whipped, hit with a metal bar, and given three or four electric shocks to his legs with live wires. He said that during these three days, he was not given any food or water, and was barred from using the toilet. He said that on 6 November (the first day of Eid), he had his hands tied and was beaten with electric cables and wooden sticks from midnight to 4am. He was released in February without charge.



Eight men from Asabee told Amnesty International that they were tortured by Gharyan militias. One of them shows his scars. June 2012 ©Amnesty International

Gharyan by armed men. They were taken to the base of a local armed militia in al-Tamna. He told Amnesty International:

"My hands were tied behind my back. I was forced to sit down and put my feet inside a metal machine, shaped like a horseshoe, we use here to flatten iron. They did something, and I could feel my feet being squeezed. I was also beaten with a metal chain all over my body,

Amnesty International spoke to some eight men from Asabee previously detained in Gharyan. They consistently described being beaten for prolonged periods with various implements, including belts, water pipes and electric cables; being suspended from metal bars; and being given electric shocks.

University student **Ibrahim Mohamed Ibrahim**, 24, was arrested on 13 January along with his brother at a checkpoint near

including my head. I was punched in the eye. Then, they told me to remove my clothes and I was left in the cold on the concrete floor... After the beatings on the second day, I had to be dragged out to my cell, I would no longer walk."

Ibrahim Mohamed Ibrahim was released three days later without charge.

In its report *Militias Threaten Hopes for New Libya*, Amnesty International detailed the death of Asabee resident, **Ezzeddine al-Ghool's** as a result of torture within 24 hours after being seized by militias from Gharyan.²⁸

Amnesty International met a 25- year-old man who had been transferred between five different detention centres before being released without charge in February. He had spent nearly six months in detention. He complained about being subjected to "a welcome party" of beatings at the first four places. He then described his arrival at the third militia base:

"When I first arrived there, they tied my feet and hands. They then suspended me from my legs to a metal bar, so my head was dangling near the ground. They left me in that position while beating with a PPR Tube... I don't know how long it lasted, I lost consciousness... I was lucky, they beat a man from my town [name withheld] to death."

A soldier from Tripoli told Amnesty International that he was arrested on a street in early April 2012 by *thuwwar* from Hadba, his neighbourhood. He continued:

"They took me to their base in Hadba for three days. There, they beat me on my face and all over the body with wooden sticks. This lasted for about two hours. They then attached lives wires to my toes, and gave me several shocks... I was then handed over to thuwwar from Mansoura who took me to a house where I was kept in a basement for two days, in a room with no air... I was threatened at knife-point to confess to killing thuwwar, which I did... After that, treatment improved and I was transferred to Saiqa Brigade, and from then to Benghazi... I don't know why all these transfers... As soon as I got here I signed something, but I was too afraid to ask to read it."

He has yet to be officially charged with any crime.

A local head of al-Gaddafi's military intelligence told Amnesty International that he had been detained in four different locations in Tripoli, Misratah and Benghazi. He was tortured at three, including by being beaten by some 14 people with electric cables, wooden sticks and water pipes; being suspended from a metal bar while handcuffed and beaten for four hours; and being woken up in his cell at 3am by three people kicking him and stepping on his face with their military boots. He said:

"The torture did not stop when I was first transferred to each place. Sometimes people from outside come inside the cells to 'identify' detainees, if they identified you positively, you get beaten."

When Amnesty International saw him, he was in an official prison and had not been beaten since March. However, he expressed fear for the safety of his 25-year-old son, who was still detained by an armed militia.

A soldier from Beni Walid, arrested in October and held by an armed militia in western Libya, told Amnesty International:

"I have been detained in four different places now... There are no criminal interrogations, just beatings and insults... Last time, I was hit on about 7 May when a group of men – some in civilian and some in military – entered our cell, dragged me out to their office, and beat me by hand, with sticks and with Tube PPR. When we were first transferred here, another man from Beni Walid died in my cell after being beaten."

Other detainees, interviewed separately, confirmed his allegations.

In some cases, armed militias beat or otherwise abuse individuals without detaining them.



Mohamed Salouqa was beaten by armed militiamen from Misratah in February 2012. He is still waiting for justice.
©Private

Mohamed Al-Hadi Rajab Salouqa, 54 and single, owned a little cafe on the beach in Tripoli at a site where Zintan and Misratah militias fought for control. He complained to Tripoli officials about Misratah *thuwwar*, who were forced out in early February. They returned during celebrations to commemorate the first anniversary of the "17 February Revolution". He told Amnesty International what happened next:

"On 24 February, some seven thuwwar from Misratah came into my cafe, some wearing civilian and others in military dress, asking for water. As I was pouring it, they pushed me into the sand and started beating me using the back of their rifles on my head, face, and rest of the body – focusing on the back. They tied my hands behind my back. I overheard one saying: 'kill him'. I couldn't breathe anymore, my face was shoved into the sand. Eventually I lost consciousness. I was saved by a local brigade –

Katibat Sukur Souq al-Jumaa [Souq al-Jumaa Falcon Brigade], who heard firing and came. The Misratah thuwwar fired a rocket propelled grenade into my cafe, completely destroying it... I filed a police report that same night and later presented a complaint to the prosecution, but they told me to go to the police station in Madina [downtown Tripoli]. There, I was told to go to the Supreme Security Committee."

On 16 March, Mohamed al-Hadi Rajab Salouqa travelled to Misratah to complain. The head of the *thuwwar* union did not meet him, so he left a written complaint with the Misratah local council. At the time of writing this report in late June, no action had been taken. Mohamed al-Hadi Rajab Salouqa lamented:

"[The government] in Tripoli has no strength to arrest anyone from Misratah. Misratah and Zintan are stronger than the government and the security committees. They do what they want."

Amnesty International met a number of former detainees who after release lodged complaints at police stations or prosecution offices regarding their treatment. To Amnesty International's knowledge, no investigations have yet been carried out and no *thuwwar* have been brought to justice for torturing or otherwise abusing detainees.

FEMALE DETAINEES

Significantly fewer women than men have been arbitrarily arrested and detained in Libya, and those seized have fewer complaints regarding their treatment. Nonetheless, Amnesty International documented several cases of torture or other ill-treatment suffered by women.



27 year-old woman who had boiling water poured on her by armed militiamen in February 2012. Doctor reports say she suffered from 3-4 degree burns. May 2012 ©Amnesty International

On 14 February 2012, a group of armed men stopped two sisters, aged 32 and 27, along with the older one's husband and small child, at a checkpoint. According to the sisters, the armed men forced them out of the car at gunpoint and took them to a nearby farm. The younger sister's hands were tied behind her back and she was suspended by her hands from a door. She was left in that position for about five hours, had boiling water poured over her head and body, and was beaten with plastic cables and wooden sticks all over her body. She was also stabbed in her stomach. While being beaten, she was asked about her alleged loyalty to the former government, her activities during the 2011 conflict and her relationship with other "loyalists".

The women and the toddler were then taken to a private house while blindfolded. The younger sister was hit with sticks while lying on the ground and the older sister was beaten with sticks and plastic cables, particularly on her hands. The older sister was threatened with beatings while suspended from a window ledge by her hands, which were tied. Ten days later, the two women and the child were released without charge. Prior to their release, armed men warned them that their brother would be killed and their house would be destroyed should they complain.

The whereabouts of the older sister's husband remain unknown. He was separated from the women upon arrest. At the farm, his wife heard him screaming in another room. He was not taken with the women to the second detention location.

When Amnesty International met the younger sister some three months after her detention and torture, scars were still visible on her body. Burns were particularly severe on her neck, breasts and back. Her motor skills continue to be affected. A medical report from the Burns and Plastic Surgery Hospital examined by Amnesty International confirms that she suffered from "deep scald burn 3-4 degree with infected wounds".

Hasna Shaeab, 31, was abducted from her Tripoli home in early October by a group of armed men in military dress. They did not have a warrant, but proceeded to search the house, leaving with Hasna Shaeab. She said that she was detained for three days at the former Islamic Endowments Building in Tripoli. There, she was forced to sit on a chair, had her

hands handcuffed behind the back and was given electric shocks through electric wires attached to her right leg, private parts and head. She told Amnesty International that she was beaten and whipped until she lost consciousness. She had urine poured over her. She sustained a shrapnel wrist injury when handcuffs were shot off her hands because keys could not be found.

While being tortured, Hasna Shaeed was questioned about her alleged relationship with figures from the former government and accused of being an al-Gaddafi loyalist and sniper. The guards threatened to bring her mother and rape her if Hasna Shaeed did not confess. She eventually admitted to having a Kalashnikov rifle. After her release without charge three days later, she submitted complaints to the Supreme Security Committee based in the Faculty of Policewomen,²⁹ the General Prosecutor,³⁰ the Tripoli General Prosecutor, and the Tripoli Military Council. A report by a forensic pathologist and pictures of her back, knees and arms taken shortly after her release, and seen by Amnesty International, corroborate her testimony. In mid-June, she received a phone call from the person who arrested her, as well as other anonymous threatening phone calls warning her to withdraw her complaints. Her flat was shot at in March in the middle of the night.

A woman from the al-Gaddafi tribe, detained at an official prison at the time of writing on charges of murder, told Amnesty International that she was beaten with electric cables and by hand by guards in the days following her arrest in September 2011. She said that her hair was also pulled, and that she was called a “Gaddafiya” (a member of the al-Gaddafi tribe) and a “whore”.

DEATHS IN CUSTODY



Amnesty International documented more than 20 deaths in custody at the hands of militiamen since September 2011. ©Private

Amnesty International gathered detailed information about at least 20 cases of deaths in custody at the hands of armed militias across Libya since September 2011. Medical records and forensic reports, examined by the organization, confirmed that the deaths were the result of abuse – mostly prolonged beatings, leading to internal bleeding and acute renal failure. In at least two cases, detainees died

from gunshot wounds after they were shot in detention months after being apprehended.

On numerous occasions, in memoranda and in meetings, Amnesty International has alerted the Libyan authorities to deaths in custody as a result of torture. In its report, *Militias threaten hopes for new Libya*, Amnesty International provided detailed information on six

such cases.³¹

In most cases documented by Amnesty International, families submitted complaints to relevant prosecution offices and had strong forensic and photographic evidence of the abuse. The lack of effective investigations is all the more concerning as police stations must automatically be notified if anyone is brought to hospital who has died of unnatural causes, and no autopsy is conducted without a referral from the relevant prosecution. Therefore, even when families do not submit formal complaints, prosecutors are obliged to initiate investigations. Given that no concrete steps have been taken to bring perpetrators to justice in any of the cases documented by Amnesty International, it is not surprising that abuses leading to deaths in custody are continuing.

At around 8am one morning in late May, armed men from Sabrattah arrested 24-year-old **Fouad Youssef Hassan Ibrahim**, a judicial police officer, from his workplace in Jedayem Prison in al-Zawiya. His distraught family, from Ajilat, travelled to Sabrattah in a desperate attempt to find him and notified the local council of his abduction. They received no response. On 6 June, his body was brought to the morgue. Pictures of the body seen by Amnesty International showed scabs and abrasions, and signs of superficial burns. There were also visible handcuff and legcuff marks. According to forensic pathologists, he died of acute renal failure.

On 14 April, **Ali Farid al-Ajili**, aged 38 and a father of one child from Nahda village, near Gharyan, was arrested along with three cousins – Abdallah al-Hadi al-Ajili, Abdel Bari al-Hadi al-Ajili and Mohamed Abdel Razak Salem – in the context of confrontations between an armed militia from Gharyan and residents Nahda. According to his father, Ali Farid used to co-operate with the Gharyan military council and *thuwwar*, but fell out with them over the treatment of detainees and theft. The four men were held at al-Thamna detention centre, controlled by a Gharyan armed militia, and their families were not allowed to visit them. On 27 May, Ali Farid's body turned up at the morgue, with a gunshot wound to the head. Amnesty International examined a forensic report dated 28 May, which confirmed this. That same day, his family lodged a complaint with the prosecution.



Ali Farid al-Ajili was shot dead by an armed militia on 27 May 2012. He was detained in April. ©Private

Following the death of Ali Farid, his three cousins were released. They said that all four of them had been beaten during their incarceration. Various methods of torture were used, including burning with cigarettes and heated metal, and beatings with metal chains all over the body.

Bashir Said Ben Hussein, aged 74, disappeared on 28 May from a Tripoli street, as did the



Torture victim at the hands of militias in Gharyan. His cousin Ali Farid al-Ajili was killed in detention in May. ©Private

car he was driving. His family spent the next three days frantically looking for him after informing the police. On 31 May at 9am, they received a call from Tarhouna Hospital informing them that his body had been found that morning in a ditch near Tarhouna. According to a forensic report examined by Amnesty International, he had bruises and cuts on his back, shoulders, hands and feet; his skull was fractured; and handcuff marks were visible on his wrists. His car was found in the area of Garabulli.

On 10 May, **Hisham Saleh Fitouri**, a 25-year-old member of the al-Awfiya armed militia, was arrested along with a group of other militiamen at a checkpoint near Tarhouna by an armed militia from Misratah, following a confrontation. His family knew nothing about his fate and whereabouts until they heard through unofficial channels on 25 May that his body was in the Misratah morgue.

The family later discovered that he had died three days after his arrest on 13 May. They were initially given a forensic report done in Misratah, which said that he had died of natural causes. They managed to transfer the body to Tripoli, and requested another autopsy. The second autopsy concluded that he died as a result of internal bleeding and acute renal failure. The forensic report examined by Amnesty International confirmed that there was deep bruising all over the body.

He is not the only person to die at the hands of Misratah armed militias. According to the UNSMIL, three people died on 13 April in Misratah in a detention facility controlled by the Supreme Security Committee.³² Amnesty International independently documented the death of one of them, 44-year-old father of two **Barnous Bous'a**, whose body was covered with bruises and cuts, including an open wound to the back of the head.

In another case, relatives were not allowed to visit a 29-year-old employee of a foodstuffs company after his arrest by a Tripoli-based armed militia on 21 March. After several attempts and the intervention of another armed militia, guards eventually admitted to the family that he had been transferred to Tripoli Central Hospital. The family rushed to the hospital and discovered that he had been in the Intensive Care Unit, registered under a different name, since 30 March. He died on 2 May. The family asked for an autopsy, which concluded that he died as a result of a brain haemorrhage caused by a skull fracture. His family lodged complaints with the police and prosecution.

Imhamad Salem Ali Aquila, 33, a soldier from Asabee, was arrested by local *thuwwar* at the end of September 2011. After being detained by two separate armed militias, he was transferred to Jedayem Prison under the control of the judicial police. He was accused of extrajudicially executing several men from Harsha near al-Zawiya. On 20 February 2012, his family was informed through unofficial channels that he had died. It transpired that the night before, a group of armed men from Harsha abducted him from Jedayem Prison and beat him to death. Amnesty International saw pictures of Imhamad Salem Ali Aquila's body, which was almost entirely covered with bruises. There was also an open wound on the head. A forensic

report examined by Amnesty International provided further corroboration as to the cause of death. The family lodged a complaint at the local police station in Harsha and with the general prosecution in al-Zawiya, including against the Jedayem Prison guards who allowed the armed men's entry into the prison.



Imhamad Salem died as a result of torture in February 2012 at the hands of a militia from al-Zawiya. ©Private

According to information available to Amnesty International, at least five other people have died as a result of torture at different detention facilities in al-Zawiya since September 2011 – Mohamed Batour, Haitham al-Daif, Issa Ishkalou, Ali al-Kharbash and Sliman al-Sassi Krim.

In a further case, **Kari Mohamed Ali Kari**, 55 and the father of three children, was apprehended on 21 October 2011 on the road while driving his wife, daughter and two other female relatives from their home in Traghen to Sabha, where he works. They were stopped by Tabu armed militias, who told his relatives that he would be interrogated and released shortly. Six days later, his family received a phone call informing them that his body was at Morzuk hospital. According to the forensic report examined by Amnesty International, he died on 23 October as a result of a “hit to the head with a blunt object”. The report indicated that his hands had been tied.

FAMILIES LEFT IN THE DARK

Distraught relatives usually do not know where individuals taken by militias are being detained. They frantically seek information at known places of detention and approach local civil and military councils.³³ In most cases, once individuals are transferred to official or

semi-official facilities, relatives obtain news – usually via unofficial channels – regarding the whereabouts of their loved ones. In other cases, relatives have no news months after the abduction.

Twenty-four-year-old **Bashir Abdel Nabi** last spoke to his family on Eid in September 2011. He was arrested when fighters opposing Colonel al-Gaddafi swept into Tripoli in late August 2011. One of his relative told Amnesty International:

“We have no idea where he is. We were first told that he was captured from the street by thuwwar from Tajoura, who then handed him over to thuwwar from al-Zawiya. We went everywhere, to all the prisons in Tripoli, and al-Zawiya... When he called us on Eid, he did not say who held him... We hear rumours that he is held in Jdeida [Tripoli], Jedayem [al-Zawiya], Awlad Ajina [militia in al-Zawiya]. Some are even saying he has been transferred to Misratah, but wherever we ask, we are not told anything or told that he is not held there... We lodged a complaint with the prosecutor, but still no news. We just want to know if he is dead or alive.”

On around 13 March, a group of armed men believed to be from Souq al-Jumaa entered the office of **Shaaban Tarban**, a 60-year-old engineer, in the Mizran area of Tripoli. His relatives heard about his detention from his driver and secretary, present at the time. One of the men reportedly showed his identity card, confirming his membership of an armed militia from Souq al-Jumaa. Since then, Shaaban Tarban’s relatives have been unable to obtain any information about his whereabouts, despite having approached all known detention centres in Tripoli and its suburbs, and lodged complaints with the prosecution and the NTC. Shaaban Tarban was the former Inspector General of Industry and Minerals, and prior to that the director of the national company of trucks and buses. He left Libya during the conflict, returning with his family in January. Prior to his arrest, he had not been summoned for questioning.

Another distraught family has also knocked on all doors to locate the whereabouts of father of seven, **Bashir Abdallah Badaoui**, 57, the former head of the Tripoli Criminal Investigations Department. He was abducted along with his 19-year-old son Hossam, a student, by an armed militia on 13 April near his Tripoli home in Ain Zara. His 24-year-old son Mohamed was also apprehended near their home on the same day in a separate incident. Bashir Badaoui’s female relatives returned home to find some 15 armed men – who identified themselves first as members of a local Supreme Security Committee and later as members of the Talaee Febrair Brigade – inside the house conducting a search without a warrant. The armed men left after breaking doors and taking gold and money. The following day, they released Mohamed. On 15 April, two armed men identifying themselves as members of the Sabriya Ben Sassi Martyr Brigade (Katibat al-Shahida Sabriya Ben Sassi) from Tajoura came to the house along with a terrified Hossam, demanding keys to Bashir Badaoui’s work car and Criminal Investigations Department documents in Bashir Badaoui’s possession. When the family refused to hand over the documents, the armed men took Hossam away, releasing him three days later. Hossam was in poor shape after his release, having suffered a “traumatic perforation” to the left ear as a result of beatings. A forensic report also indicates that Hossam suffered injuries to the face, head, knees and back. The family lodged several complaints with Ain Zara police station and the General Prosecutor. They also sent complaints to NTC Chairman Mostafa Abdeljalil and several ministers. At the time of writing,

Bashir Badaoui's whereabouts remained unknown. His family told Amnesty International that Katibat al-Shahida Sabrahiya Ben Sassi denied holding him.

DEFECTIVE LEGAL PROCESS

In most detention centres visited by Amnesty International, detainees have been interrogated about their alleged crimes. In some cases interrogations amounted to verbal questioning accompanied by beatings. In other cases, criminal investigations into alleged crimes and decisions to detain or release people fell within the remit of various self-appointed "investigation" or "judicial" committees and individuals – some without any legal or prosecutorial expertise. These interrogations were conducted without the oversight or involvement of the General Prosecution. Lawyers were never present during such interrogations, and those detaining the suspects were either present or within earshot.

Detainees told Amnesty International that they signed "confessions" extracted under torture, or provided self-incriminating evidence in fear of further torture. In some instances, detainees were blindfolded during interrogation.

A 23-year-old Tawargha man, who had lived most of his life in Benghazi, told Amnesty International that he signed a confession when he could no longer withstand the torture while detained by an armed militia in eastern Libya in March 2012. He explained:

"They wanted me to admit that I was at the frontline in Misratah. I kept telling them that I wasn't even in Misratah during the conflict. They would not listen. They beat me with belts on my back, hands, legs. They threatened to kill me. Eventually I said 'just write what you want, and I will sign'."

The man is now detained at an official prison, but has yet to be brought in front of a prosecutor.

A 48-year-old father of eight, detained by the same militia for two months between July and September 2011, also signed a "confession" without reading it. He is accused of being "a fifth columnist" seeking to undermine the "17 February Revolution". He described the circumstances of his confession:

"I was first blindfolded. Then, they took me to an office, I think, and made me lie face down."



Former detainee shows Amnesty International his scars as a result of beatings. He was released without charge after three days in the custody of armed militias. May 2012 ©Amnesty International

Then, they started beating me, and electrocuting me on the legs. I was also forced to hold my hands up in the air while they were beaten with a stick. Beatings lasted from about sunset until the next morning. I couldn't take it anymore and signed."

An 18-year-old student from a perceived loyalist family, accused of volunteering with al-Gaddafi forces, told Amnesty International that he signed a "confession" soon after he was arrested on 19 August 2011 at a checkpoint between Tripoli and al-Zawiya. He said that he was beaten all over his body with ropes, sticks and belts, and given four or five electric shocks from a wire connected to a socket. He showed Amnesty International scars, and a broken tooth he said was the result of punching. He continues to be detained by the same militia at a different location, and has yet to be brought in front of a prosecutor.

In a worrying move, interrogations conducted by *thuwwar* and various committees outside the framework on the law have been given legal weight with the passage of Law 38 of 2012. This stipulates in Article 2: "Documentation of facts, deposition of witnesses and affidavits made by supporters of the former regime, minutes and records organized by the *thuwwar* shall have the same legal weight as those of the judicial officer as per the Code of Criminal Procedures and in due process – provided that they are deemed credible under the discretionary powers granted to the trial judge".³⁴ When Amnesty International raised concerns regarding the use of information extracted under torture or duress as evidence in proceedings, the General Prosecutor, Abdelaziz al-Hasadi, said that prosecutors will conduct their own investigations, disregarding any information collected prior to their involvement. The Libyan authorities must comply with their obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and dismiss statements obtained under torture without exception.

The Minister of Justice told Amnesty International that some 3,000 individuals were being detained on the basis of orders issued by the prosecution. However, it remains unclear if all of them have been physically presented to the prosecution and brought before a court enabling them to challenge the legality of their detention. The vast majority of detainees interviewed by Amnesty International, including those held for up to a year, said they had not been brought before the prosecution. To Amnesty International's knowledge, by early June only three conflict-related cases had been referred to civilian courts.

Once cases are transferred to courts and in some rare cases in Benghazi during the criminal investigation phase, detainees have been granted access to lawyers. Detention officials told Amnesty International that they did not oppose lawyers visiting prisons, as long as they received the necessary authorization from the General Prosecution. However, the vast majority of detainees had no access to lawyers, and were neither informed nor aware of their right to request a lawyer.

In detention centres overseen by the Directorate of the Judicial Police, administrators told Amnesty International that the results of criminal investigations – conducted by the various "judicial" committees – have now been passed to either the general or military prosecution. For instance, in Ain Zara Prison, the deputy of the prison, who remained in post after the transfer of the prison to the Ministry of Justice, said that members of the prosecution interrogated some detainees inside the prison and that 223 of 435 "political cases" – or cases connected to the conflict – had been referred to the military prosecution. Amnesty

International was shown release orders, some signed by the military prosecution and others by the prison director, who also remained in post after the Ministry of Justice took control. Most detainees interviewed in Ain Zara – some arrested in early September 2011 – told Amnesty International that they had not yet been physically brought before a prosecutor. In Tajoura Prison, the director told Amnesty International that delays in bringing detainees to relevant prosecutions were partially due to security concerns relating to physically transporting detainees, but confirmed that detainees' files have been referred to relevant prosecutions.

At the military police prison in Bouhdima, holding some 380 individuals accused of being soldiers or volunteers with the former government, investigations by the military prosecution had started, although many detainees – some arrested as early as March 2011 – complained of severe delays. At the time of writing, only two cases had been referred to trial. In one, involving some 40 suspects accused in relation to the establishment of the Call Brigade (Katibat al-Nida), hearings had been suspended – after a request by the defence to refer the trial to civilian court. The second trial, relating to the killing of NTC army chief-of-staff Abdel Fatah Younis al-Obeidi, has been adjourned to 7 November 2012 to allow the review of new evidence.³⁵ This already politically-sensitive case was further complicated by the gunning down on 21 June by unknown assailants of Jumaa Hassan al-Jawzi, who signed Abdel Fatah Younis' arrest warrant and who had been called in for questioning in June for his alleged role in his killing.

Most detainees transferred to the military police were first held and interrogated at the 17 February camp in Benghazi, under the control of armed militias. Several told Amnesty International that they were held incommunicado and signed "confessions" there under torture.

After being approached for questioning at a Benghazi cafe on 15 December 2011, **Ossama Jumaa Ayad** was detained at the 17 February camp, accused of having fired at demonstrators. He had been with the Fodeil Bou Omar Brigade in Benghazi³⁶ before defecting. After spending a week at the 17 February camp, Ossama Ayad was transferred to the military police prison in Bouhdima, where he remained at the time of writing. According to information available to Amnesty International, he was beaten by four men upon arrival at Bouhdima and still had visible scars and torture marks some four months later.

Ossama Ayad's relatives were also targeted by armed militias. On 29 April, their car came under fire near the Islamic Endowments Building in Benghazi at about midnight. His wife sustained shrapnel injuries to the head. As they were making their escape, passengers noticed a car



Ossama Ayad joined NTC forces and participated in the battles for Beni Walid and Tripoli, before being arrested in December 2011. ©Private



Ossama Ayad's wife sustained shrapnel injuries when her car came under fire by armed men in Benghazi on 29 April. June 2012
©Amnesty International

with "17 February Brigade" written on it, and containing some 10 armed men with covered faces. The family home was raided on 8 May by a group of 20 armed men who did not present a search warrant. They were allegedly looking for Ossama Ayad's father, but left with gold instead. On 12 May, the family farm was raided and looted. Ossama Ayad's father has not received an official summons for questioning. Prior to his arrest, Ossama joined forces loyal to the NTC in battles for Tripoli and Beni Walid and worked in close protection for the NTC.

The investigation by the military prosecution into his case was closed on 5 February, but he has yet to be referred to trial. There are also complaints that his lawyers faced constraints when trying to access his entire file, impeding his right to adequate defence.

Delays in presenting suspects to prosecution seemed to be significantly

shorter in common law cases, most involving people accused of murder, assault, theft or drunkenness. Nonetheless, Amnesty International documented some breaches of due process in such cases, including delays in referring cases to the prosecution, and beatings of suspects in preventative detention.

For instance, a 30-year-old man detained at an official prison told Amnesty International that in early May he spent 15 days at the base of an armed militia, a former external security agency building, in his hometown of Sabha before being transferred to prosecution on charges of being in possession of drugs and alcohol. He said that he was arrested by a group of armed men in civilian clothes. He described his treatment:

"On the first day, about four of five of them hit me with sticks and bars. This lasted from sunset until late into the night. They also attached some electric wires to my big toes, and shocked me a few times... I complained to the prosecution. I don't know if any action was taken."

Building an effective judicial system and establishing the rule of law is paramount for Libya to break out of the cycle of violence, human rights abuses and impunity, and to provide justice and redress for victims. Amnesty International recognizes the challenges facing prosecutors, police, criminal investigators and other staff in the justice sector, in light of the de facto authority exerted by armed militias. Many people in the justice sector highlighted difficulties and threats they faced in performing their duties, arguing that a return to a functioning judiciary could only happen when the security situation improves.

A judicial officer carrying out criminal investigations in al-Zawiya, including into cases of death under torture and other unlawful killings, told Amnesty International that he received verbal warnings to be careful. The house of his colleague, who was investigating a murder implicating a local armed militiaman, was shot at on 3 May in the middle of the night.

Ali Juma, a member of the general prosecution, was abducted at 11pm on 25 April 2012 from his Tripoli home by the Bashir Saadaoui armed militia. On the way to the militia's base near the Ministry of Farming, he was blindfolded and beaten by hand and with rifle butts. It is believed that the militia abducted him because they heard that he ordered the arrest of some of their members in relation to a fraud case dating back to 2010. He was released several hours later. While an investigation has been opened, it is unclear whether anyone has been arrested in relation to the abduction and beating.

This is not the only recorded case of violence against members of the prosecution. In December 2011, a group of armed men entered the office of General Prosecutor Abdelaziz al-Hasadi and, at gunpoint, ordered him to release a suspect.

A lawyer representing alleged al-Gaddafi soldiers and loyalists described to Amnesty International the challenges facing the work of defence teams, including the presence of armed men inside prosecution offices and courts, during investigations and hearings. The lawyer said:

"They told me inside the courtroom, 'if they walk free, you will pay the price'. I also got several anonymous calls telling me 'leave the case, or face consequences'... My family is worried, they don't want me to work on these cases. But this is my duty to uphold the right of defence. Unfortunately, not all my colleagues feel the same, and some don't come near al-Gaddafi loyalist cases. I was told that I didn't suffer enough during the Revolution, and don't have any martyrs in my family, which is why I am willing to take up these cases."

Another lawyer representing families of alleged al-Gaddafi supporters whose properties were looted and appropriated told Amnesty International that his work was difficult as very few people were willing to take up such cases and risk being accused of supporting the former government. A family of an alleged al-Gaddafi loyalist in Tripoli complained to Amnesty International that they were turned down by several lawyers unwilling to defend him.

LIBYA'S OBLIGATIONS

As a state party to the International Covenant on Civil and Political Rights (ICCPR) and the CAT, the Libyan authorities must criminalize torture, investigate whenever there are reasonable grounds to suspect acts of torture and other ill-treatment have occurred – even when no official complaints have been made, bring those responsible to justice, and provide reparation to victims.

The authorities are also required to take concrete measures to prevent torture and other ill-treatment, including by granting independent bodies the right to monitor the situation of detainees in all prisons and other places of detention.

Libyan law criminalizes torture and prescribes a prison term of three to 10 years for "Any public official who orders the torture of the accused or tortures them himself".³⁷ However,

Libyan legislation does not define the crime of torture or make explicit that it is absolutely prohibited under all circumstances.

Libya is also obliged to prevent arbitrary arrest and detention and to allow anyone deprived of their liberty an effective opportunity to challenge the lawfulness of their detention before a court (Article 9 of the ICCPR). It must ensure that those arrested are promptly informed of any charges against them. Those charged must be brought before the judicial authorities within a reasonable time. Libya's Code of Criminal Procedure sets 48 hours as the limit for referring suspects to the General Prosecution, extending the limit to seven days for certain offence including those "against the state".

Some safeguards against torture, arbitrary arrest and detention are included in Libyan law. For instance, Article 14 of Law No. 20 of 1991 on the Promotion of Freedoms stipulates: "No one can be deprived of his freedom, searched or questioned unless he has been charged with committing an act that is punishable by law, pursuant to an order issued by a competent court, and in accordance with the conditions and time limits specified by law". Other safeguards include the requirement for security officers to hold a warrant from the competent authority when arresting or detaining a suspect (Article 30 of the Code of Criminal Procedure), the requirement to detain suspects only in "prisons designed for that purpose" (Article 31), the right of detainees to challenge the legality of their detention (Article 33), the right to have lawyers present during interrogation in criminal cases (Article 106), and the right to be assigned a lawyer if none was appointed by the defendant (Article 321).

3. FOREIGN NATIONALS AT RISK

‘I am a modern day slave here’.

Sub-Saharan African national detained in Libya, May 2012

During Colonel al-Gaddafi's rule, foreign nationals – particularly those from Sub-Saharan Africa – lived with uncertainty and fear of changing policies, arbitrary arrest, indefinite detention, torture and other abuses. After the “17 February Revolution”, their situation was made more difficult by the general climate of lawlessness, the proliferation of arms among the population, and the failure of the authorities to tackle racism and xenophobia, fuelled by the widespread belief of the involvement of “African mercenaries” in the armed forces of the toppled government.



Children at Bou Rashada detention centre for migrants. More than 1,000 men, women and children are detained at Bou Rashada by an armed militia for being “undocumented migrants”. May 2012. ©Amnesty International

Undocumented foreign nationals, especially those from Sub-Saharan Africa, remain at risk of arbitrary arrest, indefinite detention in harsh conditions, and beating or other ill-treatment, in some cases amounting to torture. Individuals potentially in need of international protection are vulnerable to the same kind of abuses faced by irregular migrants, and have no possibility to seek asylum. The UNHCR, the UN refugee agency, operates in Libya without an official memorandum of understanding, and has not registered any new asylum-seekers or carried out any refugee status determination since June 2010.

During and in the immediate aftermath of the conflict, armed militias captured and detained hundreds of Sub-Saharan Africans on suspicion that they had fought with al-Gaddafi forces. The militias tortured or otherwise ill-treated many of them. Many were eventually released due to lack of evidence. The remaining detainees have yet to be officially charged. Today, Sub-Saharan Africans are being arrested and detained for offences related to irregular migration, and several have said they were beaten or otherwise abused.

Despite the well-documented abuses against them, new arrivals continue to stream through Libya's long and porous borders, fleeing war or persecution or searching for better economic opportunities in Libya or beyond. Those coming from the south mainly use two routes: arriving through Kufra in the east and Sabha in the west.

The Libyan authorities have the right to control the country's borders and set conditions for the entry and stay of foreign nationals. However, in doing so, they must uphold their international human rights obligations, including by respecting the right to liberty and security of person, the right not to be arbitrarily arrested and detained, the right not to be expelled without due process and the right to equality before the law.

In May and June 2012, Amnesty International visited four detention facilities known as "holding centres" designed to hold irregular migrants – Tweisha in Tripoli, Bou Rashada in Gharyan, Ganfouda near Benghazi, and the Kufra detention centre. At the time, they held around 1,680 people between them. Amnesty International also interviewed foreign nationals held for breaches of migration-related regulations at the Silaa al-Tamwiniya detention facility under the control of a militia from al-Zawiya. Exact numbers of individuals held for migration-related offences are difficult to determine as they fluctuate regularly with fresh arrests, releases and deportations, as well as transfers between detention centres.



Baby sleeps in Bou Rashada detention centre. His mother told Amnesty International that she was arrested at home in Tripoli in early May for not having proper papers. May 2012 ©Amnesty International

Women were held in two of the visited detention facilities, Tweisha and Bou Rashada, where there were no female guards.³⁸ Under the UN Standard Minimum Rules for the Treatment of Prisoners, women prisoners are to "be attended and supervised only by women officers". Amnesty International found a small number of unaccompanied minors held together with adults, again contrary to international standards.

Amnesty International also spoke to foreign nationals detained at Kuweifiya and Sabha prisons on suspicion of petty and other common law crimes, and individuals held at Ain Zara Prison accused of being foreign mercenaries.

Those detained in all these facilities included nationals of Burkina Faso, Cameroon, Chad, Egypt, Eritrea, Ethiopia, Ghana, Niger, Nigeria, Somalia and Sudan. The "holding centres"

were controlled directly by armed militias, with little or no involvement of the local or central authorities beyond providing some material support such as food and medical treatment. Detainees had no possibility to challenge the legality of their detention or complain about their treatment, as they were never brought in front of judicial authorities.

Officials from the ministries of justice and interior acknowledged to Amnesty International that they had little involvement in the arrest and detention of migrants. The Deputy Minister of Interior, Omar al-Khadrawi, told Amnesty International that in “normal times”, the Ministry of Interior has oversight over detention centres for migrants, but said that since the conflict the Ministry had had no capacity or resources to continue doing so. In a meeting with Amnesty International on 7 June, the Minister of Justice noted that, by law, foreign nationals found to have breached Libyan legislation regulating their entry and stay ought be deported after serving their sentences.

Libyan law criminalizes entering, staying in or leaving Libya irregularly, for example without the appropriate visa or through unofficial border posts. It criminalizes such actions without distinguishing between migrants and refugees, victims of trafficking or others in need of international protection. The 2010 Law on Combating Irregular Migration allows for the indefinite detention, followed by deportation, of those considered to be irregular migrants. Those detained cannot challenge the grounds of their detention or of deportation decisions.

Libyan law and practice do not meet international law and standards, which require that asylum-seekers and migrants are detained in only the most exceptional circumstances and as a last resort. Further, to be lawful, detention requires an assessment of the situation of the individual. In all cases known to Amnesty International, none of these conditions was met.

ARBITRARY ARRESTS AND DETENTIONS

Detention administrators and guards told Amnesty International that there were insufficient resources to meet detainees’ needs and that the government failed to address the problem. They said they had not received any salaries, and relied on donations by private individuals or humanitarian organizations to provide for detainees’ basic necessities. They emphasized the difficulties in patrolling Libya’s borders, particularly in light of the general post-conflict security situation. They said that the international community, particularly European governments, was not providing sufficient resources and technical assistance to Libya while expecting it to stem the flow of arrivals to their shores. They explained that they were motivated by the sense of “national duty” to arrest and detain migrants in the absence a strong state able to address the problem of “irregular migration.”

Sub-Saharan African nationals are frequently taken at checkpoints, intercepted in the desert or at sea, or caught while trying to board boats. Many Sub-Saharan African detainees told Amnesty International that they were seized during home raids or apprehended in the street or market places. Some detainees were fresh arrivals to Libya, while others had lived and worked in Libya for many years. As in the case of Libyan detainees, armed militias established fluid networks of co-operation. According to detention administrators, “irregular migrants” are arrested directly by the detention centre *thuwwar*, or handed over by other *thuwwar*, or transferred from other detention centres, or referred to them from regular prisons once they have served their sentence.



Bou Rashada detention centre. May 2012. ©Amnesty International

A rubbish collector from Mali, who had lived in Libya for three years, was stopped along with 10 other Malians and four Nigerians from their home in Ain Zara, Tripoli, in late March. He said that they were taken by a group of six or seven men in military dress, put in 4x4 vehicles and driven about 100km to an armed militia base near Gharyan, where other Libyans and non-Libyans were detained. He said:

"For the first three days there, they would beat me twice a day with electric wires all over the body... They asked me if I had a weapon and if I knew how to shoot. They

didn't officially charge me with anything, just accused me of being a mercenary. A month later, they transferred me here [Bou Rashada]... Here, I don't get hit, but the situation is bad. I am just locked up and don't know what will happen to me."

A 32-year-old daily wage worker from Niger was apprehended by an armed militia from Tarhnouna on 3 May at a checkpoint while travelling from Sabha to Tripoli, along with 49 other Sub-Saharan Africans from Niger, Nigeria and Mali. The militias detained them for three days, during which they were slapped and hit with electric wires. He said that he fled Libya during the conflict, but decided to return to seek a better life. His compatriot arrested with him told Amnesty International:

"When we were stopped at the checkpoint by some soldiers, they made us get down and started asking us where we were going and where we were from. They checked our passports, and when they saw that we had no visas or entry stamps, they took us to their base. When we first arrived, I was beaten with an iron bar. For the next three days, I got slapped or kicked for no good reason, for example if I wasn't walking fast enough. They took all our money and phones."

The group was eventually transferred to a detention centre controlled by an armed militia in al-Zawiya.

Two Nigerian women in their twenties told Amnesty International that they were arrested from their house in the Tripoli neighbourhood of Qasr Ben Ghashir at around 11pm on 18 April. One of them, who had lived in Libya for three years, said:

"A large group of them came inside, I don't know how many. Some were wearing fatigues, others were in civilian [clothes], others had military trousers but regular T-shirts on top. They turned the place upside-down, and took our money and phones. They asked for our identity cards. I have a passport but no visa. They shoved us inside their cars, punched me in the

stomach, and took us to some station near the house, where there were lots of soldiers. We stayed there for two days, before being taken here. The situation now is even worse than under al-Gaddafi; they humiliate you, they rob you, and you cannot complain. Here, if you ask for something, or complain, they hit you with a mop or stick or slap you."

Fifteen young Nigerian women in the same cell told Amnesty International that they were arrested at a Tripoli market on 25 March by armed men in civilian clothes. They recounted being loaded into cars and first taken to a militia base, where their hands were tied behind their backs and they were kicked and slapped. At a second militia base, their phones, money and passports were confiscated. They said that when they arrived at the detention centre where Amnesty International interviewed them, they were strip-searched by men. One of them said:

"It was humiliating. There were five men present, when I had to take all my clothes off, and bend over. One of them stuck his hand in my private parts. We all had to do it, one by one."

BEATINGS

Treatment in detention centres varies, sometimes depending on the guards on duty. The worst treatment appears to be reserved to those suspected of being "African mercenaries".³⁹ However, foreign nationals held solely for migration-related offences or common law crimes also complained to Amnesty International of beatings, in some cases amounting to torture. Sometimes, beatings appeared to have been meted out as punishment for their alleged crime or for some infraction; in other cases, they seemed to have been random or for complaining about detention conditions.

Amnesty International met a 24-year-old Ghanaian who had been arrested by armed men at a checkpoint in February while making his way from Sabha to Tripoli, along with two other Ghanaians and a Togolese national. They were detained for not having proper papers. The 24-year-old man said he had been beaten severely at the end of March after a failed escape attempt. He said that he was taken into the courtyard and beaten for four hours all over his body, particularly on his arms and back, by a large group of armed men. His scars, visible some two months later, corroborated his account.



Ghanaian national detained in Libya shows Amnesty International his torture marks. May 2012 ©Amnesty International

A Chadian man detained at the same facility showed Amnesty International his torture scars. He believes his treatment was the result of a verbal disagreement with his employer, who handed him to the detention centre. He told Amnesty International:

"This was in about early March. I was taken outside. My hands were tied behind by back, and I was suspended by my hands from a tree branch. Then, about seven or eight people hit me for an hour using some thick sticks. All this because a Libyan complained about me – and I am a powerless foreigner here with no voice."

A 37-year-old man from Cameroon charged with forgery and detained at Kuweifiya Prison under the control of the Directorate of the Judicial Police, told Amnesty International that he was detained on 19 March 2012 by armed men in civilian dress from his Benghazi neighbourhood. They seized valuables from his home, including a computer, and took him to what he believed was a police station. There, he was forced to lie face-down on the floor, had his hands tied behind his back, and was hit by hand and with batons all over his body and on his left ear. He complained that the beatings impaired his hearing. Four days later, he was transferred to an official prison.

A 42-year-old Nigerian man detained at an official prison told Amnesty International that in December 2011 he was tortured there, seemingly for disruptive behaviour. He said:

"I was dragged out of my cell into the courtyard, and put like a 'roasting-chicken'. My hands were tied with my legs folded between my arms. Then, they put an iron bar under my knees, and I was suspended. In that position I was beaten with Tube PPR."

He had previously been beaten with rifle butts when captured in August 2011 from his home by armed men in military fatigues. When asked if he complained about his treatment when taken to the prosecution, he sighed: "I am a foreign here, I have no say."

At another official prison, a man from Niger accused of a common law crime, described to Amnesty International what happened when he was first arrested from his house around mid-April 2012 by armed men in civilian dress:

"They took me to their base in an old government building, tied my hands behind my back, and suspended me from my hands to a door. They then poured water on me, and gave me a few electric shocks.... I was also hit in that position with rubber hoses on the back and legs. After that, they made me get into the push-up position with my knuckles on the ground, while they hit and kicked me with their boots. After the beatings ended, the interrogation started... There is a lot of discrimination here, they don't like dark people, I was called a slave."

Women are not spared, but they appear to be less exposed than men to torture and other ill-treatment. Nonetheless, several Sub-Saharan African women told Amnesty International that they were hit or slapped upon apprehension or in detention. At Tweisha and Bou Rashada detention centres, most West African women complained about being strip-searched by men upon arrival.⁴⁰

A 22-year-old Nigerian woman, who had been living in Libya for two years doing domestic work, told Amnesty International that she was arrested from a Tripoli home with a group of other Nigerians around late March. She said that before being transferred to the Bou Rashada detention centre, she was held by armed men for six days at what appeared to be an abandoned military camp. She said that there she was beaten with a stick all over her body, including her head, and was pushed head-first into a door.

EXPLOITATION

Foreign nationals in an irregular situation, including those detained by militias, are vulnerable to exploitation by those who know that irregular migrants have no means of

complaining or seeking remedy.

Several detainees in at least two detention facilities told Amnesty International that they were forced to do various manual chores for the armed militias holding them. A high-level official in Benghazi admitted to Amnesty International that the detention of migrants is becoming “a business”.

A 24-year-old man from Cameroon, who had been in Libya since March 2012, told Amnesty International that he had travelled to Libya to find a job as there were few work opportunities back home. Two weeks after his arrival, a group of armed men in plain clothes arrested him for entering the country without a visa, and he has been held ever since. He said he had been forced every day to do odd jobs while in detention, including offloading munitions.

A Malian man held at the same detention centre said he was “a modern-day slave” – forced to work, subjected to racist insults and beaten for “disobeying” his captors. At another detention facility, foreigners told Amnesty International that they are forced to clean and to pick up rubbish. They all said that they were not in a position to refuse.

In other cases, detainees who have agreed to work complained about not being paid or being paid lower rates than promised. For instance, a 17 year-old Oromo man from Ethiopia detained in Libya at three separate locations since his arrest in January 2012 told Amnesty International that he worked for a month as a shepherd under an arrangement made by the militia detaining him, but was not paid. A Sudanese man, detained since October 2011, complained that he was promised 100 dinars (\$US 75) per month for doing kitchen work, but instead received 50 (\$US 40).

INDIVIDUALS IN NEED OF INTERNATIONAL PROTECTION

Little effort is made in distinguishing between irregular migrants, and refugees and asylum-seekers. As a result, those potentially in need of international protection also face arbitrary arrest and detention.

A 26-year-old Eritrean detainee told Amnesty International that he left his country four years ago to escape conflict and to build a better life. After he had saved enough money while living in Sudan, he paid smugglers US\$1,200 to get him into Libya. After a six-day journey through the desert with 20 other Eritreans and six Sudanese nationals, he reached Libya in mid-April 2012. They were arrested in Kufra almost immediately upon arrival by a group of armed men, and have been held at the Kufra detention centre ever since. The 26-year-old man said that he had registered with the UNHCR in Khartoum and wanted to apply for asylum in Libya, but did not have any possibility of doing so.

A 25-year-old Somali man detained in Kufra told Amnesty International that he left the Somali capital of Mogadishu in April 2012 because of the security situation there. After a 10-day journey through the desert with other Somali and Sudanese nationals, their truck was apprehended by armed men patrolling the border. The smuggler escaped, but all the passengers, including nine other Somalis, were taken into detention.



Kufra detention centre. May 2012. ©Amnesty International

A group of about 20 Somali women, who arrived in Libya after the end of the conflict, told Amnesty International that they were intercepted at sea by two big ships, with Libyans on board, on 29 March. They described embarking at dawn from the coast of Tripoli with some 80 other people of different nationalities, and being intercepted by a Libyan coastguard at about 3pm that day. All of them were immediately taken to a detention centre in Tajoura where they spent a week, before being transferred to the Tweisha detention centre.

At Ganfouda detention centre, a 20-year-old Somali national, whose father had been killed in the conflict back home, told Amnesty International:

"I decided to flee to another place, where I might be able to find security and a better life. Instead, I had a terrible journey, and found a terrible country. I got to Kufra in January 2012 and my troubles started... Smugglers asked us to pay a ransom, some US\$700. Even those who paid were not released. Instead, they took all our belongings, money and phones. We ended up in detention in the Tabu neighbourhood. Conditions there were sub-human. We only ate once a day; there was no potable water, no doctor, no soap. I was also beaten for no reason with the backs of rifles, a metal stick and water pipes. We were there for a while when the clashes started [around 12 February 2012], and the detention centre was hit, one person died... some people escaped in the confusion, and hundreds were handed over to international organizations... Two months ago, 600 of us were transferred in a commercial truck to Ganfouda... I've been here now two months, and there is no change. For Somalis, life is difficult. Is this the destiny of refugees?"



Foreign nationals detained in Ganfouda including Somalis and Eritreans. They have no possibility to apply for asylum or challenge the legality of their detention. May 2012 ©Amnesty International

Detention centre officials acknowledge that nationals of Somalia and Eritrea cannot be sent back to their home countries. There is nonetheless no standard approach to address the situation of such individuals in need of international protection.

The director of Bou Rashada detention centre told Amnesty International that he releases Somalis or Eritreans once their embassy representatives come to confirm their nationalities and sign documents to that effect. Granting consular representatives access to asylum-seekers and refugees and rendering their release conditional upon their government's recognition of the individual's place of origin is highly problematic in cases where the asylum-seekers in question might be fleeing persecution in their home country. Under its *non-refoulement* obligations, Libya is required to ensure the safety of individuals seeking protection. This must include ensuring confidentiality for those seeking asylum and not exposing asylum-seekers or their families to direct or indirect risk.

The director had also instituted a policy of fining Somali or Eritrean nationals rearrested and brought back to Bou Rashada. Failure to pay the 1,000 dinar (US\$ 795) fine results in indefinite detention. Amnesty International met three victims of this policy.

A 28-year-old man from Eritrea told Amnesty International that he left home for security reasons after his father's arrest. He had lived in Tripoli for around seven months and made two failed attempts to reach Europe. Each time his dinghy was intercepted by coastguards and the passengers taken into custody by militias. When Amnesty International met him, he had been detained for the second time since late April as he had no money to pay for his freedom.

Two Somali women detained in Bou Rashada were also unable to pay 1,000 dinars (US\$ 795) each to secure their freedom. They explained that they were arrested at their house in al-Zawiya and taken to Bou Rashada for a second time around mid-May. Their first stint in Bou Rashada followed an attempt in April to reach Europe in an unseaworthy boat, which was forced to turn back. It was met at the Libyan coast by armed men, who detained the passengers.



Cell at Ganfouda detention centre. More than 225 people from various nationalities including Somalia, Pakistan, Sudan, Chad, Egypt, Eritrea, and Ethiopia were detained in Ganfouda in May 2012. ©Amnesty International

At the Ganfouda detention centre, a different approach is taken in regards to nationals from Somalia. A member of the armed militia controlling the centre and the director explained to Amnesty International that they search for work opportunities through “Libyan sponsors” for detained foreign nationals. In these work schemes, they prioritize “good Somali Muslims” if they have valid passports, their embassies vouch for them and they have “no contagious diseases”.

At Tweisha and Kufra detention centres, controlled respectively by a local Tripoli militia and a mixture of a local Kufra militia and the Benghazi-based Shield of Libya militia,⁴¹ there were no concrete plans for

dealing with Somali and Eritrean nationals. Nonetheless, it was acknowledged that such individuals cannot be deported.

Administrators and guards at all detention facilities were clearly intending to deport all foreign nationals – with the exception of Somalis and Eritreans – who did not possess valid documents and who entered or stayed in the country irregularly. Some deportations had already taken place for Chadian, Sudanese, Egyptian and Nigerian nationals, among others, in some cases with the assistance of the International Organization for Migration. Detention centre administrators explained to Amnesty International that delays in deportations – and therefore prolonged periods of detention – were a result of the failure of embassies of some countries to confirm the nationality of those without valid documents and in making arrangements for deportations. They also cited logistical and financial difficulties. Assurances were made to Amnesty International that no involuntary deportations take place, and the organization has not documented any recent cases of *refoulement*.

While the tacit policy of refraining from deporting nationals of Somalia and Eritrea is welcome, the absence of a functioning asylum system and the failure to assess cases on an

individual basis means that there are insufficient safeguards against *refoulement*, in contravention of Libya's international obligations and its Constitutional Declaration. Article 10 of the Constitutional Declaration, promulgated by the NTC on 3 August, guarantees the right to enjoy asylum, and recognizes the principle of *non-refoulement* for "political refugees".

Libya is a state party to the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (the OAU Refugee Convention), which stipulates that member states shall: "use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality".

Libya is also obliged not to return any individuals to a country where they would be at risk of torture or other forms of ill-treatment or where their "life, physical integrity or liberty would be threatened". These obligations are found in Article 2 of the OAU Refugee Convention as well as Article 7 of the ICCPR and Article 3 of the CAT, which Libya has ratified.

In spite of the well documented abuses facing asylum seekers and migrants in Libya, members of the European Union continue to seek its cooperation on migration control.⁴²

4. CONTINUING AND COSTLY CLASHES

“Gunfire and blasts started on Friday... Israa was sitting under the window. Then suddenly... we noticed that Israa was wounded in the back; we rushed her to hospital, but she died on the way.”

Marwa Bahloul al-Ghoul, describing to Amnesty International how her 19-year-old sister Israa sustained fatal shrapnel injuries on 14 January 2012 when militias from Gharyan attacked her home town of Asabee, allegedly to rid it of pro-Gaddafi elements.⁴³ Fighters from Asabee were positioned some 300m from her home.



Israa Bahloul Al-Ghoul, 19, died on 14 January 2012, when her home in Asabee was hit during clashes. ©Private

Three days after Mu'ammar al-Gaddafi's killing in his hometown of Sirte on 20 October 2011, the "Declaration of Liberation" officially signalled the end of hostilities. It did not, however, put a stop to armed confrontations in Libya.⁴⁴ Indeed, sporadic armed assaults and clashes between militias continue to flare up across the country, leading to the deaths of fighters, bystanders and local residents. In some cases, clashes have lasted a few hours; in others, they have continued for much longer and recurred.

The violence has been triggered by underlying and longstanding communal, tribal or political tensions, in some instances coupled with power struggles, and has been facilitated by militias' accumulation and willingness to use weapons such as machine guns, RPGs and mortars, including in residential areas. Local residents and others not involved in the fighting have paid the price: killed, injured, displaced or made homeless. Arbitrary detention and torture have frequently accompanied the violence.

Actions by armed militias in the context of these clashes violate a number of rights, including the right to life, the right to liberty and security of person, and the right not to be tortured. The conduct of the militias has also violated social and economic rights, for instance the right to adequate housing and the right to an adequate standard of living. The widespread destruction of homes may constitute unlawful forced evictions, a breach of Article

11 of the International Covenant for Economic, Social and Cultural Rights (ICESC), to which Libya is a state party.⁴⁵ Similarly, the unlawful destruction of businesses or sources of livelihood contravenes the right to an adequate standard of living.

The NTC has appeared to be powerless to prevent such clashes. Its calls for ceasefires and reconciliation are either ignored or met with delays. Many victims complained to Amnesty International about the lack of progress at the national level in establishing the truth about violent episodes, bringing those responsible for human rights abuses to justice, and compensating victims for their losses.

The NTC has established a number of fact-finding committees to investigate some of the clashes, but to date the results have not been made public, perpetrators have not been brought to account, and victims have yet to receive reparation. The frequency and recurrence of these clashes, particularly in the west and south of the country, further highlight the importance and urgency of reining in militias, expediting disarmament efforts, and addressing the root causes of the violence.

The violence in the south of Libya exposes underlying racism and xenophobia against non-Arab black Libyans. Members of the Tabu and Touareg communities have long complained about discrimination, racism and the inability to renew identity documents or obtain new ones for their children. Such communities also tend to be among the poorest, and live in informal settlements with little access to services. Arab majorities counter-argue that the allegiance of these communities lies outside of Libya given their tribal links to populations in Mali, Chad and Niger, and blame them for criminal acts and smuggling.

Emblematic examples of local clashes are given below. Since Amnesty International's visit to Libya in May and June 2012, further armed confrontations have taken place. For instance, violence in the Nafousa Mountain in mid-June left 105 people dead and more than 500 injured, according to government estimates.⁴⁶ Thousands of people were displaced,⁴⁷ many of them Mashashiyas already barred from returning to their homes by Zintan militias because of their alleged support for al-Gaddafi forces during the conflict.

KUFRA

Since the end of the conflict in 2011, fighting has erupted several times in the remote south-eastern city of Kufra. The city's location makes it a key crossroads for asylum-seekers and migrants coming from the Horn of Africa and an important hub for smuggling. The city is also home to a minority black community, the Tabu, who are also present elsewhere in Libya as well as in neighbouring Niger and Chad.

Animosities between the Tabu community and the majority Arab Zwaii tribe predate the 2011 uprising. During Colonel al-Gaddafi's rule, Tabus complained about discriminatory policies and practices, including the denial of identity and travel documents. Amnesty International documented cases of Tabu house and hut demolitions and forced evictions in Kufra from November 2009.⁴⁸ The city's majority Arab population complained of the involvement of non-Libyan Tabus in violent acts and other lawless behaviour. Tabus joined anti-Gaddafi forces during the uprising, and a local leader, Isa Abdelmajid, briefly served as Kufra's representative on the NTC, before resigning in October 2011 in protest against what he said was continued marginalization of and discrimination against the Tabus.

Tensions between the two communities intensified in late 2011 apparently over the control of borders. Armed confrontations began at border posts and eventually spread to the city of Kufra. When Amnesty International visited in late May 2011, the city was extremely tense and divided. There was little interaction between the two sides. The Kufra local civilian and military councils did not have any Tabu representatives, while Tabu commanders had effectively taken control of the city's Tabu neighbourhoods.

Each community blamed the violence and breaching of ceasefire agreements on the other. The Tabu community complained of marginalization, racism and a refusal by the majority to share power. The Zwaii community complained of the involvement of non-Libyan Tabu fighters and foreign agendas seeking to create a "Tabu state", claims rejected by the Tabu leadership. The Libya Shield Brigade from Benghazi, sent by the Ministry of Defence in April to maintain the peace and secure the borders, also engaged in armed confrontations with Tabu fighters. The latter said that they sided with their "Arab brothers", while the former maintained that Tabu commanders refused to cede control of strategic posts and allow members of the Libya Shield Brigade into its Tabu neighbourhoods. The Libya Shield Brigade also accused Tabu armed men of carrying out attacks against them. After the latest clashes between the Libya Shield Brigade and Tabu fighters in June, it was reported that Osama Jweili, the Minister of Defence, called for the withdrawal of the Libya Shield and its replacement with other brigades.⁴⁹

Regardless of the causes and historical roots of the problem, Kufra's residents have borne the brunt of the armed confrontations. According to local hospital records, 69 people died as a result of clashes in February 2012 from gunshot wounds and shrapnel injuries, 37 of them Tabu. Local residents said there was a heavier casualty toll as not all deaths were recorded.⁵⁰ A joint UN assessment mission to the area in late February concluded that "based on the information received on the ground from both sides, more than 100 people have been killed as a result of fighting".⁵¹ Local hospital records indicate that a further 250 people, 130 Tabus and 120 others, were injured.

Among those killed were individuals not involved in fighting, including women, children and unarmed men. In Arab neighbourhoods, three people, including a girl, died as a result of shrapnel injuries. In Tabu areas, hospital records indicate that some 19 people sustained shrapnel wounds, including three children and three women. It appears that both sides fired recklessly and placed their fighters in or near residential areas, further endangering the population. Inherently indiscriminate weapons such as mortars were used in the fighting, with the consequential toll on the population.

Sixteen-year-old student **Fatma Hamad Hussein al-Ibrish** was among the dead. At about 5pm on 13 February, she was washing clothes in her house in the Arab neighbourhood of Soussi in a roofless area behind a metal door, when shelling started. A projectile, believed to be a mortar, hit the house spraying shrapnel on the metal door. Fatma al-Ibrish was fatally injured in her stomach. Doctors operated, but were unable to save her. At the house, Amnesty International found mortar remnants and destruction consistent with the family's accounts. The victim's father said that the mortars were fired from the south-west, where Tabu neighbourhoods lie.

Newlywed Azza Karim, aged 26, told Amnesty International that she wants justice for the

fatal shooting of her husband, **Mohamed Issa Bourajab**, 27, on 13 February by Tabu armed men. She described what happened:

"At about 10am, my husband and I were driving from our home in Qariat to get to my appointment at the [Kufra general] hospital. When we reached the Green Roundabout, our

car was shot at and stopped abruptly. I looked over the driver's seat and realized that my husband was injured. I got out of the car, screaming for help. I wanted to get him to the hospital. There was a large group of armed Tabus all around; they wouldn't help me. Instead, they hit me with the back of their rifles on my arm and my shoulder... I want those who did this to be punished."

A medical report examined by Amnesty International indicated that Mohamed Issa Bourajab died as a result of a gunshot wound to the head.

The Tabu neighbourhoods of Shura and Qudrufai were most affected by the fighting, with visible damage to houses and other infrastructure. Members of the Kufra local council acknowledged that Arab militias used heavy weapons during the fighting. They justified such actions by saying that Tabu fighters endangered security and were responsible for several fatal shootings.

Kouri Wahli Linou, a 66-year-old father of 14 children, sustained fatal shrapnel injuries during the afternoon of 15 February. One of his daughters told Amnesty International:

"From early that morning, there was continuous shelling and explosions, but we were all trapped inside the neighbourhood [Shura] and had nowhere to go. Our father was near the front door, when we heard a really loud blast. He was sprayed with shrapnel including to the chest. Male relatives tried to take him to our field clinic, but he did not make it... Since then, no government officials spoke to us or asked us what happened. We are marginalized."



Fatma al-Ibrish, 16, was fatally injured while washing laundry at home during clashes in Kufra. © Private She was standing behind the gate [pictured]. May 2012 ©Amnesty International



Front door where Kouri Wahli Linou sustained fatal shrapnel injuries. May 2012. ©Amnesty International

According to a death certificate issued by the Libya Field Clinic, Kouri Wahli Linou died as a result of shrapnel injuries to the chest.



Hadma Kurdi Adel, 69, died along with her grand-daughter in the Tabu area of Qurdufai on 13 February during clashes between Tabu and Arab tribes. ©Private

Local residents told Amnesty International that **Hadma Kurdi Adel**, 69, and her four-year-old granddaughter **Amina Mohamed Kouni**, died when their house in Qudrufai came under fire at about 5pm on 13 February.

Neighbours told Amnesty International that 63-year-old **Souqi Ramadan Souqi** was going to the mosque for afternoon prayers in mid-February when he was injured in the head. He was transferred to Tripoli, where he died on 4 March. According to a preliminary forensic report seen by Amnesty International, his death was caused by “a bomb explosion” to the head.

Khadija Souki Barka, 56, survived the confrontations. She described her family’s ordeal to Amnesty International:

*“On Thursday [16 February] all of us, some 20 women and children, were holed up inside our house in Qudrufai. We have been hearing blasts and firing from early morning further away; the sounds started getting closer. I was sitting on the same bed as my granddaughter, **Khadija [Mohamed Ibrahim]**, barely four years old, when we were hit.*



Khadija Mohamed Ibrahim, 4, lost two toes when her home in the Tabu area of Qudrufai came under fire on 16 February. June 2012. ©Amnesty International

“For the past three months I have been getting treatment, first in Tripoli, and then in Benghazi. I still can’t walk, shrapnel hit me all over the legs and thighs... Khadija lost two toes. Our house in Qudrufai is ruined, and we are living here in Shura with relatives.”

Clashes erupted again in mid-April between the Libya Shield Brigade and Tabu fighters. Local residents told Amnesty International that Tabu neighbourhoods of Shura and Qudrufai again came under fire. According to local field hospital records, 10 people died and 53 were injured during the second round of violence. Libya Shield fighters told Amnesty International that Tabu fighters attacked them first, and they had no choice but to fire inside Tabu neighbourhoods.

Nine-year-old **Amani Jaballah** was among the victims. On 9 May, Amnesty International visited her in the Tripoli Medical Centre, where she was receiving treatment for stomach injuries sustained on 21 April. She died of her wounds in early June. At the time, her older sister told Amnesty International:

"Amani, another younger sister, and my mum were at home in Qudrufai when the shelling started... In a panic, they ran out of the house looking for shelter and Amani was shot in the back; the bullet ripped through her stomach. Who would do this to a child? Our situation is very difficult in Kufra even now that the shelling is over, but we are too afraid to leave our neighbourhoods... Schools are closed, there is no work... Under al-Gaddafi we suffered, and now we are suffering again... We can't live normally when every now and then our neighbourhoods are shelled."



Amani Jaballah, 9, sustained injuries on 21 April during clashes in Kufra. She died from her wounds in June. May 2012. ©Amnesty International.

Ibrahim Kamel Moussa, a 35-year-old father of four, died during the clashes on about 20 April. His distraught wife told Amnesty International:

"It was early morning, around 10am. I was inside in the living room with our four children, while he was standing in the courtyard of the house. I heard loud noises and firing... When I ran out, I found him in a pool of his own blood."

From his hospital bed in Tripoli, **Juma' Senoussi Abdallah**, 70, told Amnesty International that he had just finished his Friday prayers on 20 April in his farm in Qudrufai, when the house was hit and he was injured in the stomach. He was taken to the field hospital and then transferred to Tripoli a week later.



Khadija Mokhtar and Moussa Bakr Ibrahim [pictured] were playing at home, when sprayed by shrapnel on 23 April 2012. May 2012 ©Amnesty international

Eight-year-old **Khadija Mokhtar** was injured by shrapnel during the violence. Her father told Amnesty International that she was playing in a neighbour's house on 23 April when injured in the legs and arms. Her neighbour's son, six-year-old **Moussa Bakr Ibrahim**, also sustained shrapnel injuries to his left arm and leg. His relatives told Amnesty International that Moussa's 69-year-old father had been killed on 11 February 2012 during the first shelling of Qudrufai.

Residents of Arab neighbourhoods also suffered during the second bout of violence. According to Kufra General Hospital records, three people died and a further 50 were injured, including fighters.



Khadija Mohamed, pictured with her siblings, died on 23 April when her house in Kufra came under fire. ©Private

Eight-year-old **Khadija Mohamed Hamad** was in her living room at home in the area of Bouma when the house came under fire on 23 April around 3pm. She was shot in the chest. Her distraught family took her to the hospital, but she did not survive. Her two siblings, Zohra, 11, and Ahmed, 9, received minor shrapnel injuries to the legs. Their house is near to the airport, where Libya Shield forces were based during the confrontations.

DISPLACEMENT

The fighting and its tense aftermath left families displaced on both sides of the divide. Several Tabu families in the area of Miniyana lost their already meagre belongings, livelihoods and houses. This area of basic huts and houses with tin roofs was completely abandoned when Amnesty International visited in late May. Several dwellings were burned to the ground. A 22-year-old Tabu woman described what happened:

"We were at home, my mother, two sisters and three brothers, when we heard shooting at about 5.30-6pm on 15 February. We left the house to see what was happening, when we were confronted by lots of armed men in civilian clothes, in pick-up trucks with anti-aircraft machine-guns. They told us to go. There were nine men by our house alone. We were all women and children there. They didn't even give us a chance to gather our belongings. In front of my very eyes, they poured petrol on the house and set it on fire. We were too scared to say anything."



After being forced out of their homes by force during armed clashes, some 40 Tabus were squatting in a house under construction, with no water or electricity. May 2012. ©Amnesty International

The woman was squatting in a house under construction, with no running water or electricity, together with five married women, their husbands, and some 30 unmarried young people and children.

Several Arab families living in the “central neighbourhood” close to Tabu areas were also displaced. **Abu Bark Omar Hassan** told Amnesty International that during the violence in February, Tabu fighters in control of the neighbourhood offered residents safe passage out. He left along with his family and other Arab families. Once the violence subsided, he returned home to find it looted. He replaced the goods and moved back into his home. When the violence reignited in April, he fled again on 19 April feeling insecure after Tabu fighters entered his home and searched it. After the truce, he again returned to a looted home: everything had gone. Since then, he has been renting a house with his wife and nine children in an Arab area. His neighbour, **Ahmed Mohamed Laoud**, had a similar experience, and also moved his family out of the property. Both lodged complaints with the police, prosecution and Kufra local council.



Abu Bakr Omar Hassan shows Amnesty International his looted home. June 2012. ©Amnesty International

ARRESTS AND TORTURE

During the clashes in February, both Tabu and Arab armed militias took captives. According to members of the Kufra local council, Tabu militias took seven Arabs captive. Several said they were tortured.

Mohamed Ahmed Mohamed Daoud, 23, was among those detained from the “central neighbourhood”. He told Amnesty International that during the clashes in February, Tabu fighters stopped his car and took him, his uncle Amer Mohamed Daoud and a friend visiting from Benghazi. They were all taken in separate cars to an unknown location, which he described as a private house inside Tabu areas. He continued:

“They interrogated me on the number of weapons and cars we have [Arab communities in Kufra]. I was taken inside a room, where I was hit all over the body with a small metal bar for about an hour, an hour and 15 minutes. They threatened to kill me. They didn’t give me any water or food for three days, and did not let me use the toilet. They kept my hands tied for three days, and burned a cigarette on my leg. For the first three days, guards would come in and hit me... I was released after eight days in the prisoner exchange, but they didn’t return my car.”

Al-Shamee Hiba al-Shamee, 36, a member of the Kufra local council, was also held by Tabu militias for six days after his arrest on 21 February near a frontline. He told Amnesty International that immediately upon apprehension, he was handcuffed, blindfolded, thrown on the ground, and beaten for about 15 minutes with rifle butts, including on the left ear and face. He was kept handcuffed and blindfolded for the duration of his detention; his captors hand-fed him and helped him to urinate. He described being interrogated about the Arab community’s military prowess while being made to kneel, and being subjected to a mock execution with a gun barrel placed near his earlobe. He said that he was beaten for the first two days, including with a metal ruler, particularly on his legs. He was also kicked. He said he had lost hearing in his left ear as a result of the beatings.



Tabu young man shows Amnesty International marks left by cigarettes burned on the back of his neck in detention. May 2012
©Amnesty International

Arab militias also detained a number of Tabus. A 36-year-old Tabu nurse told Amnesty International that he was arrested by armed men in civilian dress in the evening of 12 February around Market Street – a street separating Tabu and Arab neighbourhoods – while driving to buy bread. They ordered him to get out of his car, tied his hands behind the back, and took him to the former External Security Agency building. He said that he was released later that day, but that his phone and money were confiscated.

Another Tabu man arrested in February by Arab armed militias near the Green Roundabout, a site of clashes, told Amnesty International about his detention

until late February. He remembered four other Tabus detained with him at a military base, and said that although he was not tortured, he witnessed others being beaten with belts on the back.

Amnesty International also interviewed two young Tabu men arrested and tortured by an armed militia after the clashes. One of them, a 24-year-old trader, described what happened:

"On about 20 May, I was driving from Benghazi back to Kufra with a friend, when around noon we were stopped by armed men from Kufra at a checkpoint. They asked us for our identity cards and searched the car. In the boot, they found some plastic covers for IDs, and accused us of forging documents. They took our phones and started questioning me. 'Do you work for Isa [Abdelmajid]? How many weapons and cars does he have?' Then, my hands were tied behind my back with a plastic strip and I was blindfolded. I was thrown inside a car, and we drove for a while. When we got to their base, I think in Qariyat, I was thrown on the ground while still handcuffed, and beaten with sticks and metal bars all over my body. They also stepped on me with their boots. This lasted for several hours, until after sunset. They accused me of working with Isa. At about 9pm, they removed the plastic cuff and put on metal ones. I was left inside a room while cuffed, and I was not allowed to go to the toilet, or given any food. The following morning, I was beaten on the back with electric cables for some 30 minutes, and again asked questions about Isa's whereabouts and plans."

Later that day, the two men were transferred to the Kufra local prison, controlled by the Libya Shield Brigade, referred to prosecution and released on 22 May without charge. His car was not returned. His 20-year-old friend said that he had been beaten on the soles of the feet with a plastic hose (a torture method known as *falaqa*) and burned on the back of his neck with cigarettes. When Amnesty International interviewed them, separately, some eight days later, their injuries were consistent with their testimonies.

SABHA

Tensions between Arab and Tabu communities also led to violence in the south-western city of Sabha⁵² in late March. When negotiations between Tabu and Arab representatives broke down⁵³ and descended into armed confrontations, violence spread to residential areas, affecting bystanders and the local population. The violence lasted about six days and claimed 81 lives, according to information provided to Amnesty International by local residents and medical professionals.⁵⁴ As in Kufra, each side blamed the other for the outbreak of hostilities. Tabus said that their representatives were assaulted and killed during negotiations, while Awlad Sliman, the majority Arab tribe, argued that Tabus, including non-Libyans, attacked first in an attempt to gain control over government buildings with the goal of seizing power in southern Libya. According to Awlad Sliman sources, 32 people died during the violence – all men in the context of armed confrontations.

Local Tabu and Touareg⁵⁵ residents said that Arab militias used Grad rockets, mortars, machine-guns, rocket propelled grenades (RPGs) and even artillery in their attacks. Amnesty International visited the area in late May, and found some destruction consistent with shelling, as well as remnants of Grad rockets. Video footage seen by Amnesty International shows Arab militias firing at no particular target into Tabu neighbourhoods using single and multi barrel anti-aircraft machine guns and cannons and RPGs. Plumes of smoke are rising inside Tabu and Touareg areas. Local activists, health professionals and members of the

Qahira local council – a predominately Touareg and Tabu neighbourhood also known as Tiyouri – told Amnesty International that they documented 49 conflict-related deaths among their population in Tiyouri and Hijara, another Tabu neighbourhood. The reckless use of fire led to casualties of people not involved in fighting.



Dawiya Baraka Adam was sheltering at a relative's house [pictured] when fatally injured by shrapnel on 27 March. May 2012 © Amnesty International

Mother of nine, **Dawiya Baraka Adam Mohamed**, 60, was fatally injured on 27 March at around 4.30-5pm when the family sought shelter at a relative's house in the area of Karama in Tiyouri. According to her relatives, she was sitting in the living room near the door when shrapnel hit her under the earlobe, on the head, and in the legs. She immediately lost consciousness and never regained it.

In the same neighbourhood, six-year-old **Ezzedine Touka** was playing with three other children on 28 March when a projectile hit a house, instantly killing him. His cousin told

Amnesty International that he immediately fell to the ground, and that his body was covered with wounds to his head, chest and arms. Two other children sustained minor shrapnel injuries.



Ezzedine Touka, 6, was killed by shrapnel on 28 March. His sister stands in front of their house. May 2012 ©Amnesty International



Al-Said Ibrahim lost his sight in his right eye, when injured by shrapnel on 26 March. His wife Aisha Doumazi was shot and died that same day in front of the Sabha Hospital. May 2012 ©Amnesty International

Hanafi Mohamed Ahmed and his daughter Noura sustained shrapnel injuries on 28 March during clashes in Sabha. Noura lost sight in her left eye. May 2012 ©Amnesty International

Amnesty International interviewed **Hanafi Mohamed Ahmed**, a Touareg resident of Tiyouri. He said that at about 4.30pm on 28 March his car was hit by a projectile, and that he along with his daughter, Noura, and other relatives sheltering nearby were sprayed with shrapnel. The incident took place at a farm some 10km from their home in Tiyouri. They had fled there earlier that day to seek shelter, as Tiyouri was under fire. Noura lost the sight in her left eye as a result, while Hanafi suffered a broken arm.

Bystanders were also killed or wounded. **Aisha Doumazi**, a 48-year-old Tabu, was shot on 26 March outside the Sabha general hospital, where she worked as a cleaner. According to her cousin who was with her at the time, she was shot when they both stepped out of the hospital and died a few hours later. Aisha's husband, **Al-Said Ibrahim**, 66, was injured on the same day at his farm in Tiyouri when he was hit by shrapnel in his legs, stomach and right eye. He lost his sight in the eye.

In Hijara, another Tabu neighbourhood, six-year-old **Abdelrahman Ali** was playing at home with two other children when shelling took place at about 3pm on 28 March. He was wounded in the back and legs.



Abdelrahman Ali was playing at home with two other children when shelling took place on 28 March. May 2012 ©Amnesty International

DAMAGE TO PROPERTY

The violence caused extensive damage to property, particularly in the Tabu areas of Hijara and Nasriya where Arab militias entered. These areas were already economically underprivileged, lacking basic infrastructure and services. Many Tabus and Touareg live in huts or homes with tin roofs, and have now lost their belongings and livelihoods.

Residents told Amnesty International that when they returned after the hostilities, they found their homes damaged and in some cases burned and destroyed. Video footage shows Arab militias entering these neighbourhoods, seemingly after the population left. In at least two instances, they are carrying gas canisters. Amnesty International saw homes in the Hijara and Nasriya areas that appeared to have been deliberately set on fire.



Burned home in Hijara following armed clashes in March.
May 2012 ©Amnesty International

Local residents in Nasriya, a Tabu neighbourhood composed of some 80 families, according to local estimates, told Amnesty International that at about 1.30pm on 27 March, Arab armed militias in tanks and pick-up trucks with machine-guns mounted on top entered their neighbourhood. As the militias advanced, residents escaped and no casualties were reported. When they returned they found their homes and vehicles burned and damaged. Amnesty International assessed the extensive damage and found scores of homes that were charred inside and rendered uninhabitable.



Nasriya residents show Amnesty International their burned and damaged homes, after an assault by Arab militias in March 2012.
May 2012 ©Amnesty International

The fighting and destruction of property led many residents to flee to Morzuk, some 130km away. Some have returned home in an attempt to rebuild their lives and salvage the remainder of their belongings.

TABU STUDENTS UNDER ATTACK

Tabu students in residence at Sabha University told Amnesty International that they had been harassed by Arab militia during the confrontations. They said their rooms were raided and belongings stolen. Several were also detained and tortured.

Mohamed Qasem, 20-year-old law student, told Amnesty International that at about 4pm on 27 March he was apprehended near his student residence by about seven armed men, and taken to an unofficial detention place. He described his treatment:

"I was taken inside a room, where they told me to remove my trousers. I hesitated, so one of them hit me with a rifle butt. He then applied a hot piece of metal to my side... Then, my hands were tied and I was suspended from a window, while they poured water on me... They beat me with a stick on my back and all over my body. They forced me to say on camera that I was not Libyan... They asked me about the number of Tabu fighters and weapons... I told them I was a student. They didn't care."

Mohamed Qasem told Amnesty International that he was detained for about four days along with 38 other Tabus. During his detention, he was not allowed to leave his cell and had to urinate into a plastic bottle.

Hussein al-Lashi Ramadan Moussa, a 27-year-old medical student, sheltered 13 or 14 Tabu hospital patients at the student residence. He said that he sneaked them out of the Sabha hospital, where they were receiving treatment, including for conflict-related wounds, out of concern for their safety in light of the tribal clashes. He said:

"We stayed at the residence for three days without incident. On the fourth day, some 20 armed Arab men, mostly wearing military fatigues, raided the place. They started insulting us, calling us donkeys and dogs, and hit me with the back of a rifle on my head. They took my laptop. When I protested, one of them said: 'I wouldn't worry about that, your life is in danger'. We were then taken to a military camp some five kilometres from the city. There were about 35 other people detained there, including nine Chadian migrants who were arrested at farms where they worked. They were beaten and accused of being mercenaries..."

"For four days, I was not beaten but interrogated and forced to sign that I was Chadian and not Libyan... That same day, they told us that we would be freed in a prisoner swap... Then two people from outside [the detention centre] wearing regular clothes entered asking 'Where are the Tabus? Where is the doctor that hid the injured?' One of them attacked me with a knife. I later found out that his brother apparently died in the fighting. I tried to run away from him, but he kept stabbing me... The next thing I remember was waking up in the hospital in intensive care."

Three days later, he was transferred in a military plane to Misratah, and later travelled to Tunisia for physiotherapy. Medical reports examined by Amnesty International indicated that Hussein Moussa suffered from stab wounds to the chest, back and arms.

Kalama Wardakou, a 19-year-old student in the faculty of arts, told Amnesty International that one morning during the clashes, three pick-up trucks with anti-aircraft machine-guns mounted at the back drove into the student residence. They searched the rooms of Tabu students, and left with their laptops, phones and other valuables. Kalama Wardakou claimed that the militia men also insulted Tabu students by calling them “al-Gaddafi slaves and loyalists”.

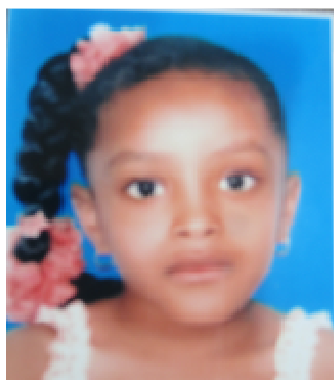
Engineering student **Hamed Amin Ibrahim**, 24, told Amnesty International that his computer was stolen and his bag broken. He said the militia wrote on one of walls: “Tabu, mercenaries, slaves”.

The Tabu students lodged a complaint with the university administration, but received no response.

In a welcome step, on 23 April, Prime Minister Abdelrahman al-Kib issued Decree 108 of 2012 creating a fact-finding committee into the “events of Sabha”, tasking it to submit a report within two weeks. The conclusions of this report should be made public, the perpetrators of the abuses brought to account and the victims granted justice and reparation.

TRAGHEN

Tabu militias were also responsible for the deaths of civilians,⁵⁶ arbitrary arrests and torture when they attacked the city of Traghan, some 120km from Sabha. Traghan first came under opposition control in late September without any armed resistance. Following claims that remnants of the al-Gaddafi government were active and hiding in Traghan, Tabu militias entered the city on 10 October 2011. Local residents said that hundreds of Tabu fighters drove in pick-up trucks with anti-aircraft machine-guns mounted on top, using them as well as rocket propelled grenades (RPGs) in their attack. A Tabu commander admitted using heavy weapons. He told Amnesty International that “this was war, and it was not just Tabu *thuwwar* using such weapons”. When Amnesty International visited Traghan in May, damage consistent with machine-gun fire and RPGs was still visible, despite some repairs. Several properties were entirely burned. According to local residents and hospital reports, a total of 13 people died in the violence.



Seven-year old Ritaj was injured when playing in Traghan in October 2011 when Tabu militias attacked. She died in Malta on 6 November 2011. ©Private

Seven-year-old **Ritaj Idriss Habib Baraka** died on 6 November, after she was injured in Traghan in October. Her father told Amnesty International:

“We live in Sabha, but Ritaj, her mother, nine months pregnant at the time, and two siblings were visiting relatives in Traghan at the time. Ritaj was playing with the other children in the living room, when the house was hit in the afternoon. Ritaj was wounded in the stomach, her intestines were out. Relatives rushed her to the Traghan hospital, but there was no capacity to do anything there, so they drove her in a private car to Sabha. They were stopped at a checkpoint for about 30 minutes, and only made it to Sabha at around 11pm. Her wounds were cleaned, and we took her to Tripoli and then to Malta for treatment. She

never regained consciousness and succumbed to her injuries in Malta."

Other people were shot dead in their home. The wife of 58-year-old **Daoud Abdel Wahab Mohamed Ali** told Amnesty International that she fled Traghen with their 11 children, but her husband decided to stay at home to protect it from thieves. On 13 October, neighbours found his body on his prayer rug with gunshot wounds to the chest and stomach. According to his relatives, he did not possess a weapon.

ARRESTS AND TORTURE

Traghen residents told Amnesty International that over 60 people were arrested by Tabu militias during the violence; many were tortured. All were subsequently released, with the exception of 32-year-old **Mohamed Suliman al-Awjali**, whose exact fate remains unknown. According to fellow detainees at Bashir Saleh's farm, shots were heard after he was taken into the courtyard, and he was not seen again. His relatives searched in vain for him in local hospitals, and submitted complaints to the local council and the NTC.



Burned house in Traghen as a result of attacks by Tabu militias in October 2011. Residents complain that they have yet to be compensated for their losses by the NTC. May 2012 ©Amnesty International

Ayman Mohamed Abdallah, 30, was detained at the farm where Mohamed Suliman al-Awjali was last seen. He told Amnesty International that he was arrested along with his father and brother by a group of about 10 Tabu fighters. He continued:

"They first searched our farm and stole two cars, a computer, a laptop, as well as some money... We were driven to Bashir Saleh's farm. I was kept there in a small room, about 3m x 3m. Five of them hit me inside the room for three hours with electric wires and the back of rifles; they focused on my face, head and shoulders. For a day and a half, they did not give me any food or water, and I had to urinate in a bottle. They were asking me about officials in the region and members of the old government."

He was released after three days, only to find his home looted and burned. When Amnesty International visited the house in late May, renovations were ongoing.

Nine Tabu armed men in military dress captured a



Man from Traghen shows Amnesty International his torture marks. May 2012. ©Amnesty International

38-year-old inspector from Traghen in a street at about 5pm on 10 October. He described how he was hit with a rifle butt upon capture, shoved into a truck along with two other captives, and taken to a prison in Morzuk. He continued:

"I was put in a cell alone, forced to strip down to my boxers, and whipped with belts and electric wires all over the body, particularly on the back. I was left like this for two days, with guards coming in periodically for more beatings. They also used swear words, calling me a slave and dirty."

He was released after 10 days without charge. Patterns of injury on his back were consistent with his testimony.

Salwa Dghili, NTC member and head of its Judicial Committee, told Amnesty International that a fact-finding committee was sent to Traghen and submitted a written report. Local residents, however, complained about a lack of interest by the central authorities, and their failure to repair the damage or compensate victims.

5. CONCLUSIONS AND RECOMMENDATIONS



Sign in Benghazi: 'Yes to a country of law and institutions'. ©Amnesty International

The new Libyan authorities - to emerge from the July elections - will face the difficult task of fixing a country left damaged and divided by four decades of repressive and arbitrary rule, where some people lived above the law and others outside of its protection. The post-conflict period, which has been marked by lawlessness and human rights abuses, demonstrates how challenging it is to break a legacy of impunity, particularly in a country left with weak and mistrusted institutions.

After coming to power, Colonel al-Gaddafi's government cracked down on dissent, killing, jailing and torturing "counter-revolutionary" elements in the name of protecting the 1969 "Fateh Revolution". Now, in order to avoid a similar outcome, the new Libyan authorities must end revenge attacks and reprisals against alleged al-Gaddafi loyalists and supporters carried out in the name of protecting the "17 February Revolution". It is time to turn pledges to respect human rights into reality by taking concrete measures to investigate and prosecute all war crimes, crimes against humanity and human rights violations, whether committed by al-Gaddafi forces or affiliates, or by anti-Gaddafi fighters and militias.

The new Libyan authorities must send a strong message to armed militias and the public at

large that the time for selective justice ended with the overthrow of the al-Gaddafi government. Building a strong and functional judicial system able to hold perpetrators to account in trials that meet international standards and provide redress to the thousands of victims of human rights violations is essential for ensuring respect of human rights and the rule of law. In the meantime, the Libyan authorities must exclude all those reasonably suspected of committing killings, torture and other serious abuses from positions where they can repeat such crimes, regardless of their rank and affiliation.

The new Libyan authorities must publicly acknowledge the scale and gravity of ongoing human rights violations, and condemn those carrying them out, without seeking to justify such actions by blaming al-Gaddafi supporters and criminal elements and thereby further stigmatizing families, communities and entire towns widely perceived as loyal to Colonel al-Gaddafi.

Libya's social and tribal fabric means that violations against one individual have ripple effects and a long-term psychological impact on entire families and communities – undermining reconciliation efforts and increasing the risk of revenge attacks. Libyans must believe that they can rely on the justice system to secure their rights, and therefore have no need to take the law into their own hands or rely on unofficial channels and personal connections.

To honour the hopes for freedom, human rights and justice held by those who rose up against all odds and toppled the former government, Amnesty International calls on the Libyan authorities to implement the following recommendations:

Rein in militias

- Establish and implement without delay a disarmament, demobilisation and reintegration process that complies with human rights standards. It must include an independent vetting mechanism to prevent integration into the army, police and security forces of militia members or other individuals who are reasonably suspected of having committed or participated in crimes under international law or other human rights abuses, pending investigation and prosecution.
- Take concrete measures, in conformity with international human rights standards, to ensure the prompt cooperation of all militias in the disarmament, demobilisation and reintegration and vetting processes.
- Expedite the process of disarmament; collect surplus weapons and munitions stocked by armed militias and within the population, using a combination of collective or individual incentives designed to regulate, license and reduce as much as possible all arms possession not stored by the armed forces, police and any other security agency.

End arbitrary arrest and detention

- End arbitrary arrests and detentions immediately, and ensure that no one is deprived of their liberty except in accordance with procedures and on grounds prescribed by law. Ensure that all Libyan laws in this regard comply with international standards.

- Close all unofficial places of detention immediately, and place all detention facilities under the oversight of the General Prosecution and the Ministry of Justice, with provisions for independent monitoring.
- Notify detainees' families of where they are detained and ensure that all those detained have access to families and lawyers, and are given an opportunity to challenge the lawfulness of their detention before a court or are released.
- Release detainees held without charge; or charge them without further delay with recognizably criminal offences and promptly bring them to trial in proceedings that meet international fair trial standards.

Prevent torture or other ill-treatment

- Ensure that all detainees are treated humanely, receive necessary medical treatment, and are protected from torture and other ill-treatment.
- Ensure that detainees undergo medical examinations when transferred to official detention centres and are provided with medical certificates describing any injuries.
- Ensure that prompt investigations are conducted into all known or reported cases of torture and other ill-treatment. Such investigations should be impartial and independent, and conducted by individuals with expertise in investigating such cases; if necessary, international assistance should be sought. Suspected perpetrators of such crimes should be brought to justice in proceedings that meet international standards for fair trial.
- Remove all those reasonably suspected of ordering, committing or acquiescing to torture or other ill-treatment from positions where they can repeat such violations, pending judicial investigations.
- Ensure that children are held in appropriate facilities and that unaccompanied children are not held with adult detainees.
- Ensure that female detainees are supervised by female guards.

Establish the rule of law and ensure fair trials

- Establish a clear structure for internal security, policing and detention.
- Establish clearly defined criteria and procedures for the vetting, recruitment and training of members of the security forces to ensure that they are effective and accountable and operate according to appropriate professional principles and standards. Anyone who does not uphold these principles should be held accountable.
- Ensure that "confessions" extracted under torture or duress are never used as evidence in proceedings.
- Establish effective mechanisms for the protection of judicial officers, criminal

investigators, prosecutors, lawyers, judges and witnesses and secure prosecution and court premises, including by ensuring that no unauthorized armed elements are granted access.

Bring legislation in line with international standards

- Repeal Article 4 of Law 38 of 2012, which grants immunity from prosecution for *thuwwar* for civilian, military or security acts committed with the aim of “protecting the 17 February Revolution”.
- Amend Article 2 of Law 38 of 2012 to make it clear that no evidence obtained by torture or other ill-treatment is admissible in any proceedings; and define limitations for the admissibility of other evidence obtained unlawfully.
- Amend other provisions of Law 38 of 2012 to bring them in line with international law and standards, in particular in relation to the right of liberty and security of person; the right to privacy; the right to remedy and reparation, and the right to freedom of movement.
- Amend any legislation that does not comply with Libya’s obligation to investigate and, when sufficient admissible evidence exists, prosecute those suspected of criminal responsibility for crimes against humanity, war crimes, enforced disappearances and extrajudicial executions.

Protection and return of forcibly displaced people

- Take immediate action to ensure that all those who have been forcibly displaced are allowed to promptly return to their homes and that their safety is guaranteed and that they receive redress, including compensation and assistance to rebuild their homes and their lives.
- Ensure that those responsible for any attacks on individuals and communities with the aim of, or resulting in, forcibly displacing them are brought to justice.

Address impact of armed clashes

- Carry out independent, impartial and full investigations into human rights abuses committed in the context of armed clashes between militias; prosecute all those responsible; and provide families with a remedy and reparations, including compensation for the loss of homes and livelihoods.

Rights of refugees, asylum-seekers and migrants

- Guarantee that any asylum-seeker or migrant is only detained on the basis of an individual decision that is demonstrably lawful and in line with international human rights and refugee law. Guarantee the rights of refugees, asylum-seekers and migrants to legal counsel and interpretation services, and ensure that they have the right to challenge the lawfulness of their detention, including the right to appeal.
- Sign a memorandum of understanding with UNHCR, ratify the 1951 Convention relating

to the Status of Refugees and its 1967 Protocol, and adopt asylum legislation consistent with international law and standards.

- Protect those suspected of being irregular migrants from violence, exploitation, threats, intimidation and abuse, and bring those responsible to justice.

Combat racism and xenophobia

- Take steps to counter racism, xenophobia and discrimination against individuals with dark skin, whether Libyan or foreign, and devise and implement a strategy to celebrate the diverse ethnic make up of Libya and the positive contribution of migrants, including from Sub-Saharan Africa.

ENDNOTES

¹ The election date originally scheduled for 19 June was delayed to 7 July.

² Political leadership formally established in early March 2011.

³ UN Security Council, “Top Envoy in Libya Urges International Community to Be ‘Frank’ With Itself, Interim Government in Identifying Challenges, Gaps,” 12 May 2012: <http://www.un.org/News/Press/docs/2012/sc10644.doc.htm>

⁴ See, for instance, BBC, “Libya: ex-rebels still hold 7,000 detainees, says UN”, 29 November 2011: <http://www.bbc.co.uk/news/world-africa-15932105>; and Human Rights Council, Report of the UN International Commission of Inquiry on Libya (A HRC/19/68), 2 March: http://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_19_68_en%201.pdf. In its operational update, the International Committee of the Red Cross (ICRC) indicated that it visited over 9,200 detainees held in 66 detention centres between January and May 2012. These figures include foreign nationals held for migration-related offences. In a statement on 18 June 2012, Human Rights Watch indicated that there were 7,000 detainees according to government officials, as well as UN estimates. See <http://www.hrw.org/news/2012/06/18/libya-candidates-should-address-torture-illegal-detention>

⁵ This number does not include individuals extra-judicially executed immediately upon capture, but rather individuals shot in detention after being held by armed militias for weeks or months.

⁶ Article 106 on CCP stipulated that suspects in criminal cases should not be interrogated without the presence of a lawyer unless caught in the act or unless there is a risk of losing evidence. The same guarantees do not apply in misdemeanour cases.

⁷ Al-Gaddafi forces used the city of Tawargha as a base during the siege and shelling of the city of Misratah, where war crimes and other serious violations of international humanitarian law were committed by al-Gaddafi forces. See Amnesty International, *The battle for Libya: Killings, Disappearances and Torture* (Index: MDE 19/025/2011), September 2011; and Amnesty International, *Libya: Misratah under siege and under fire* (Index: MDE 19/019/2011), May 2011: <http://www.amnesty.org/en/library/info/MDE19/019/2011>

⁸ BBC, “Libya tribal clashes leave 105 dead”, 20 June 2012: <http://www.bbc.co.uk/news/world-africa-18529139>

⁹ Ghaida Al-Tawati was one of the few people brave enough to criticize the government while Colonel al-Gaddafi was still in power. She was arrested during the “17 February Revolution” by al-Gaddafi forces. She is now critical of and outspoken on lawlessness, corruption and ongoing human rights abuses.

¹⁰ Amnesty International, “Libya: NTC must not curtail freedom of expression in the name of protecting the 17 February Revolution” (Index: PRE 01/240/2012), 3 May 2012: <http://www.amnesty.org/zh-hant/node/31305>

¹¹ Article 4 of Law 38 of 2012 on Procedures relating to the Transitional Period.

¹² See Chapter Two for more information.

¹³ See, for instance, statement by Dr Fatma Hamroush, Minister of Health, blaming Colonel al-Gaddafi's family and remnants of the old government for the violence in June which shook Kufra and Sgeiga, and left 32 dead and 162 injured, according to her. See, *New Quryna*, "Hamroush blames Gaddafi children for inciting civil war", 18 June 2012: at <http://www.quryanew.com/36871>

¹⁴ See Amnesty International, *The Battle for Libya: Killings, disappearances and torture* (Index: MDE 19/025/2011), 13 September 2011: <http://www.amnesty.org/en/library/info/MDE19/025/2011/en>, Amnesty International, *Detention abuses staining the new Libya* (Index: MDE 19/036/2011), 13 October 2011: <http://www.amnesty.org/en/library/info/MDE19/036/2011>, and Amnesty International, *Militias threaten hopes for new Libya* (Index: MDE 19/002/2012), 16 February 2012: <http://www.amnesty.org/en/library/info/MDE19/002/2012/en>.

¹⁵ See, for instance, OHCHR, "Human Rights concerns about armed brigades holding detainees in Libya", 26 January 2012: <http://www.ohchr.org/EN/NewsEvents/Pages/HRconcernsaboutarmedbrigadesholdingdetaineesinLibya.aspx>
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¹⁶ Findings reported at the 19th Session of the Human Rights Council in March 2012.

¹⁷ The Kufra detention centre was controlled jointly by the Libya Shield Brigade, which joined the national army, and by local Kufra *thuwwar*.

¹⁸ The arrests and detention of foreign nationals is addressed separately in Chapter Three.

¹⁹ See footnote 4. [check in final layout]

²⁰ There are 2,950 detainees in facilities controlled by the judicial police, and 380 held in military prison, according to figures given to Amnesty International by officials in early June 2012.

²¹ During and in the immediate aftermath of the conflict, local civilian and military councils were established at the neighbourhood or city level, to coordinate civilian, military and security matters. They acted largely independently from NTC control; and continued to play a governing role after the "Declaration of Liberation" on 23 October. While self-appointed at first, several cities including Benghazi and Misratah held local elections allowing residents to choose their local councils. Some cities such as Misratah also established "Security Committees" responsible for maintaining security, and in some cases authorized to arrest and detain individuals deemed to pose a threat. Immediately after the fall of Tripoli, the Supreme Security Committee was established to address security issues in the absence of a functioning police force. Ministry of Interior Decree 388 of 2011 gave it a mandate to maintain security, coordinate security operations, protect government buildings and arrest, carry-out investigations and collect information in relation to cases of al-Gaddafi loyalists. The Decree's provisions for the creation of local branches for the Supreme Security Committee gave a legal basis for local committees established during and in the immediate aftermath of the conflict. Some detainees are held by local supreme security committees.

²² UN Security Council, "Top Envoy in Libya Urges International Community to Be 'Frank' With Itself, Interim Government in Identifying Challenges, Gaps," 12 May 2012: <http://www.un.org/News/Press/docs/2012/sc10644.doc.htm>

²³ See, for instance, Amnesty International, *We are not safe anywhere: Tawarghas in Libya* (MDE

19/007/2012), 8 June 2012: <http://www.amnesty.org/en/library/info/MDE19/007/2012/en>

²⁴ In rare cases, arrest warrants signed by the militia itself were showed.

²⁵ See http://www.youtube.com/watch?feature=endscreen&NR=1&v=io9Zw_ZJ7Hk

²⁶ Amnesty International, "Release or transfer British journalists and Libyan colleagues" (Index: PRE01/110/2012), 28 February: <http://www.amnesty.org/en/for-media/press-releases/libya-release-or-transfer-british-journalists-and-libyan-colleagues-2012-02>

²⁷ See Amnesty International, "Libya surgeon accused of neglect faces spurious charges" (Index: PRE/01/276/2012), 7 June: <http://www.amnesty.org/zh-hant/node/32457>

²⁸ See *Militias threaten hopes for new Libya*, p28

²⁹ Kuliya Dabetat al-Shurta.

³⁰ Case number 45/2012.

³¹ See *Militias threaten hopes for new Libya*, p25-28.

³² UNSMIL, "UNSMIL calls on the government to hold to account those behind death, torture of detainees", 1 May 2012: <http://unsmil.unmissions.org/Default.aspx?tabid=3543&ctl=Details&mid=6187&ItemID=223938&language=en-US>

³³ In some cases, relatives might be too afraid to ask directly, fearing reprisals and arrest. For instance, relatives of arrested Tawargha would not dare approach local officials in Misratah.

³⁴ Unofficial Amnesty International translation.

³⁵ Abdelfatah Younes served as General Secretary of Public Security under al-Gaddafi's government before defecting in late February 2011. He was killed on 28 July 2011 by armed men.

³⁶ On 18 February 2011, protesters were shot near the Katiba al-Fodhil Bou Omar military barracks in the centre of Benghazi. See *The battle for Libya: killings, disappearance and torture*, p40.

³⁷ Article 435 of the Penal Code.

³⁸ Females detainees were transferred from Ganfouda to camps run by humanitarian organizations including the Libyan Red Crescent in Benghazi.

³⁹ See, for instance, *The battle for Libya: killings, disappearance and torture* and *Militias threaten hopes for new Libya*.

⁴⁰ At the same detention centres, Somali women denied being subjected to such practices.

⁴¹ It is formally under the Ministry of Defence. Amnesty International found that militias who have formally joined the ministries of defence or interior continue to act largely independently.

⁴² See Amnesty International, "Italy must sink agreement with Libya on migration control" (30/006/2012), 20 June 2012: <http://www.amnesty.org/en/library/info/EUR30/006/2012/en>

⁴³ Officials from Gharyan argued that armed elements loyal to Mu'ammār al-Gaddafi remained in Asabee and needed to be disarmed. See <http://www.bbc.co.uk/news/world-africa-16570594>

⁴⁴ As these clashes happened after the end of the internal conflict, international humanitarian law no longer applies.

⁴⁵ The UN Committee on Economic, Social and Cultural Rights defines “forced evictions” as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.” The Committee includes among such evictions those resulting from “armed conflicts, internal strife and communal or ethnic violence”.

⁴⁶ AFP, “Libya: 105 killed in week of clashes in west Libya”, 20 June 2012: <http://reliefweb.int/node/505177>

⁴⁷ See operational update by the ICRC available at <http://reliefweb.int/node/505445>

⁴⁸ See Amnesty International, “Scores of Families risk homelessness in Libya” (Index: MDE 19/004/2010), 31 March 2010.

⁴⁹ *New Quryna*, “Fresh clashes in Kufra leave one dead and four injured from Libya Shield”, 24 June 2012: <http://www.qurynanew.com/37201>

⁵⁰ Media reports at the times alleged that over a 100 people were killed in the clashes. See, for instance, <http://www.tripolipost.com/articledetail.asp?c=1&i=7925>

⁵¹

<http://unsmil.unmissions.org/LinkClick.aspx?fileticket=pJNCo4ch90A%3D&tabid=3543&mid=6187&language=en-US>

⁵² Like Kufra, it is at crossroads for migrants and asylum-seekers and an important smuggling hub.

⁵³ Most sources told Amnesty International that negotiations were over the death of an Arab man, allegedly at the hands of Tabus. Other sources suggested that discussions also included negotiations over financial resources and power-sharing deals.

⁵⁴ At the time, officials reported that about 150 people died in clashes. See, for instance, “Libya tribal clashes kill at least 147 people”, 31 March 2012: <http://www.guardian.co.uk/world/2012/mar/31/libya-tribal-clashes-sabha-deaths>

⁵⁵ Touaregs were also affected by the violence as they live mainly in the attacked Tiyouri area, mixed with Tabus. In addition to being a minority group in Libya, Touaregs can be found in Mali and Algeria.

⁵⁶ This incident took place in early October before the end of the internal conflict in Libya; therefore, international humanitarian law still applied.

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