



Rep. Eliot Engel, Chairman  
 Rep. Michael McCaul, Ranking Member  
 House Foreign Affairs Committee  
 2170 Rayburn Office Building  
 Washington, DC 20515

**Re: May 15 hearing on Libya**

Dear Chairman Engel, Ranking Member McCaul, and Members of the Committee:

On behalf of Amnesty International USA and our more than one million members and supporters nationwide, we urge the Committee to highlight the deteriorating human rights crises in Libya which are being exacerbated by the civil conflict.

**Deteriorating Human Rights and Conflict in Libya**

Libya is in an ongoing state of armed conflict and crisis. Both the self-proclaimed Libyan National Army and government-aligned militias in western Libya have appalling human rights records and a history of flagrantly flouting international law and committing war crimes, including by carrying out indiscriminate attacks and direct attacks on civilians and civilian objects, abductions, torture and extrajudicial executions. Militias, armed groups and security forces commit serious violations, including war crimes, with total impunity. Abductions, extrajudicial executions, arbitrary detention, torture and attacks on civilian property continue. Thousands of refugees and migrants face automatic and indefinite detention, torture, extortion and sexual violence. Indiscriminate shelling is killing and injuring civilians and destroying vital infrastructure; almost two hundred thousand remain internally displaced. The Libyan justice system is broken.

Amnesty International USA would like to highlight some of the key concerns that we feel the United States must directly address with its partners in the region:

- The civil conflict in Libya
- The harassment of women human rights defenders in Libya
- The conditions at detention centers and the general conditions for migrants
- The disappearance of Salem Abdul Salem Ghereby and Awad Khalifa, former Guantanamo prisoners
- A framework for accountability in Libya

**The civil conflict in Libya**

A six-week long offensive to take over Tripoli has resulted in unlawful attacks that could amount to war crimes which must be investigated by international prosecutors; Amnesty International has revealed evidence of indiscriminate attacks on civilian areas in the Libyan capital.<sup>1</sup>

The organization has gathered witness testimony and analysed satellite imagery, which indicates that densely populated residential areas in the Abu Salim district of Tripoli were indiscriminately attacked with rockets during intense fighting between 15-17 April.

Amnesty International has also documented attacks that struck migrant detention centres placing the lives of hundreds of refugees and migrants at risk.

“As the battle for Tripoli unfolds, the warring parties have displayed a shameful disregard for civilian safety and international humanitarian law by carrying out indiscriminate attacks on residential neighborhoods. Such reckless attacks could have devastating consequences for civilians and strengthen the need for the International Criminal Court to expand its investigations into possible war crimes by all sides in Libya’s conflict,” said Magdalena Mughrabi, Deputy Middle East and North Africa Director at Amnesty International. “Deliberate attacks on civilians and civilian property, and indiscriminate attacks that kill or injure civilians amount to war crimes. All sides in the conflict have an absolute obligation under international law to protect civilian lives and to clearly distinguish between civilians and fighters during their attacks.”

Explosive weapons with wide area effects, including artillery and mortars, must never be used in the vicinity of concentrations of civilians.”<sup>2</sup>

“Any civilians that wish to leave the area should be allowed to do so freely without coming under attack,” said Magdalena Mughrabi.<sup>3</sup>

### **Women Human Rights Defenders at Forefront of Challenge to Climate of Repression<sup>4</sup>**

In Libya, women human rights defenders have been at the forefront of those speaking out against corruption by officials and abuses by the Libyan National Army and militias. They have faced gender-based violence, as well as smear campaigns on social media.

Mariam al-Tayeb, who has criticized militias responsible for extrajudicial executions, enforced disappearances and torture, has repeatedly received death threats through Facebook as a result of her activism. In January, a militia from the Bab Tajoura district of Tripoli abducted her from her car, held her for two and a half hours and beat her. In February, she fled the country.<sup>5</sup>

The United States can and should take every opportunity to support women human rights defenders. This is crucial as human rights defenders across the globe are facing unprecedented levels of persecution and demonization. We are living in an age where those who dare to claim justice and rights are being targeted and attacked instead of protected and supported. Now more than ever, the United States must use its diplomatic sway to live up to its commitments. The United States must honor its commitments everywhere, at all times with equal determination, including in Libya.

### **The conditions at detention centers and the general conditions for migrants**

According to the International Organization for Migration, Libya’s maritime authorities have intercepted and taken back to Libya about 14,377 people as of November 2018.<sup>6</sup> Considering the drop in the number of people attempting the crossing, this marks a significant increase in the rate of those being intercepted. Indeed, in recent months, over half of those who attempted the crossing were returned to Libya, where they were

immediately placed in detention centers run by the Directorate for Combating Illegal Migration (DCIM) within the Libyan Ministry of Interior. Officials at DCIM confirmed to Amnesty International as of November, that nearly 6,000 foreign nationals – mostly of African origin – are being held in centers across the country.

The detention centers where refugees and migrants are kept have no judicial oversight, meaning detainees are held without any judicial order, cannot challenge their detention and are not offered legal counsel, making their detention unlawful under international law. Torture and other ill-treatment is rife, being used by guards to exploit the detainees and extract money from their families.

In Libya, official detention centers — recognized by the Libyan authorities and operated under the Ministry of Interior — are controlled by militias who do not necessarily adhere to the chain of command of the central authorities. In these centers DCIM often hold women, men and children together, irrespective of whether they are in need of international protection. In the absence of any legislation on asylum, in the past Libyan authorities had at least agreed to release from detention people of seven nationalities (Eritreans, Ethiopians, Iraqis, Palestinians, Somalis, Sudanese of Darfuri origin and Syrians), considered to be in need of international protection. However, throughout 2018 the Libyan authorities have systematically refused to release anyone from detention, except for those being evacuated by IOM and UNHCR to third countries, or those who pay a bribe as a means to secure their release.

The IOM operates “Voluntary Humanitarian Return” (VHR), mostly from Libya’s migration detention centers, for anyone deciding to return to their home countries. Over 20,000 were transferred back to their home countries in 2017, while 14,622 individuals had been returned as of November 2018, through programs heavily funded by European governments.

While VHR can offer a lifeline for many who are stuck in Libya, genuinely wish to return to their home countries and have no other means to do so, it does not solve the problems related to arbitrary detention, torture and ill-treatment and remains an inadequate response to the scale and seriousness of the situation for migrants and refugees in Libya. Because many people cannot be returned to their country of origin – due to the real risk of persecution, armed conflicts or other harm – European and other governments should offer them evacuation and assistance, in particular through a UNHCR resettlement program. However, the dismal number of resettlement slots offered – only 3,886 slots have been pledged by twelve countries, and only 1,140 individuals have departed on resettlement from Libya and Niger – is a testament to the callous disregard on the part of European and other states for the suffering of those languishing in detention centers.

### **Barriers to United Nations Refugee Agency In Libya<sup>7</sup>**

For refugees, who cannot be returned to their home countries because they are at real risk of persecution or other serious human rights violations, the UN Refugee Agency (UNHCR) continues to face obstacles, including unreasonable restrictions on the part of the Libyan authorities, to providing meaningful protection in Libya. Refugees awaiting resettlement through the UN global scheme face lengthy waits: with only a limited number of resettlement slots on offer, they languish in detention while waiting for an evacuation, or eventually give up and opt to return to their country of origin despite the risks that caused them to flee. One such example is a group of 124 Somalis who on 7 November returned to Somalia from Libya.

Furthermore, a UNHCR processing center, that after lengthy negotiations was due to open in July 2018, has yet to materialize, as once again the Libyan authorities are delaying it. The center, with a capacity to house up to 1,000 people, is meant to offer a safe space for the most vulnerable refugees in Libya awaiting resettlement,

while guaranteeing their liberty and freedom of movement. Earlier this year, final agreement was reached, and the building was completed for a summer opening. The Italian Minister of Interior, Matteo Salvini, visited the centre in June, claiming that its opening within one month would “dismantle all the lies and the rhetoric according to which in Libya there are torture and violation of civil rights.” However, the center has not opened. Even if it was to open, it would only be able to host a small number of people compared to the nearly 6,000 currently in detention centers.

Libya has not signed the 1951 Refugee Convention, nor have the authorities been willing to sign a memorandum of understanding with UNHCR. This leaves UNHCR unrecognized, limiting its operations and ultimately hurting refugees and asylum seekers.

### **The disappearance of Salem Abdul Salem Ghereby and Awad Khalifa, former Guantanamo prisoners**

On 4 April 2018, Salem Ghereby and Omar Khalifa, both former Guantánamo detainees, were deported from Senegal to Libya, after which their whereabouts were unknown and have remained unknown. No official charges were brought against them.<sup>8</sup>

### **A Framework for Accountability in Libya**

Libya's domestic judicial system is highly dysfunctional and is unable to provide recourse for victims of human rights violations or bring those responsible for these abuses to justice. Perpetrators of serious human rights abuses continue to operate with absolute impunity without fear of accountability.

Given the scale of impunity and the myriad challenges to the administration of justice, promoting accountability in Libya requires deliberate and coordinated effort, by multiple actors at the national and international levels.<sup>9</sup> As early as February 2016, the High Commissioner called on the United Nations Human Rights Council to consider establishing a mandate for an independent expert on Libya. (See A/HRC/31/47 ¶ 85(a).) This call has been echoed and supported by Amnesty International and other organizations. To date, however, it has been left unanswered. Resolutions brought before the Human Rights Council continue to lack any meaningful accountability mechanism or mandate. We urge the Libyan authorities, other governments, as well as this Council to do more to end impunity in Libya. In particular, we call on the Human Rights Council to establish a mandate on Libya, to create an international investigative mechanism tasked to investigate, document and report on the ongoing violations of international human rights law and humanitarian law, with the view of ending impunity and ensuring full accountability.

Militias and armed groups affiliated to Libya's rival governments have been responsible for violations of international humanitarian law and human rights abuses throughout the country, including arbitrary detentions, abductions, enforced disappearances, torture and other ill-treatment, unlawful killings, indiscriminate attacks and forced displacement of the civilian population.

In Tripoli, as of September 2018, power and wealth had been consolidated in the hands of four main militias, leaving the already fragile UN-recognized government paralyzed. These groups, operating entirely outside the rule of law, terrorizing the civilian population.

In late August, conflict erupted in Tripoli as armed groups from surrounding cities marched on the capital. The ensuing clashes and the use of heavy weaponry in urban areas and other indiscriminate attacks left 115 civilians dead and 383 injured and a line of destruction in their wake, while the collapse of the UN brokered

ceasefire only indicated that more destruction would follow. Recent events have led to further exacerbation of a relentless cycle of mounting abuses.

As Libyan and international actors work towards solutions for Libya's future, they must remember that justice and accountability are essential components of sustainable peace.

This March, the Council had an opportunity to establish an independent investigative body for Libya. This body could have, among other things, investigated and documented violations of international human rights and humanitarian law and identified the perpetrators as a step towards ensuring those responsible are held accountable. Tragically, the opportunity was missed, and the violations and crimes have continued with total impunity. We urge members of this Council not to repeat this mistake in the future, and instead establish such an independent investigative body as the first step towards justice.

## Recommendations

Amnesty International USA recommends that the United States take the following actions in order to ensure that parties to the civil conflict respect international human rights law and to support accountability measures for human rights and international human rights law violations in Libya

1. The US should pressure all sides in the [conflict in Libya](#) to respect their obligations under international humanitarian law to protect civilian lives and to clearly distinguish between civilians and fighters during their attacks.
2. The US should pressure all states to fully implement the United Nations [arms embargo](#) on Libya.
3. The United States should support efforts to investigate attacks on [refugees and migrants](#) at detention centers on the outskirts of Tripoli in order to ensure civilians are protected and perpetrators are held to account.
4. The United States should support the UNHCR in calling for the immediate release of refugees and migrants from [detention centers](#) in Abu Salim, Gharyan and Qasr bin Ghasher, close to the fighting near Tripoli in view of the worsening security situation in order to enable the UNHCR to relocate the refugees to its Gathering and Departure Facility.
5. The United States can and should take every opportunity to support women [human rights defenders](#) in Libya, including by encouraging Libyan authorities to provide better access to international journalists and to improve their ability to operate in Libya.

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Sincerely,

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# Endnotes

1. Amnesty International Press Release [LINK]
2. Amnesty International, "Libya: Civilian lives must be protected as clashes escalate in Tripoli offensive." <https://www.amnesty.org/en/latest/news/2019/04/libya-civilian-lives-must-be-protected-as-clashes-escalate-in-tripoli-offensive/>
3. Amnesty International, "Libya: Civilian lives must be protected as clashes escalate in Tripoli offensive." <https://www.amnesty.org/en/latest/news/2019/04/libya-civilian-lives-must-be-protected-as-clashes-escalate-in-tripoli-offensive/>
4. Amnesty International, "Middle East and North Africa: Human Rights Defenders In 2018." <https://www.amnesty.org/en/documents/mde01/9534/2018/en/>
5. Amnesty International, "Middle East and North Africa: Human Rights Defenders In 2018." <https://www.amnesty.org/en/documents/mde01/9534/2018/en/>
6. Amnesty International, "Libya: Eu's Patchwork Policy Has Failed to Protect The Human Rights of Refugees and Migrants." <https://www.amnesty.org/en/documents/mde19/9391/2018/en/>
7. Amnesty International, "Libya: Eu's Patchwork Policy Has Failed to Protect The Human Rights of Refugees and Migrants." <https://www.amnesty.org/en/documents/mde19/9391/2018/en/>
8. Amnesty International, "Human Rights In Libya: Review of 2018." <https://www.amnesty.org/en/documents/mde19/9919/2019/en/>
9. Amnesty International, "Human Rights Council Should Establish an International Investigative Mechanism into Human Rights Violations In Libya." <https://www.amnesty.org/en/documents/mde19/7930/2018/en/>