

**ARC and DCR comments on the Ministry of Foreign Affairs, Netherlands;
Immigration and Naturalisation Service, Netherlands; CGRS, Belgium;
Landinfo, Norway; Lifos, Sweden, report on Libya,
19 December 2014**

27 February 2015

Asylum Research Consultancy (ARC) and the Dutch Council for Refugees (DCR) welcome the publication of the joint Country of Origin Information (COI) report on Libya. This report is a result of a cooperation project between the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) in Belgium, the Country of Origin Information Unit of the Ministry of Foreign Affairs in the Netherlands, the Office for Country Information and Language Analysis (OCILA) of the Ministry of Security and Justice in the Netherlands, Landinfo in Norway and Lifos in Sweden.

The Libya report consists of five parts, covered in different reports: Security Situation, Vulnerable Groups, Militias, Tribes and Islamists, Judiciary and Security Sector and Nationality, Registration and Documents. The length of the reports range from 31 pages (Militias, Tribes and Islamists) to 76 pages (Security Situation).

In the following comments, we first address general remarks and recommendations. These are divided into methodology, use of sources and content. In the remainder, we focus on the reports on Vulnerable Groups and the Security Situation¹. For the assessment of asylum and immigration cases, these are the most relevant.

1. General observations and recommendations

1.1 Structure and content

- In general, we found the reports extensive and thorough. However, because the reports cover a wide range of similar subjects, there is some overlap, which results in contradictions and ambiguities. These contradictions and ambiguities were also noted by the Dutch Council of State, in their hearing on the security situation in Benghazi and Tripoli on 16 January 2015. At the time of writing (January 2014), notes from the hearing are not public.

To facilitate the use of the report in a comprehensive way by decision makers, we would suggest incorporating reports that cover similar topics into one. Furthermore, we suggest not only performing a peer review for the individual reports, but also appointing a stakeholder responsible for the coherence and presentation of information in the final product.

For the assessment of asylum and immigration cases, we found some reports to be more relevant than others. In particular the report on '[Militias, Tribes and Islamists](#)' is very detailed, and in our opinion not all the information is needed to assess asylum and immigration cases in the participating countries.

¹ For reviewing and cross-checking the report, information published up until 21 January 2015 has been taken into account. COI published after this date is not incorporated.

- At times, additional cross-references to other sections of the reports would have been useful. For example, reference [11] of the section on ‘State Protection’ in the ‘Vulnerable Groups’ report refers users to the ‘Libya: Judiciary and security sector’ report. It is considered that whilst the whole report is useful and should be read by decision-makers, the following COI contained in that report is particularly relevant to the situation of ‘Vulnerable Groups’ (emphasis added, p. 18):

[...] 4.3 Supervision and Protection by the Authorities

[...] Protection and access to justice in Libya are closely linked to personal belonging and connection to societal structures like tribes and communities, but also to regional background or political affiliation. This contributes to the fact that justice and security are not evenly provided to all people. **People living outside protection spheres, like migrants, minorities, and people who live in areas they do not originate from, are therefore more often blocked from justice and security systems.** In areas where tribe-related militias are dominant, for instance in Misrata, these groups are sometimes discriminated or even targeted. Access to justice was particularly difficult for **forcibly displaced persons in the reporting period.** [...]

It is suggested that this information should have been repeated in ‘3. State Protection’ of the ‘Vulnerable Groups’ report, or that at the least a direct reference to the information contained in ‘4.3.2 Access to Justice and Police’ be provided so that this key information to vulnerable groups wasn’t overlooked.

It is also considered that by including the cross reference in a footnote [11], it could easily be overlooked. It would therefore be advisable to include such a reference in the main body of the text with a hyperlink to the report.

1.2 Methodology

- In the reports, it is not explicitly stated which guidelines for processing COI were used. After inquiry, the authors stated that the reports were written according to the Common EU Guidelines for Processing Country of Origin Information.² We welcome the use of these guidelines in writing COI-reports, and think it would be helpful to also mention their use in the report.

- In May 2014, as is customary in the Netherlands, DCR was given the opportunity to input into the Terms of Reference (ToRs) of the Dutch ‘ambtsbericht’ on Libya, addressing Country of Origin Information, political developments, the security situation, human rights, specific groups and migration issues. For future reports, we would welcome the opportunity for other NGOs to input into the ToRs as well, especially from NGOs in contributing countries, in case of an international project.

- We assume the reports should be considered as COI reports, and are not intended as policy guidance. If the reports are intended to be COI reports, then as previously highlighted in our joint comments on the EASO Country of Origin Information report methodology³, we recommend that COI reports should not aim to ‘draw conclusions’ in summary of the analysis, because this implies a degree of finality. Rather it is suggested that users of these reports should be encouraged to draw conclusions by using their own discretion, in light of the specific circumstances of each individual case for which they intend to use these reports, and by considering all other evidence in the round, including COI not included in these COI reports.

It is not made clear in the ‘Disclaimer’ or ‘Introduction’ of the five reports whether they

² European Union, [Common EU Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008

³ See ARC and Dutch Council for Refugees, [Comments on the EASO Country of Origin Information report methodology](#), November 2012, paragraph 3

are intended as policy guidance for the Dutch, Belgian, Norwegian and Swedish decision-makers. It is considered that the 'Disclaimer' and 'Introduction' of the reports should make it clear whether the Libya reports are in fact to be treated as government policy positions and that the approach should be consistent across the five reports.

- With regards to the cross-checking of information, the reports set out:

DISCLAIMER

[...] The report is based on carefully selected and referenced sources of information. To the extent possible and unless otherwise stated, all information presented, except for undisputed or obvious facts, has been cross-checked.

Given that the work of cross-checking all the information presented has already been undertaken, it is surprising that references of corroborative material have not been provided. Whilst it may not be necessary to cite all of the sources consulted on a particular issue, providing references of corroborative material would make for a more robust, transparent report. It would also be much more user-friendly for readers wanting to consult original sources when they require further information on a particular issue. We consider that citing corroborative information is particularly relevant when documenting forms of abuses in order to gain an informed understanding of incidences/locations/time scales etc. involved.

- In addition, we would have welcomed the opportunity to provide the following comments in advance of the report's final publication. The Common EU Guidelines mention peer review and/or management review before release as a minimum standard of quality control. Including NGOs, academics, international bodies, etc. with a proven knowledge on the specific topics of the report in the peer review will improve this standard.

1.3 Use of sources

- We welcome the fact that the references – almost without exception – refer to sources available in the public domain. This makes the reports transparent, because the reader can easily access the original source of information.

However, to make the report more user-friendly, we would recommend providing the direct URL in the footnotes. In order to further enhance user-friendliness of the report it is suggested to hyperlink the relevant headings in the 'Contents' list with the relevant sections within the report. Also in relation to footnotes, it is recommended that sub-headings be included in addition to page numbers as depending on which document you use page numbers might be displayed differently.

- The reports also make use of oral sources. We welcome this on topics on which little information is offered in other sources. Regarding the methodology of gathering such additional information, the following is cited in the introduction to the reports:

[...] The project mainly relies on written information from open sources. Additional information was gathered through contact with expert sources on Libya during the autumn of 2014. All quoted sources are provided in the source list. Some sources have asked to remain anonymous for reasons of security.

In our view, it would have been interesting to hear more about the methodology of gathering such 'additional information'. For instance, it appears from the list of 'Oral sources' at section 13.2 of the Vulnerable Groups report that some interviews were conducted over the phone, others face-to-face in the Netherlands, others in Tripoli, which would imply that a delegation went to Libya for the purpose of conducting these interviews. It is recommended to make clear if the persons conducting these interview also drafted the report as their observations/impressions may have a bearing on analysis provided in the report.

- The reports use a number of anonymous sources. When deeming this necessary, the numbers interviewed, their expertise, when and where interviewed and for what purpose should be made clear. For instance, the information cited in the report on Vulnerable Groups, is sometimes limited (p. 27):

11.2 Treatment of Palestinians and Syrians in Libya

[...] 146 Meeting with IOM regional office in Cairo, 30 October 2014; telephone interview with anonymous source, Malmö, 8 November 2014.

147 Telephone interview with anonymous source, Malmö, 8 November 2014.

Another example: in the report on the Security Situation, the term 'Resident from Benghazi' (p. 30) does not address the interviewee's expertise, nationality, gender, age group.

- On occasion it is considered that it would have been useful to provide further information on the original source in the body text, and not just in the footnote where it may be overlooked. For example, the Vulnerable Groups reports mentions:

3. STATE PROTECTION

[...] Finally, even Libyan state officials have confirmed that they are unable to offer protection against reactions from non-state actors.¹⁰

[10] I.e. in a meeting between a representative of the Royal Norwegian Embassy in Egypt and the prime minister's office, Tripoli, 25 March 2014.

It is considered that whether the authorities are capable of providing effective protection to its citizens emanating from threats from non-state actors is a key point. It would therefore have been useful to have further context on this statement; whether this is an official state position, and what question it was a response to.

Moreover the above reference is a little confusing as it differs from the following source listed in '13.2 Oral sources' which has the same date:

13.2 Oral sources

[...] Libyans Abroad Project – Prime Minister's office, meeting in Tripoli, 25 March 2014.

We further suggest explaining lesser known organisation such as the 'Libyans Abroad Project'. It is also not made clear whether the authors of the report were also in attendance at this meeting.

- On a number of subjects, the reports state it has not been possible to find relevant information. We welcome the fact that the lack of detailed information is mentioned, because this will help decision makers in their assessments. Here, it is important to note the UNHCR in its report 'Beyond Proof' which states that 'a lack of accurate, objective, and current COI regarding an asserted material fact is not necessarily indicative of a lack of credibility'.⁴

2. Vulnerable groups report

2.1 General Comments

- In general, the '[Vulnerable Groups](#)' report well addresses the issues of relevance to vulnerable groups in Libya, using an impressive range and balance of sources, making particularly good use of published academic material as well as human rights reporting.

4 UNHCR, [Beyond Proof, Credibility Assessment in EU Asylum Systems](#), May 2013

There is also a useful discussion on availability/lack thereof of particular sources, for example in section '2. REACTIONS AGAINST VULNERABLE GROUPS: PATTERNS'. Our comments mainly relate to the use of summaries and analysis, the style of referencing and where it is considered that greater specificity and further COI would have improved the report.

- The use of summaries together with the report referencing style means it is difficult to ascertain who some of the information is attributable to. Several paragraphs of the report contain limited or in some cases, no references. It is also not obvious whether references provided at the end of a paragraph relate to all the information contained within that paragraph or only to the last sentence cited. For example the emphasised text has no reference:

11.2 Treatment of Palestinians and Syrians in Libya

[...] The majority of Syrians who arrive in Libya try to remain within the Syrian community, but they still feel vulnerable.¹⁵⁰ Local Syrian charity organisations have helped Syrian children enroll in school and facilitated access to medical care to needy families. Other international organisations, like the Danish Refugee Council, have also provided assistance to the refugees. **There are reports of abuse, violations, and abductions of Syrians in Libya.** The general insecurity and the prevailing lawlessness have prompted many Syrians to leave the country.¹⁵¹

[151] Amnesty International, An international failure: The Syrian refugee crisis, 13 December 2013, p. 6.

It is not clear from the referencing whether the above highlighted information can be found in the source referenced in footnote [151] or is a summary by the report authors.

Moreover, given the relevance of the above highlighted information, it is considered that it would have been useful if a clear citation along with corroborating sources had been provided in order to give readers an indication of the extent, nature, location and time periods of the 'abuse' and 'violations' being perpetrated.

- In some sections of the report, the COI is not referenced at all e.g.:

4.1.3 Azlam with and without "Blood on their Hands"

These views seemed prominent in the weeks after the fall of the former regime. However, to outside observers it is striking how the debate in Libya around Qadhafi's supporters after his regime's fall mainly seemed to focus on whether Qadhafi loyalists should be allowed continued access to political office and state employment or not. People in general seemed less focused on punishing abuses of power during the Qadhafi regime.

It is not clear if this is an oversight or in fact the analysis of the authors. Either way it would have been useful to have cited original sources and to have put a clearer time clause in the last sentence to indicate whether or not this is still the case.

- Not providing corroborative sources may also lead to relevant citations being omitted. For example:

4.1.1 1969 and 2011: Major Shifts in the Balance of Power

Both the Qadhafi era and the post-Qadhafi era have seen large shifts in the power structures in Libya, with corresponding changes to both groups' and individuals' social position and access to power and wealth.¹²

However the source cited in reference 12 was published before the post- Qadhafi era:

[12] Vandewalle, D., Libya since independence – Oil and statebuilding, 1998, p. 61-190.

- Regarding some paragraphs the 'Vulnerable Groups' report, we think it might have been possible to explore the used sources more. For instance, regarding members of sexual minorities, the report cites information from Amnesty International (p. 23):

'An Amnesty International report refers to articles 407 and 408 of the Penal Code of 1953 as relevant legislation in a section listing "laws criminalizing consensual same-sex conduct in African countries". The legal text contains no specific references to consensual sex between adult partners of the same sex, treating it as a form of adultery. There is no mention of non-gender conform behaviour.'

Perhaps an interview with a representative of Amnesty International would have shed better light on the situation.

- The 'Vulnerable Groups' report seems to take a position as to whether effective protection will be available. The section on state protection is very brief; the first three short paragraphs of COI provided cite five sources. The fourth paragraph contains no references to COI, but provides an analysis of whether protection is available and directs readers to the Libya 'Judiciary and security sector' report by the same authors. Interestingly, from a brief scan of the 'Judiciary and Security Sector' report, it appears that no such position is clearly made in that document.

It is considered that relevant COI from the sources cited in this section has been omitted. For example, the Human Rights Watch report of September 2014, further specifies that "The victims of the barrage of assassinations that have gone unclaimed and unpunished since 2012 include journalists, activists, judges, prosecutors, and members of the security forces".⁵ Similarly, the Amnesty International public statement of March 2014 also highlights that "Perpetrators of politically motivated killings of security officers, judges, activists and journalists, which have plagued Libya since the end of the conflict, have not been held accountable".⁶

- There is only one notable omission from a review of the contents of the 'Vulnerable Groups' report. Neither this report, nor indeed any of the other four reports on Libya by the same authors address the humanitarian situation for vulnerable profiles (or in fact the general population). The inclusion of such a section is deemed relevant given that such COI may be required for an assessment of whether return would breach the ECHR Article 3 threshold, for example if particular profiles of returnees were likely to end up residing in an IDP camp.
- It is surprising to note that the UNHCR Position Paper of November 2014⁷ is not cited in the 'Vulnerable Groups' report, despite being available at the time of publication and cited in one of the other Libya report by the same authors on 'Libya: Security Situation'. Thus no reference is made to the profiles of persons UNHCR identifies that may need to be given particular attention, including, political activists, human rights activists, judges, women engaged in the public sphere, NGO workers, media professionals, ethnic and religious minorities, and members of tribes or individuals perceived to be in support of the former Gaddafi regime.

5 Human Rights Watch, [Libya: Assassinations May Be Crimes Against Humanity](#), 24 September 2014

6 Amnesty International, [Teetering on the edge: Ongoing human rights violations and abuses in Libya](#), 3 March 2014, Lack of accountability

7 UNHCR, [UNHCR Position on Returns to Libya](#), November 2014

2.2 Comments regarding content of particular sections of the report

- It is suggested that the 'Vulnerable Groups' report address access to justice in sub-section **4. Perceived Supporters of the Qadhafi Regime**. For example available COI indicates (emphasis added):

□ [Amnesty International, Libya: Barred from their homes: Continued displacement and persecution of Tawarghas and other communities in Libya, 23 October 2013](#)

The current lawlessness in Libya and the consequential paralysis of the judiciary has had a terrible impact on all those deprived of their liberty. Tawargha detainees have been among the worse affected. The courts simply have not been up to the challenge of processing cases of detainees held in relation to the 2011 conflict. In Misratah, the cases of only about 185 of some 2,800 detainees have reached the prosecution stage. **Prosecutors complained to Amnesty International of the difficulties they face, especially when dealing with individuals accused of being al-Gaddafi loyalists, an accusation directed towards many Tawarghas. For example, release orders are not implemented by detaining authorities, and prosecutors and their homes have been attacked, including with home-made explosives.** Such conditions led judicial employees in Misratah to strike for two weeks in April 2013. Legal proceedings have frequently been suspended in other cities as well. As a result, thousands of people, including some held for as long as two years, remain in detention without charge or trial. [...] The detainees from the Tawargha community, like other detainees, have also been tortured in detention and subjected to poor prison conditions. [...]

□ [Report of the United Nations High Commissioner for Human Rights, Technical assistance for Libya in the field of human rights, 13 January 2014](#)

30. Ensuring a safe environment for judges and prosecutors is a fundamental necessity for the effective administration of justice. The security apparatus of the Government and the Judicial Police in particular does not yet have sufficient capacity, training or equipment to ensure the security of judicial officials. Prosecutors and judges are frequently subjected to intimidation and assaults. **Prosecutors ordering the release of former regime members or the arrest of members of armed brigades are the primary target of such attacks and threats.** On 6 December 2012, the Prosecutor General was assaulted by members of an armed brigade in his office for having issued an arrest warrant against one of its members. In 2013, a number of senior judges were assassinated. The most senior judge and prosecutor of the Green Mountain region were both assassinated in Derna in 2013. The bombing of the North Benghazi Court in August 2013, which followed several similar bombings in Derna and Sirt, further highlighted the vulnerability of the judiciary. In addition, armed brigades besieged the Ministry of Justice on two separate occasions in 2013. In response, judges organized a series of strikes to protest against the lack of security. This lack of security has impeded the effective investigation of human rights abuses, such as widespread torture in detention and other grave incidents, including the series of assassinations continuing in Benghazi and the violence against peaceful protesters which took place on 15 November 2013 in Tripoli.

- The information offered in the 'Vulnerable Groups' report is often quite limited/dense. This seems to be especially the case in **4.2 Reactions Against Groups Associated with the Qadhafi Regime**. As a result, the reader is forced to look into the annotated reports for more information on the extent of the violations, the perpetrators, dates and illustrative examples. In our view there is also an unintuitive weighting of certain sections e.g. section '11 Palestinians and Syrians' is over three pages long, whilst section on '4.2 Reactions Against Groups Associated with the Qadhafi Regime' which addresses four different tribal groups is less than two pages.

- It is considered that it would have been useful for the various subsections on the **'Groups Associated with the Qadhafi Regime'** to have detailed the specific abuses currently faced by this profile. For example the following short section on 'Tawarghans' refers rather abstractly to their 'situation' (emphasis added):

[...] **4.2.1 Tawarghans**

The Tawarghans are the inhabitants of the town Tawargha, just south of Misrata. Most of them descend from former African slaves and are seen as supporters of the Qadhafi regime. Most importantly, militias in Misrata claim that the Tawarghan community participated on the Qadhafi regime's side in the three-month siege on Misrata during the 2011 uprising. Most of the community fled Tawargha in mid-August 2011 when the town was attacked by Misratan militias, and they have been internally displaced since then.²⁴

Both Amnesty International and HRW have reported extensively on **the situation of the Tawargha** community and adjacent groups,²⁵ and stated in September-October 2014 that the situation for the Tawarghans remains protracted.²⁶ Many Tawarghans have been displaced several times,²⁷ and their situation remained unsolved as per November 2014. IDMC has reported that around 40 000 Tawarghans remained displaced by September 2014.²⁸

This is despite COI being available at the time of publication of the report which details, for example:

1. Abductions of Tawarghas in and around Tripoli and detentions at checkpoints⁸
2. Arbitrary arrests and harassment by militias from Misrata⁹
3. "Repeated attacks" causing fatalities since 2011 at camps for displaced Tawargha.¹⁰
For example, in August 2014 Libya Shield Forces allied with the Libya Dawn coalition attacked a camp in al-Fellah area of Tripoli, killing one, injuring three and abducting five others.¹¹

It is also considered that it would have been useful to document in the body text of the report that re-displacement of Tawarghas has taken place in both Tripoli¹² and Benghazi¹³ and to have provided an overview of their conditions of displacement, rather than just to document that their situation 'remains protracted'.

- It is suggested to include a footnote with the alternate spellings for the minority ethnic groups to enable users to conduct further research more readily e.g. there is one mention of 'Toubou' in section '4.2.4 Black Libyans' who may also be referred to as Tebu, Tabu, or Tubu.

8 Amnesty International, [Libya: Rule of the gun: Abductions, torture and other abuses in western Libya](#), 30 October 2014, *ATTACKS ON THE DISPLACED PEOPLE OF TAWARGHA, ABDUCTIONS AND ILL-TREATMENT* p.25

9 Human Rights Watch, [Libya: Spiraling Militia Attacks May Be War Crimes](#), 8 September 2014

10 Human Rights Watch, [Libya: Spiraling Militia Attacks May Be War Crimes](#), 8 September 2014 and Amnesty International, [Libya: Rule of the gun: Abductions, torture and other abuses in western Libya](#), 30 October 2014, *ATTACKS ON THE DISPLACED PEOPLE OF TAWARGHA, ABDUCTIONS AND ILL-TREATMENT* p.25

11 Amnesty International, [Libya: Rule of the gun: Abductions, torture and other abuses in western Libya](#), 30 October 2014, *ATTACKS ON THE DISPLACED PEOPLE OF TAWARGHA, ABDUCTIONS AND ILL-TREATMENT* p.25

12 Human Rights Watch, [Libya: Spiraling Militia Attacks May Be War Crimes](#), 8 September 2014

13 UNHCR Libya, [External update – May 2014](#), May 2014

- The last paragraph of the section on 'Former Security and Intelligence Service Employees and Informers' provides the following analysis:

4.3.2 Former Security and Intelligence Service Employees and Informers

[...] Based on this information, it seems likely that there are thousands of Qadhafi era intelligence service employees and informers who have not been detained, who have not left Libya, who have not been subjected to violence or been killed. Still, there is very little information available on how their day-to-day situation is, or whether they face problems in their daily lives – in the local community, with militias or otherwise. This makes it difficult to assess why some people with this background face problems, violent reactions or worse, while others do not. An UNSMIL source has stated that the situation is more difficult for non-prominent Qadhafi loyalists in the east – particularly in Benghazi – than in other parts of the country.⁴⁸

[48] Telephone interview, 12 November 2014.

It is considered that attempting to calculate the number of Qadhafi era intelligence service employees and informers who have not left Libya or been directly targeted is not that helpful as it assumes that they don't have any overlapping profiles, but will be perceived as simply 'former members of the Qadhafi era intelligence service employees and informers'. This section of the report does not make clear that such persons may have also been involved in the uprising against Qadhafi or to have joined armed militias and therefore may no longer simply be viewed/counted as former members of the regime. It may also invite the idea that for a profile to be vulnerable, a certain number or proportion need to be targeted which is not the case, and which hasn't been suggested for other profiles in the report. Again, such analysis is indicative of a policy document, not a COI report, the intention of which should be made clearer in the 'Disclaimer' and 'Introduction'.

- The following section seems to be the only profile for which a specific search for the treatment of family members has also been undertaken:

4.3.3 Relatives of Former Security and Intelligence Service Employees and Informers

No reports were found regarding concrete cases where people face violent reactions based solely on the fact that they are related to former security and intelligence service employees and informers.

It would be interesting to note why similar searches for other vulnerable groups had not been undertaken. For example families of journalists are reported to have also been threatened:

- [OHCHR - UN Office of the High Commissioner for Human Rights: United Nations Rights Chief Zeid Condemns Attacks On Human Rights Defenders In Libya, 14 October 2014](#)

[...] High Commissioner Zeid said United Nations human rights staff had received numerous reports of intimidation, harassment, abductions and murder of members of civil society, causing some human rights defenders to flee the country while others have curtailed their activism or gone into hiding, seeking protection for themselves and their families. Individuals have been shot in the street while going to work or coming out of mosques after prayers. Many have received text messages or have been the subject of social media posts threatening them or their families with death, abduction or rape. [...]

Furthermore, the following report details that persons are reported to be targeted due to their family or family name (emphasis added). This could be made clearer in the 'Vulnerable Groups' report, perhaps in the section on '5.5 Attacks based on Clan Background':

- [UN Support Mission in Libya, Overview of violations of international human rights and humanitarian law during the ongoing violence in Libya, 4 September 2014](#)

[...] 3. Key Findings

[...] iv. Detentions, abductions, and torture

UNSMIL has received reports that armed groups engaged in the fighting have detained fighters or abducted civilians. Of note, in October 2013, UNSMIL and OHCHR published a joint report setting out the widespread torture, other ill-treatment, and deaths of those detained by armed groups in Libya. UNSMIL is concerned that in the current context these abuses are being replicated. In addition to the detention of fighters or suspected fighters, UNSMIL has received initial reports that dozens of civilians were abducted in Tripoli and Benghazi during the reporting period solely for their actual or suspected tribal, **family** or religious affiliation, and have remained missing since the time of their abduction. Such abductions may amount to enforced disappearances if the parties to the conflict do not acknowledge their whereabouts.

In Tripoli, during the six weeks of the fighting both sides are reported to have carried out detentions and abductions, sometimes based on information found on the mobile phones of the victims or because of their **family name**. Fighters from Operation Dawn have reportedly continued to search for and abduct people following their takeover of Tripoli. UNSMIL is receiving details on the number, identity and possible whereabouts of people still held. [...]

- It would be useful to have references for the seeming key information on Qadhafi Loyalists, and it is not made clear which previous section of the report is being referred to (emphasis added):

4.4 Perpetrators of Violent Reactions Against Qadhafi Loyalists

[...] One of the stated goals of most “revolutionary” militias is to bring some sort of justice and restitution to victims of oppression under the Qadhafi regime. There is, however, considerable variation in how militias and militia members define what should be considered appropriate means of reaching this often vague goal. **As described above**, there is significant variation here: some people are left more or less alone, while some have been detained, or face harassment, threats, violence, torture and even extrajudicial executions.

- It would have been useful to define or provide examples of who the ‘Political Activists’ are, addressed in the following section:

5.1 Politicians and Political Activists

Attacks on politicians and activists are mainly a phenomenon in the east.⁵⁷ Several activists have been killed there, some prominent on a national level like Salwa Buq’ayqis⁵⁸ and , some primarily known locally, like the two youth activists Tawfiq Binmas’ud and Sami al-Kawafi in Benghazi⁵⁹ and Fariha al-Barkawi and Salwa Yunis alHinayd in Darna.⁶⁰

Such attacks are not restricted to the east, however. Militias in Tripoli shot and killed several anti-militia demonstrators on 15 November 2013.⁶¹ In addition to this, politicians and activists in different parts of the country have been targeted. The houses of both prime minister Abdullah al-Thinni and acting transport minister Abdalqadi alZintani were attacked on 25 and 27 August respectively, during clashes in Tripoli.⁶²

[57] The first of such attacks after Qadhafi’s fall were reported in Benghazi and Darna in late July 2013, cf. HRW, Libya: Wave of political assassinations, 8 August 2013. The attacks continued through 2014, cf. HRW, Letter to the ICC Prosecutor regarding accountability for serious crimes in Libya, 11 November 2014.

[58] Anderson, J.L., A death in Benghazi: Salwa Bugaighis, The New Yorker, 26 June 2014; BBC News, Libyan human rights activist Salwa Bughaighis killed, 26 June 2014.

[59] HRW, Libya: Spiraling militia attacks may be war crimes, 8 September 2014; Reporters without Borders, Gunmen slay young journalist in Benghazi, the security chaos continues to pose a grave danger to Libyan news providers, 23 September 2014; HRW, Libya: Assassinations may be crimes against humanity, 24 September 2014.

[60] HRW, Libya: Extremists terrorizing Derna residents, 27 November 2014.

[61] HRW, Libya: Militias kill unarmed protestors, 17 November 2013; Amnesty International, Libya: The day militias shot at protestors, 21 November 2013.

[62] HRW, Libya: Spiraling militia attacks may be war crimes, 8 September 2014.

It appears from footnote [58] that the term also refers to human rights activists. Moreover, the section of the Amnesty International report cited at footnote [65] which in the body text refers to as 'activists' in fact specifically addresses civil society activists and human rights defenders.

The above section also references attacks on 'youth activists' at reference [59] and demonstrators at reference [61]. Perhaps the section heading 'Perceived political, civil society and human rights activists' would give a clearer indication of the issues addressed in this section.

- In sub-section **6. Women**, reference is made to the May 2013 Human Rights Watch report, of which four pages have been referenced from a sub-section entitled 'I. Background', which have been summarised as follows:

6.1 Changes in Women's Situation after Qadhafi's Fall

In the period after Qadhafi's fall, activist women's focus has been to defend rights and positions already obtained (both under Qadhafi and during the 2011 uprising), and to amend legislation which is discriminatory to women, all the while facing a political landscape where conservative islamists have gained considerable influence

Whilst it is appreciated that this makes it more user friendly and the report more succinct, such a summary contains a first layer of subjective analysis. We would therefore recommend that COI be presented as direct excerpts from the original source. For example the following paragraph might be of specific relevance to this sub-section:

□ [Human Rights Watch, A Revolution For All – Women's Rights in the New Libya, 27 May 2013](#)

[...] I. Background

Despite the gains, Libyan women continue to face significant challenges. As in other post-conflict situations, they face an array of obstacles to their full participation in the country's transitional processes. Libyan women generally have inferior access to information, they experience higher rates of illiteracy than men, they face discrimination in both accessing employment and at the workplace, they have restricted mobility, and they are liable to sexual harassment and assault. Furthermore they live in a society where men's control over women's decision-making is entrenched and which prioritizes women's role as that of mothers and wives.

- The report suggests that women are not particularly targeted in the current armed conflict and that international human rights activist have not documented that armed forces loyal to Qadhafi used sexual violence systematically against women during the 2011 uprising. It specifically states:

6.1 Changes in Women's Situation after Qadhafi's Fall

There is no indication that women are particularly targeted in the armed conflicts currently going on in Libya (although they are just as vulnerable in the difficult security situation as the population in general).⁹¹

[91] During the 2011 uprising, there were reports that armed forces loyal to Qadhafi used sexual violence against women systematically, but international human rights organisations Amnesty International and HRW have not found evidence that substantiates this claim, cf. Cockburn, P., Amnesty questions claim that Gaddafi ordered rape as weapon of war, The Independent, 24 June 2011.

However, COI available in the public domain contradicts the second statements as follows, detailing that all sides in the uprising committed sexual violence against women [Please note that the Human Rights Watch article from November 2014 is currently included in the report but that information of relevance to this issue has not been cited]:

- [Council of Europe Parliamentary Assembly, Women's rights and prospects for Euro-Mediterranean co-operation, 15 September 2014](#)
[...] 6. Libya: women's rights against the background of rebuilding the country [...]
6.3. Violence against women: rape as a weapon of war [...]
84. I can only welcome the passing by the Libyan Government on 19 February 2014 of a legislative decree recognising women victims of rape during the 2011 revolution as "war victims". In providing the victims with medical, financial and legal assistance, the measure seeks, above all, to protect these women and compensate for the harm they suffered. At the same time, the decree should make it possible to determine the number of cases of rape and gain a better insight into the extent of the problem, which has never been properly assessed. It is an innovative law which goes in the right direction: I would add my voice to those of people such as Souhayr Belhassan, Honorary President of the International Federation for Human Rights (FIDH), who say that other countries should follow this example. It is essential that the Libyan National General Council takes ownership of this text and that it passes the decree together with an implementing decree. This would also be an opportunity to improve its wording since, as Céline Bardet, an international lawyer who helped draft the text, explains, it does not give a precise definition of rape. Furthermore, at present, there is no financial projection to ensure implementation of the decree. [...]
- [BBC News, Libya Gaddafi rape victims to be compensated, 20 February 2014](#)
Women raped during Libya's 2011 uprising that toppled long-time ruler Muammar Gaddafi should be recognised as war victims, the cabinet has said.
Its decree, which needs congressional approval, would put the women on the same level as wounded ex-fighters and entitle them to compensation.
Pro-Gaddafi forces are alleged to have used rape as a weapon [...]
During the revolution, the International Criminal Court said it had collected evidence that Col Gaddafi had ordered the rape of women as a weapon against rebel forces.
- [International Federation for Human Rights \(FIDH\), Libya, 27 August 2013](#)
[...] 1.2 Violence targeting women
There have been widespread reports of rape committed by armed men during the conflict. It remains extremely difficult to document these crimes, in particular as a result of the stigmatisation of victims and the risks they encounter by speaking out.
The fear of rape caused many women to flee the country during the conflict. In July 2011, FIDH and the Association tunisienne des femmes démocrates (ATFD) interviewed 50 Libyan women who had sought temporary refuge in Tunisia. All those interviewed said that it was not war that had caused them to flee but the fear of being raped by Qaddafi's forces.
They reported that victims of rape risk being killed by male family members to "wash away" family dishonour. They had also witnessed cases of husbands of rape victims committing suicide. According to several accounts, some men were ready to kill their wives or daughters before leaving to fight to avoid the risk of them being raped. In one case a young girl was killed by her brother when Qaddafi's forces arrived.
The case of Iman AIObeidi, a lawyer from Benghazi, who told journalists gathered in a hotel in Tripoli in March 2011 that she had been gang-raped by Qaddafi's troops,

is a dramatic illustration of the stigmatisation of victims of rape. Iman was immediately arrested by security forces, forced into a car and detained in an unknown location for 3 days. Government representatives publicly accused her of being drunk, a prostitute or mentally ill and threatened her with defamation proceedings. Souad Wahabi, activist and long-standing opponent to the Qaddafi regime, met with the FIDH/ ATFD delegation in July 2011. She had documented 54 cases of rape, committed by Qaddafi's forces. Some of the victims were pregnant as a result. All the victims she had interviewed said that they were raped by several men. Souad had also documented several cases of men who had been raped. There is no accountability for these crimes and little support for victims of sexual violence. According to the NGO, Voice of Libyan Women, a lot of evidence, including mobile phone footage, was destroyed by men in order to protect the women victims from stigmatisation. **In January 2012, lawyers and human rights organisations in Libya told FIDH that they had become increasingly reticent to document crimes of sexual violence for fear of reprisals on victims.** Victims are too frightened to lodge complaints. It is very difficult to provide support or rehabilitation services to victims of rape because of their fear of being identified [...]

- [International Commission of Inquiry on Libya, Report of the International Commission of Inquiry on Libya, 2 March 2012](#)

[...] F. Sexual Violence

1. Introduction

65. **The Commission is aware of numerous media accounts of rapes in Libya and endeavoured to investigate the allegations. The Commission interviewed more than 20 male and female victims of sexual violence.** The Commission met with another 30 witnesses including doctors, attorneys, and individuals with direct contact with victims or perpetrators. The Commission interviewed five perpetrators accused of committing rape and also reviewed relevant reports of NGOs and other material.

2. Qadhafi forces

66. One pattern of sexual violence identified was that of women who were beaten and raped by armed men in their homes, or abducted and beaten and raped elsewhere, sometimes for days. Some victims were targeted because of their allegiance to the *thumar* and others were assaulted for no known reason. Of those targeted, rape appeared to be used as a means to punish, terrorize, and send a message to those who supported the revolution.

67. A second pattern was of sexual violence and torture of males and females in detention centres who were *thumar* or supportive of the *thumar*, to extract information, humiliate and punish. Victims were arrested and normally taken to a location where they were interrogated and tortured. The allegations of rape and sexual violence made to the Commission included vaginal rape, sodomy and penetration with an instrument, as well as electrocution and burning of the genitals. The majority of their allegations came from men detained in Abu Salim and several men and women detained in Ein Zara.

68. The Commission interviewed five perpetrators accused of raping men and women during the conflict. While they provided some specific details, the Commission believes that there is a strong possibility that the confessions were made under torture and therefore cannot be relied upon. The Commission received one credible interview from a local organization which detailed five different rapes over five nights committed in Misrata by the perpetrator and his colleagues. [...]

3. *Thumar*

69. The Commission has received limited evidence of rapes and sexual violence committed by the *thumar*. The Commission interviewed two victims, known to be Qadhafi loyalists, who had been sexually tortured by *thumar* in detention centres.

4. Conclusions

70. The prevailing culture of silence, the lack of reliable statistics, the evident use of torture to extract confessions, and the political sensitivity of the issue combine to make this issue the most difficult one for the Commission to investigate. The Commission found that sexual violence occurred in Libya and played a significant role in provoking fear in various communities. The Commission established that sexual torture was used as a means to extract information from and to humiliate detainees. The Commission did not find evidence to substantiate claims of a widespread or a systematic attack, or any overall policy of sexual violence against a civilian population. The information received is, however, sufficient to justify further investigation to ascertain the extent of sexual violence [...]

- [Physicians for Human Rights, Witness to War Crimes: Evidence from Misrata, Libya, August 2011](#)

Executive Summary [...]

This report documents some of the most severe human rights violations that must be addressed as a new civilian government emerges. Physicians for Human Rights (PHR) gathered evidence of war crimes in Misrata, western Libya in June 2011, shortly after rebel forces liberated the coastal city. PHR focused its investigation on Misrata because it sustained a lengthy two-month siege and its residents reportedly suffered some of the most egregious abuses. PHR investigators conducted in-depth interviews with 54 residents of Misrata and its surrounding villages and uncovered evidence of war crimes and crimes against humanity including murder, torture, rape, forced internment, and disappearance. PHR's report, *Witness to War Crimes*, details the experiences of those ordinary citizens and sheds light on Qaddafi's systematic assault on a besieged city. This report does not present evidence that either confirms or denies whether rebel and NATO forces may have committed war crimes [...]

Rape as a weapon of war and honor killings

PHR investigators conducted in-depth interviews with six Libyan civilians, including two obstetricians/gynecologists, who gave credible reports of military-sanctioned rape as well as of honor killings that occurred in response to these rapes. One 20-year resident of Tomina reported to PHR that Qaddafi forces from Tawergha transformed a Tomina elementary school into a detention site where they reportedly raped women and girls as young as 14 years old [...]

One obstetrician/gynecologist told PHR investigators that Libyan women "won't go to the gynecologist," saying rape is a "difficult crime for female Libyan ladies." Another key informant told PHR, "If Qaddafi destroys a building, it can be rebuilt. But when Qaddafi rapes a woman, the whole community is destroyed forever. He knows this, and so rape is his best weapon." "I'd prefer to die if that happened to my wife," this key informant added.

These allegations of rape corroborate accounts of sexual violence that other international investigators have documented. ICC chief prosecutor Luis Moreno-Ocampo is said to "have information to confirm that it was a policy in Libya to rape those who were against the Government," while other UN investigators call allegations of mass rape into question due to a lack of forensic documentation. UN Special Representative of the Secretary-General Margot Wallström argues that the number of women publicly reporting rape by troops is deceptively low due to the harsh physical reprisal and cultural dishonor that Libyan women face upon reporting sexual assault. A woman in Libya risks stoning, flogging, or worse if she reports being raped.

The UN documented accounts of rape by Qaddafi's forces, and received testimony from residents of Misrata that their primary reason for fleeing was to protect family members from rape. ICC Chief Prosecutor Luis Moreno-Ocampo has speculated that Qaddafi's forces distributed Viagra-like substances to facilitate erections, thus encouraging mass rape, though others call this allegation into question. PHR

investigators received no information to confirm or deny such reports [...]

- [Time Magazine, Rape in Libya: The Crime That Dare Not Speak, 9 June 2011](#)

The female doctors at one of the larger hospitals here can tell you stories — of corpses of violated women stripped and strewn on the streets of frontline Ajdabiya; of the women afraid to leave their homes in Brega; of the 13-year-old Misratah girl gang-raped by soldiers who burst into the family's living room, forcing her father to watch. "She kept screaming," one doctor says. "Just screaming and screaming, 'Daddy, don't look!' "

The doctors, who are in their mid-20s, are stationed in the emergency room of one of this rebel stronghold's most sophisticated hospitals. They talk for hours about the rape of women. But it's only stories. They have never met a victim.

The medics don't deny that others in the hospital may have treated rape victims. But they say the stigma of sexual assault runs so deep in Libyan culture that the raped are virtually forced into social exile, unable to wed, a humiliation to their entire family, choosing to remain silent rather than to give voice to the crime they have suffered. "We hear these stories all the time. From our friends, from our neighbors," one doctor says. "They are passed along every day. But the women are too scared to come forward themselves." The number of stories whispered in the halls of this hospital has increased exponentially since the start of Libya's civil conflict.

On June 8 in New York City, Luis Moreno-Ocampo, chief prosecutor of the International Criminal Court (ICC), said there were indications that Libyan dictator Muammar Gaddafi had ordered the rape of hundreds of women during his violent crackdown on the rebels and that he had even provided his soldiers with Viagra to stimulate the potential for attacks. The ICC will most likely add rape to the list of war-crime charges already levied against Gaddafi. Rape, Moreno-Ocampo told reporters, is a new weapon for Libya's regime. "We had doubts at the beginning," he said, "but now we are more convinced. Apparently, [he] decided to punish, using rape." [...]

- Regarding the statement that women are not particularly targeted in the current armed conflict, at least two reports would have been relevant to include:

- [Voice of America, Libya Women Report Increased Harassment, 1 November 2013](#)

Sexual harassment of women is increasing in Libya and women complain that combined with the general lawlessness in the country their daily lives are becoming more of an ordeal and perilous.

It was bad under former Libyan strongman Moammar Gadhafi with men jostling, groping and pestering women in shops, universities and offices and demanding sex but since his ouster two years ago harassment has worsened, say activists and ordinary women [...]

She [Nisreen] says that post-revolution sexual harassment in Libya's capital and the bigger cities has increased and is now at a different level, with lawlessness making the country more dangerous.

Going out alone or even with female friends risks verbal and sometimes physical abuse, she says. Even shopping has become an ordeal [...]

- [Bertelsmann Stiftung, BTI 2014 — Libya Country Report. Gütersloh: Bertelsmann Stiftung, 2014](#) [report covers the period from 31 January 2011 to 31 January 2013]

Executive Summary [...]

Since the conclusion of the civil war, there has been a struggle for power between the revolutionary brigades and the NTC. Indeed, in many respects, the country's situation has changed for the worse.

There is almost no security, **women are harassed and even raped much more commonly than before**, torture takes place (although it is said this happens

outside official governmental prisons), life has become more expensive and weapons are omnipresent (and even affect marital relations, as women fear to criticize their husbands today for fear of being shot) [...]

Rule of Law [...]

Women today fear to leave the house because of the possibility of abduction or sexual abuse. The safety provided by former regime is completely gone [...]

- No information is included on the particular protection needs and availabilities in relation to women, despite such COI being available in the public domain. The U.S. Department of State, which has been included for other excerpts in this report, mentioned:

[U.S. Department of State, Country Reports on Human Rights Practices for 2013: Libya, 27 February 2014](#)

[...] Section 6 [...]

Women [...]

There were no reliable statistics on the extent of domestic violence. Social and cultural barriers, including police and judicial reluctance to act, as well as a woman's family's reluctance to publicize an assault, contributed to lack of effective government enforcement [...]

The law criminalizes sexual harassment, but there were no reports on how or whether it was enforced. According to civil society organizations, there was widespread harassment and increasing intimidation of women by militias and extremists, especially when they accused women of acting in "un-Islamic" manners. [...]

The Constitutional Declaration states that citizens are equal under the law and includes prohibitions against gender-based discrimination. **Absent implementing legislation and operating with limited capacity, the government did not effectively enforce these prohibitions.** [...]

- Additional sources reporting on the protection gap affecting women include amongst others:

[Council of Europe Parliamentary Assembly, Women's rights and prospects for Euro-Mediterranean co-operation, 15 September 2014](#)

[...] 6. Libya: women's rights against the background of rebuilding the country [...]

6.3. Violence against women: rape as a weapon of war [...]

82. Libyan legislation on violence against women is currently seriously inadequate. The country's authorities should address this issue without delay because the only existing provisions, set out in the 1984 law on marriage and divorce, are outdated and ineffective. Firstly, violence is deemed "a crime against the honour and the family of the woman", rather than against the woman as an individual. Rapists can absolve themselves of guilt merely by making statements that the victims consented. That explains the limited number of victims who report the offence: the social stigma associated with rape is compounded by a total lack of protection for victims [...]

[Human Rights Watch, Priorities for Legislative Reform: A Human Rights Roadmap for a New Libya, January 2014](#)

[...] IX. Violence and Discrimination against Women [...]

Violence against women and girls, particularly domestic violence, remains a significant problem in Libya. The country's 1951 constitution and laws scarcely address this issue, or do so in discriminatory ways. Survivors of sexual and domestic violence have limited recourse in Libya, as the Committee on the Elimination of Discrimination against Women (CEDAW Committee), the treaty's monitoring body, noted in its 2009 concluding observations on Libya's application

of CEDAW. **Inadequate laws and services leave female victims of violence without an effective remedy and deter them from reporting rape and domestic violence.**

Libya's only current law specifically relating to domestic violence is the Personal Status Law, No. 10 of 1984, which states that a woman "has the right to expect her husband to ... refrain from causing her physical or psychological harm." The law provides no enforcement mechanisms, however, and therefore is not effective in combating the problem of domestic violence.[...]

[Immigration and Refugee Board of Canada: Libya: Domestic violence, including legislation, state protection and support services \(2011-November 2013\) Research Directorate, Immigration and Refugee Board of Canada, Ottawa \[LBY104667.E\], 27 November 2013](#)

[...] 1.1 Domestic Violence [...]

2.3 Police

Information about police protection and treatment of victims of domestic violence and sexual violence could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the founder and president of the NGO Voice of Libyan Women, since the end of the Libyan conflict in October 2011, domestic violence and other gender-based violence has "been exacerbated" due to a decrease in law and order and a "lack of accountability" for such violence (*Christian Science Monitor* 14 Mar. 2013)

[...]

3. Support Services

According to Human Rights Watch, there are "inadequate" services for victims of domestic violence and sexual violence, leaving the victims without an "effective remedy" (May 2013, 26). Similarly, the UN Secretary-General said that there is a "near absence" of services available for victims of sexual violence (21 Feb. 2013, para. 37).

Sources indicate that there are no shelters for victims of domestic violence (Freedom House 2010, 13; Human Rights Watch 2013). [...]

Information about other services for victims of domestic violence, such as crisis centres or hotlines, including services provided by NGOs, could not be found among the sources consulted by the Research Directorate within the time constraints of this Response [...]

- No information is included on the current armed conflict and the targeting of politically active women, despite such COI being available in the public domain.
- [UNHCR, UNHCR Position on Returns to Libya, November 2014](#)
[...] Nationals and Habitual Residents of Libya who Seek International Protection – Individual Asylum and Refugee Status Determination Procedures [...]
11. [...] Claims for international protection of persons having been directly affected by recent developments may need to be given particular attention, including, for example, political activists, human rights activists, judges, **women engaged in the public sphere**, NGO workers, media professionals, ethnic and religious minorities, and members of tribes or individuals perceived to be in support of the former Gaddafi regime. Persons with these and other profiles may be in need of international protection [...]
- [Human Rights Watch, Libya: Extremists Terrorizing Derna Residents: Summary Executions, Public Floggings, No Rule of Law, 27 November 2014](#)
[...] Human Rights Watch also documented beheadings of three Derna residents in what appear to be war crimes, and dozens of seemingly politically motivated assassinations of public officials, judges and members of the security forces, and others, including women [...]

Since 2013, unidentified assailants in Derna have assassinated at least five judges and prosecutors, and two women – a former lawmaker and a former security official [...]

Unidentified assailants also targeted and killed two women, Fariha al-Barkawi and Salwa Yunis al-Hinaid, in 2014 in Derna in what appears to have been politically motivated assassinations. Two Derna residents, one an activist, said that the shooting death of a third woman in February only weeks after the killing of her husband, a former army officer, was not linked to politics but to a family dispute. [...]

- [Amnesty International, Rule of the gun: Abductions, torture and other militia abuses in western Libya, October 2014](#)

[...] Attacks against journalists, civil society activists and human rights defenders [...]

Over the last three years, human rights defenders and civil society activists have also faced mounting threats and attacks by militias and other armed groups, including abductions and, in the case of individuals based in Benghazi, assassinations. **Due to pressure from Islamist leaning militias in particular, women's rights activists have been forced to withdraw from public roles or abandon activities amounting merely to the peaceful exercise of their rights to freedom of expression or assembly, including the organising of demonstrations calling for gender equality or an end to gender-based violence.** Among other things, they have reported to Amnesty International threats with murder, harm, abduction, rape or harm to a relative [...]

- [UN Office of the High Commissioner for Human Rights, UN rights chief Zeid condemns attacks on human rights defenders in Libya, 14 October 2014](#)

Human rights defenders, political activists, bloggers and media professionals have been under increasing attack from armed groups in Libya since mid-May, when fighting between rival factions intensified in and around Benghazi and later erupted in Tripoli, UN Human Rights Chief Zeid Ra'ad Al Hussein warned Tuesday [...]

Women activists are particularly vulnerable and pressured to abandon public roles. One rights advocate reported that she had received several calls from armed groups warning that if she continued writing on women's rights, she and her children would be killed. She and her family have since left the country. In another case a human rights advocate and lawyer who had taken part in a public debate on women's rights received anonymous phone calls and text messages warning her that she would be abducted and killed [...]

- [UN Support Mission in Libya, Overview of violations of international human rights and humanitarian law during the ongoing violence in Libya, 4 September 2014](#)

[...] v. Unlawful killings

During the reporting period, assassinations and other unlawful killings have continued to be reported in Benghazi and Tripoli. **On 25 June, prominent human rights and political activist Salwa Bugaighis was killed in her home in Benghazi. Since her death, several other women activists have fled the country. On 17 July, former GNC member for Derna, Fariha Birkawi, was attacked and killed in her town by unknown assailants [...]**

- [Reports Without Borders, Woman journalist found with throat cut in southern Libya, 2 June 2014](#)

Reporters Without Borders is shocked to learn that Naseeb Miloud Karfana, a TV journalist based in the southern city of Sabha, was murdered on Thursday 29 May. Her body was found together with her fiancé's in the city's northern Al-Hay Al-Jadida district. Her throat had been cut and she appeared to have been tortured [...]

- [U.S. Department of State, Country Reports on Human Rights Practices for 2013: Libya, 27 February 2014](#)

[...] Section 6. Discrimination, Societal Abuses, and Trafficking in Persons [...]

Women

[...] Sexual Harassment: The law criminalizes sexual harassment, but there were no reports on how or whether it was enforced. **According to civil society organizations, there was widespread harassment and increasing intimidation of women by militias and extremists, especially when they accused women of acting in “un-Islamic” manners.** In response several groups supporting women’s rights have emerged that catalogue incidents of harassment both to deter them and eventually to seek stronger legislation [...]

- Sub-section **6.2 Honour Codes and Women’s Freedom** heavily summarises two books in providing some background to the notion of ‘honour’. One of the books was published in 1990, whilst the other in 2013. The accessibility of these two sources is called into question as is the currency of the 1990 book despite providing apparently some general overview on the “traditional honour codes in Arab societies”. Any form of summary contains a first layer of subjective analysis. We would therefore recommend that COI be presented as direct excerpts from the original source and if possible to use publicly available sources in digital format.
- The summary information included on the continued use of ‘honour killings’ and social rehabilitation facilities could be expanded to include more recent sources such as:

- [Human Rights Watch, Priorities for Legislative Reform: A Human Rights Roadmap for a New Libya, January 2014](#)

[...] IX. Violence and Discrimination against Women [...]

So-called crimes of honor are a persistent form of violence against women in Libya [...]

The penal code has less severe criminal sentencing provisions for perpetrators of “honor crimes” than perpetrators of the same crimes where “honor” cannot be cited as a basis for mitigation. According to article 375 of Libya’s penal code, the maximum penalty for a man who immediately kills his wife, mother, daughter, or sister after witnessing them engaging in extramarital sexual relations is imprisonment. By contrast, the usual punishment for a non-premeditated but deliberate homicide of a family member or spouse under the penal code is life imprisonment, unless the crime was connected to another serious crime, in which case the punishment is death. Premeditated homicides incur the death penalty under the penal code.

Also under article 375, a man whose “honor-motivated” violence results in grave or serious injuries to his wife or female relative may be imprisoned for no more than two years, whereas the same violence could result in a 7.5-year maximum prison sentence if the attack was not deemed to have been motivated by honor. [...]

- Despite acknowledging that statistical information is sparse, section 6.3 on Domestic Violence lacks current COI on the high level of domestic violence, the lack of a legislative system protecting and supporting victims of domestic violence, and that women fear reporting domestic violence and sexual violence. Suggested COI for this sub-section includes the following:

- [Immigration and Refugee Board of Canada: Libya: Domestic violence, including legislation, state protection and support services \(2011-November 2013\) Research Directorate, Immigration and Refugee Board of Canada, Ottawa \[LBY104667.E\], 27 November 2013](#)

[...] 1.1 Domestic Violence

Sources report that domestic violence in Libya is a problem that is "serious" (Christian Science Monitor 14 Mar. 2013) or "significant" (Human Rights Watch May 2013, 25). The US Department of State's Country Reports on Human Rights Practices for 2012 indicates that NGOs report the problem is "widespread," but also notes that there are no reliable statistics on the prevalence of domestic violence (19 Apr. 2013, 21). Similarly, in their 2009 concluding observations for Libya, the United Nations (UN) Committee on the Elimination of Discrimination Against Women (CEDAW) expressed concern at the lack of statistics on the extent of violence against women and girls (6 Feb. 2009, para. 23).

Freedom House describes Libyan society as influenced by "extremely conservative patriarchal traditions and tribal culture, which continue to foster gender discrimination" (2010, 2). Similarly, the UN Human Rights Council notes that Libyan culture contains "entrenched discriminatory norms" regarding gender (1 June 2011, para. 33).

According to Freedom House, domestic violence is a "taboo issue" in Libya and speaking about incidents of domestic violence is considered "shameful" and brings dishonour on the victim and her family (Freedom House 2010, 13). The same source notes that many victims do not make complaints of domestic violence due to "social stigma" and fear that they will be rejected by their husband and extended family (ibid.).

In an article in the Christian Science Monitor, the founder and president of the Voice of Libyan Women, a Libyan NGO that has run advocacy campaigns to raise awareness of the issue of violence against women (Voice of Libyan Women n.d.), states that concern about the issue of domestic violence is considered a "'western'" value in Libya, and is therefore viewed with "suspicion" (Christian Science Monitor 14 Mar. 2013). In March 2013, the Grand Mufti of Libya, Sheikh Ghariani, reportedly called for Libyan women to protest at the UN headquarters and issued a "fatwa" against a UN Commission on the Status of Women's report because it urged governments to protect women and girls against violence (Libya Initiative 25 Mar. 2013). Al Jazeera reports that some Libyan women protested at the UN headquarters against the UN commission's draft report and in defence of Sharia law (Al Jazeera 14 Mar. 2013). The Islamic Affairs Committee of Libya's General National Congress (GNC) reportedly issued a statement that the UN document on domestic violence "'does not take into consideration cultural and religious particularities of Arab people'" (ibid.). However, sources also indicate that at the cabinet office, during the same time period, some Libyan women protested against gender-based violence and in support of the UN document (ibid.; Libya Initiative 25 Mar. 2013).

1.2 Sexual Violence

Sources indicate that the subject of rape is rarely spoken of publicly (Reuters 26 Nov. 2011; Freedom House 2010, 14). According to Freedom House, victims of gender-based violence outside the home are often blamed for the actions of the abuser (ibid., 13). The Independent notes that rape is "considered a stain on the honour of the entire family" in Libya and that rape victims may face abandonment by their families (29 May 2011). [...]

2.3 Police

Information about police protection and treatment of victims of domestic violence and sexual violence could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the founder and president of the NGO Voice of Libyan Women, since the end of the Libyan conflict in October 2011, domestic violence and other gender-based violence has "been exacerbated" due to a decrease in law and order and a "lack of accountability" for such violence (*Christian Science Monitor* 14 Mar. 2013) [...]

3. Support Services

According to Human Rights Watch, there are "inadequate" services for victims of domestic violence and sexual violence, leaving the victims without an "effective remedy" (May 2013, 26). Similarly, the UN Secretary-General said that there is a

"near absence" of services available for victims of sexual violence (21 Feb. 2013, para. 37).

Sources indicate that there are no shelters for victims of domestic violence (Freedom House 2010, 13; Human Rights Watch 2013). [...]

Information about other services for victims of domestic violence, such as crisis centres or hotlines, including services provided by NGOs, could not be found among the sources consulted by the Research Directorate within the time constraints of this Response [...]

- [Human Rights Watch, A Revolution For All – Women’s Rights in the New Libya, 27 May 2013](#)

[...] IV. Amending Gaddafi-era Legislation [...]

VIOLENCE AGAINST WOMEN

Women’s rights advocates told Human Rights Watch that violence against women and girls, particularly domestic violence, remains a significant problem in Libya [...]

Libya’s only current law relating to domestic violence is Law No. 10 of 1984, which states that a woman “has the right to expect her husband to ... refrain from causing her physical or psychological harm.”⁵⁸ The law provides no enforcement mechanisms, however, and therefore is not effective in combating the problem [...]

- No COI is included in subsection **7.1 Changes in Children’s Situation after Qadhafi’s Fall** on the impact that the current conflict is having on children despite such information being available in the public domain. For example:

- [Amnesty International, Libya: Indiscriminate shelling of civilian areas in Tripoli and Benghazi amounts to war crimes, 6 August 2014](#)

Amnesty International is calling for all sides to immediately stop the indiscriminate shelling of civilian areas in Tripoli and Benghazi where clashes in recent weeks have evolved into two separate armed conflicts. Such indiscriminate attacks that result in death or injury to civilians amount to war crimes.

Intense fighting between rival armed groups and militias in both cities has killed 214 people and injured 981, according to the Ministry of Health, as well as causing damage to civilian property. Medical workers reported that the dead and injured included civilians, in particular women and children [...]

- [U.S. Department of State, Trafficking in Persons Report 2014: Libya, 20 June 2014](#)

[...] LIBYA (Tier 3) [...]

During the reporting period, there were allegations that militia groups, some of which provide security on behalf of the government, and other informal military units recruited and used children under 18-years-old. [...]

Protection [...]

The government failed to take measures to protect children who were allegedly recruited by militia groups, which may be aligned with the government, as well as children recruited by informal military units [...]

- [UN Secretary-General, Children and armed conflict, 15 May 2014](#)

[...] Libya

92. **The situation for children in Libya remained precarious in 2013**, with political tensions escalating into armed confrontations in al-Ajailat, al-Shagiga, Ghadamis, Tripoli, Benghazi and Sabha, sometimes involving the use of heavy weapons. The United Nations continued to experience difficulty in gathering information owing to lack of security and a full monitoring mandate. Notwithstanding attempts by the Government to increase its control, many armed brigades under the nominal control of the Government continued to display a lack of discipline and command and control, leading in some instances to grave violations against children.

93. The United Nations documented the killing of 14 children (12 boys and 2 girls) between 4 and 17 years of age, and the injury of five others (four boys and one girl) in crossfire and improvised explosive device incidents or as a result of heavy weaponry. For example, in April in al-Shagiga, Nafousa Mountains, a four year-old boy from the Mashashiya tribe was killed by a rocket hitting the family home during a clash between the Mashashiya and Zintan tribes. In three separate incidents in Benghazi on 30 July, 3 August and 3 November, four boys, between 2 and 15 years of age, were killed in improvised explosive device attacks against their fathers, who were security officers. In Tripoli on 15 November, members of a Misratah brigade stationed in the Ghargour neighbourhood of Tripoli opened fire on protestors. During the ensuing clashes in Tripoli, at least 46 people were killed, including a 15-year-old girl and a 17-year-old boy, and 516 others were injured, including an unknown number of children.

94. Seven incidents of attacks on hospitals were recorded by the United Nations in Benghazi and Sabha, including explosions, the targeting of medical staff and shooting inside medical facilities by armed militias. [...] In Benghazi, on 13 May, an improvised explosive device exploded in front of Al-Jalaa hospital, killing a 14-year-old boy and two adults as well as wounding up to 30 others. [...] In addition, in May 2013, a device was detonated inside a school in the al-Salmani neighbourhood of Benghazi by unknown perpetrators without casualty. In October 2013, also in Benghazi, another explosion took place in al-Alwiya al-Hura school.

95. The United Nations continued to visit detention facilities where children were held, including six Tawergha boys 16 years of age in al-Wihda prison in Misrata, held since 2011 without charges. I call upon the Government of Libya to expedite the review of such cases by the competent judicial authorities as a priority [...]

- [Agence France-Presse, Playground bomb wounds 12 children in Libya's Benghazi, 5 February 2014](#)

A bomb rocked the playground of a primary school in Benghazi during recess Wednesday, wounding 12 children, hours after gunmen had rampaged through the streets of Libya's restive second city. Witnesses said the bomb was thrown over the school wall while the children were playing. Medics said two of the injured children were in serious condition" [...]

- No COI is included nor are any references provided in this paragraph:

7.2 Orphans

If one group of children can be characterised as particularly vulnerable in Libya, it is orphans of unknown parentage. Children who lose one or both parents, will generally be taken care of by relatives. In Libya, like in many Arab countries, foundlings are generally assumed to be born to unmarried mothers. Therefore they often face a stigma because of common notions that children born out of wedlock inherit their mother's presumed lack of morals. These children generally grow up in orphanages, run by state authorities or charities, often with limited resources. In addition to the stigma mentioned above, being without a family network – and by extension, tribal affiliation – is a considerable handicap in a society where people rely on their family, relatives and tribe for support in many situations. Still, the situation for orphans with no known family ties is unlikely to have changed since the Qadhafi era.

It is therefore not clear what the analysis has been based on in this sub-section.

- The paragraph included in sub-section **8. Religious Minorities** only deals with religious demography. It is recommended that additional COI be included to describe changes to the situation of religious minorities in addition to providing an internal link to the other report 'Libya; Judiciary and Security Sector', particularly sub-section "4.8 Disappearances":

- [UNHCR, UNHCR Position on Returns to Libya, November 2014](#)

[...] Nationals and Habitual Residents of Libya who Seek International Protection – Individual Asylum and Refugee Status Determination Procedures [...]

11. [...] Claims for international protection of persons having been directly affected by recent developments may need to be given particular attention, including, for example, political activists, human rights activists, judges, women engaged in the public sphere, NGO workers, media professionals, ethnic and **religious minorities**, and members of tribes or individuals perceived to be in support of the former Gaddafi regime. Persons with these and other profiles may be in need of international protection [...]

- [Bertelsmann Stiftung, BTI 2014 — Libya Country Report, Gütersloh: Bertelsmann Stiftung, 2014](#) [report covers the period from 31 January 2011 to 31 January 2013] 10 Welfare Regime [...]

Equality of opportunity was largely achieved under the prerevolutionary Libyan regime. Women and members of ethnic or religious groups had near-equal access to education, public office and employment. This changed significantly following the revolution. The situation for women worsened significantly in terms of sexual harassment and religion-based restrictions on personal freedom. **Ethnic and religious tensions increased, and citizens who are not Arab or Muslim find daily life more difficult** [...]

- The COI included in sub-section **8.1 Attacks on Sufis and Sufi Shrines by Salafi Islamists** is rather limited, and fails to include COI detailing the inability of the state to provide effective protection or investigate attacks against Sufis during 2013:

- [U.S. Department of State, International Religious Freedom Report for 2013: Libya, 28 July 2014](#)

[...] The government [...] did not prevent or investigate attacks on Christian and Sufi religious sites. Laws that restrict religious freedom enacted under the Qadhafi regime remained, but the government did not regularly enforce them [...] The government was limited in its ability to prevent violent extremist groups from taking advantage of the post-revolution security vacuum to attack religious minorities [...]

There were reports of societal abuses based on religious affiliation, belief, or practice. Arsonists set fire to Benghazi's main Coptic Church in March. Salafist groups (fundamentalist Sunni Muslims) vandalized and destroyed Sufi religious sites on several occasions, including most prominently in Tajoura, Tripoli, in March and November. Salafists also threatened Sufi individuals and religious sites, and some affiliated with an extremist faction claimed responsibility for the September killing of a prominent Sufi cleric [...]

Section II. Status of Government Respect for Religious Freedom [...]

Government Practices [...]

The government lacked the capacity to maintain law and order through its own formal justice and security structures; it relied on a variety of groups – revolutionary brigades, tribal militias, local strongmen – outside of the armed forces and police to support local security. The government exerted varying degrees of control over these armed groups and its response to instances of violence against Coptic Christians and attacks on Sufi sites across the country was limited to condemnations of the violence [...]

There were no known arrests or prosecutions in connection with attacks on Sufi sites [...]

Section III. Status of Societal Respect for Religious Freedom [...]

Sufi Muslims and affiliated institutions were targets of societal abuse. Salafist groups, who view the veneration of saints and shrines as a pagan practice forbidden by Islam, attacked Sufi religious sites across the country, destroying several mosques, tombs, and graves of Sufi religious leaders and scholars. For example, two separate bombings of Sufi shrines in the Tajoura district of Tripoli

destroyed the 500-year-old Al-Andalusi Mausoleum on March 28, and the Murad Agha Shrine on November 27. The Hamid Hudairi Sufi shrine in Sebha was also heavily damaged in an attack on May 10. In an escalation of intercommunal violence, Salafists associated with an extremist group called “Vanguards of The Caliphate” claimed responsibility for the September 22 killing of prominent Sufi cleric Sheikh Mustafa Rajab Al-Mahjoub in Derna [...]

- [Minority Rights Group International: State of the World's Minorities and Indigenous Peoples 2014: Middle East and North Africa, 3 July 2014](#)

[...] Libya [...]

The government’s weak enforcement of the rule of law, together with the presence of extremist Salafi movements and the continued hostility of sections of Libyan society towards ethnic and religious minorities, led to sporadic incidents of violence and intimidation during the year. These included the destruction of Sufi shrines and mausoleums and attacks on churches by Salafi groups at the start of the year [...]

- [Human Rights Watch, World Report 2014: Libya, 21 January 2014](#)

[...] Libya [...]

Freedom of Religion

Attacks on Sufi religious sites across the country continued in 2013, although fewer in number than in 2012. Authorities made no effort to protect the religious sites of minorities or arrest those responsible for attacks. In August, unknown persons desecrated Sufi graves in Tripoli and, in September, desecrated a Sufi gravesite in Mizdah, southern Libya. In September, a Sufi religious leader was assassinated by unknown gunmen in the Eastern city of Derna [...]

- In Section **10. Deserters and Conscientious Objectors**, no reference is made to (forced) recruitment. It would be useful if the report made clear whether this issue has been researched and no information has been found.

3. Security Situation report

- The report on the ‘[Security Situation](#)’ addresses the main topics of concern. We think it is useful that the main actors of violence, the major events and the impact on the civilian population are addressed separately. Also, we consider it useful that the report distinguishes between events in Tripoli, Benghazi, and other towns and regions.
- The timeline, however, partly covers events that are also addressed in the paragraphs before. We think this might make it harder for decision makers to get a clear view on the information they are looking for. Therefore, we suggest the report identifies how the information in the timeline relates to the information in the remainder of the report.
- We appreciate that the report refers to the UNHCR Position on Returns of November 2014.¹⁴ However, the most important conclusion is left out, namely the actual UNHCR position on return. We think it is important to include this, especially since the report aims to address the information needs for the assessment of asylum and immigration cases as well as issues concerning the return of rejected applicants to Libya. UNHCR states in its paper (p. 6):

As the situation in Libya remains fluid and uncertain, UNHCR calls on all countries to allow civilians fleeing Libya access to their territories. UNHCR furthermore commends any measure taken by States to suspend forcible returns of nationals or habitual residents of Libya, including those who have had their asylum claim rejected. UNHCR urges all States to

14 UNHCR, [UNHCR Position on Returns to Libya](#), November 2014

suspend forcible returns to Libya until the security and human rights situation has improved considerably.

In the Netherlands, 'ambtsberichten' generally address both actual return and the position of international organisations, like UNHCR, on this. We suggest the authors of the report to do the same.

- The report includes a separate paragraph on 'Daily Life'. We do not see the added value of this paragraph, since the report should serve the information needs for the assessment of individual asylum and immigration cases based on the security situation, issues concerning the return of rejected applicants to Libya, while taking into consideration the personal characteristics and circumstances of the applicant. For an assessment of an article 15c-situation, the following may be important:

- The security situation, including the nature and patterns of violence, violations of international human rights and humanitarian law;
- Figures for casualties and security incidents;
- Figures of population displacement and the situation for people living in displacement;
- Foreseeable socio-economic, political and security-related developments (including factors affecting the capabilities of combatants);
- The capacity and effectiveness of actors of protection to provide protection and indicators relating to state failure;
- The humanitarian situation.¹⁵

We think it is important for the report to focus on the abovementioned aspects. We would like to stress that people always lead a 'daily life', regardless of the security situation. We are worried the information on Daily Life might trouble the view of the decision maker on the security situation, since they might base conclusions about the 15c-situation in Libya on information that is not relevant for an article 15c-assessment.

- In the report, we found some apparent contradictory information. In accordance with the Common EU Guidelines for Processing Country of Origin Information, we think these contradictions should be made explicit.

For instance, the report on the Security Situation includes a paragraph on the nature of the violence. Here, the following is mentioned (p. 11):

3.1 Nature of the violence

[...] During the reporting period, big cities as well as rural areas have witnessed varying degrees of violence. Violent incidents can be classified as follows:

- Targeted assassinations (especially in Benghazi, Darna)
- Politically motivated abductions (Benghazi, Darna, Tripoli, Sirt)
- Attacks against peaceful demonstrators (Tripoli)
- Fighting with light weaponry among rival militias (Tripoli, Benghazi, Darna, Sirt and other locations)
- Fighting with heavy weaponry among rival militias and use of rockets and mortar fire (Benghazi, Tripoli, Nafusa mountains, Sabha, Ubari)

This seems somewhat contradictory to the information that is included in the paragraph on Daily life in 'Other Towns and Regions' (outside of Tripoli and Benghazi) (p. 29):

15 UN High Commissioner for Refugees (UNHCR), [Safe at Last? Law and Practice in Selected EU Member States with Respect to Asylum-Seekers Fleeing Indiscriminate Violence](#), 27 July 2011, p. 42.

The rest of the country seems largely untouched by the fighting, even though most regions are also affected by the general instability. In smaller towns and settlements, daily life is fairly normal.¹⁸²

[182] Libya Herald, Hun celebrates 18th annual heritage festival, 17 November 2014; Gazzini, C., Crisis Group, telephone interview, 18 November 2014.

Furthermore, we propose that the report should refrain from statements like 'largely untouched' and 'fairly normal', unless this is based on reliable sources. In this case, we are cautious of these statements, in relation to the information these statements are partly based on – a newspaper article regarding an annual heritage festival.

- Related to this, we were somewhat surprised that the information on the festival in Hun was included in the main text. On pp. 29-30 the report mentions:

4.4.3 Other towns and regions

[...] The town of Hun, 600 km south-east of Tripoli, celebrated its 18th annual arts and heritage festival, with many visitors from all over Libya, according to its organisers.

Since the report is intended to serve the information needs for the assessment of asylum and immigration cases, as well as issues concerning the return of rejected applicants to Libya – we do not see the immediate relevance of the information on the festival in Hun.

- In the general text, we noted some ambiguities and transcription errors. We would like to stress the importance of a good editor. In this, we also refer our second remark under 'content' concerning the appointment of a stakeholder responsible for the final product.

For instance, at the end of paragraph 4.2.2 there seems to be a transcription error in a number. The report refers to 26.500 people who fled Benghazi in the preceding month, instead of the 56.500 mentioned in the original UNHCR-source. Also, the preceding month according to the report relates to UNHCR figures 'as of 20 November 2014', while the original report dates from 14 November 2014. The sentence in which these facts are mentioned, is open to multiple interpretations:

4.2.2 From May 2014 Onwards

[...] According to figures from UNHCR,¹²³ as of 20 November 2014, the number of people displaced since May 2014 was more than 393,400, of which 106,000 fled Benghazi (26,500), Ubari (11,280), Kikla (38,640) and Darna (an unknown number) in the preceding month.

[123] UNHCR, New displacement in east, south and west of Libya, 14 November 2014.

- Finally, we would like to note that in this report of the 25 pages of written sources, more than 13 refer to the Libya Herald. We do not see an issue with this *per se*, but would like to encourage the use of as many different sources as possible – as this will help to ensure a balanced report.¹⁶

Furthermore, for access to the Libya Herald articles, a paid subscription is mandatory. Again, we do not see an issue with this *per se*, but if possible we welcome the use of unpaid open sources. This makes the reports more transparent, because the reader can access the original source of information.

¹⁶ European Union, [Common EU Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008, p. 8.