



Home Office

Country Information and Guidance

Libya: Minority ethnic groups

18 February 2015

Preface

This document provides guidance to Home Office decision makers on handling claims made by nationals/residents of - as well as country of origin information (COI) about - Libya. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Within this instruction, links to specific guidance are those on the Home Office’s internal system. Public versions of these documents are available at <https://www.gov.uk/immigration-operational-guidance/asylum-policy>.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the European Asylum Support Office’s research guidelines, [Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Section 1: Guidance

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1.1 Basis of Claim

- 1.1.1 Fear of mistreatment and persecution by the Libyan authorities, or by other, non-state actors, because the person is a member of an ethnic minority.

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1.2 Summary of Issues

- ▶ Is the person's account a credible one?
- ▶ Are members of particular ethnic groups at risk of mistreatment or harm in Libya?
- ▶ [Does the person fall to be excluded from a grant of protection?](#)
- ▶ Are those at risk able to seek effective protection?
- ▶ Are those at risk able to internally relocate within Libya?

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1.3 Consideration of Issues

[Is the person's account a credible one?](#)

- 1.3.1 Decision makers must consider whether the material facts relating to the person's account of their ethnicity and tribe and of their experiences are reasonably detailed, internally consistent (e.g. oral testimony, written statements) as well as being externally credible (i.e. consistent with generally known facts and the country information). Decision makers should take into account the possible underlying factors as to why a person may be inconsistent or unable to provide details of material facts such as age; gender; mental or emotional trauma; fear and/or mistrust of authorities; education, feelings of shame; painful memories, particularly those of a sexual nature, and cultural implications.

See also:

- ▶ [Country Information](#)

and the Asylum Instruction on:

- ▶ [Considering Protection \(Asylum\) Claims and Assessing Credibility](#)

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[Are members of minority ethnic groups at risk of mistreatment or harm in Libya?](#)

- 1.3.2 Ethnic minority groups suffered discrimination under the Gaddafi regime and continue to be marginalised. On 9 April 2013, the General National Congress (GNC) adopted a law mandating punishment of not less than one year's imprisonment for anyone guilty of discrimination on the basis of class, group, region, gender, or colour. However the interim governments enforce neither the prohibitions nor the punishments effectively, particularly with regard to women and minorities
- 1.3.3 In general the level of societal discrimination faced by members of ethnic minority groups in Libya is not such that it will by itself reach the level of being persecutory or otherwise inhuman or degrading treatment.

- 1.3.4 However other additional factors may put members of ethnic minority groups at risk. Some members of ethnic minority groups have been accused of supporting, or are perceived to have supported Gaddafi during the uprising. Perceived supporters of Gaddafi and his regime are at risk of extra-judicial killings, abduction, enforced disappearance, arbitrary detention, including in unofficial detention centres, torture, ill-treatment and death in detention. These abuses have been perpetrated by the authorities of the Interim Government or its armed affiliates, as well as by armed militias operating outside of government control.
- 1.3.5 Communities perceived to be loyal to Gaddafi based on their ethnicity have also experienced forced displacement, indiscriminate shelling, looting and the burning of homes. Poorly resourced and makeshift camps for internally displaced persons (IDPs) housing minority ethnic groups have been attacked by militias resulting in arbitrary arrests, abductions, deaths and the re-displacement of their residents. Women IDPs report feeling unsafe to leave the camps unescorted and IDPs perceived to have supported Gaddafi experience harassment, violence, intimidation and discrimination.
- 1.3.6 Human rights abuses against dark-skinned Libyans, including those originally of sub-Saharan descent, derives in part from allegations that Gaddafi used African mercenaries during the conflict. In the country guidance case of AT and Others (Article 15c; risk categories) (CG) [2014] UKUT 318 (IAC) (14 July 2014) the Upper Tribunal held that (see paragraph 215) (7-9):

(7) A 'Black Libyan' is a Libyan of black African appearance, and includes a person who may not actually possess Libyan nationality but for whom Libya is their country of former habitual residence. There is endemic racism within Libyan society towards Black Libyans. However, Black Libyans who are not Tawergha or Tuareg are not per se at risk of persecution or Article 3 ill-treatment on return, and will only be able to establish the need for international protection with reference to some additional factor particular to that individual.

(8) The Tawergha are Black Libyans who are perceived by Libyans to have been mercenaries on the side of the Gaddafi regime and to have committed human rights abuses during the revolution. The Tuareg are also Black Libyans and are also perceived to have been supporters of the former regime.

(9) Whilst there remains a need for an individual assessment of each individual's circumstances, a person who is Tawergha or Tuareg will in general be able to establish the need for international protection. The same is true of persons from the Mashashiya ethnic or tribal group. The Mashashiya are not Black Libyans but are similarly perceived as a group to have been supporters of the Gaddafi regime.

- 1.3.7 In addition there are also reports of clashes between ethnic minority groups, in particular between the Tebu and the Zway tribes and between the Tebu and Awlad Suleiman tribes over smuggling routes in the southeast of the country and in southern Libya between Tuareg and Tebu armed groups. Men from certain internally displaced populations, such as the Tuareg and Tebu, have been arrested and detained by armed groups on the basis of their suspected association with rival groups. Assassinations and abductions motivated by tribal conflicts are perpetrated by militia groups in Tripoli and Benghazi with impunity, with civilians being targeted solely for their actual or suspected tribal, family or religious affiliation.

See also:

- [Caselaw](#)

- ▶ [Country Information](#)

and Asylum Instruction on:

- ▶ [Considering Protection \(Asylum\) Claims and Assessing Credibility](#)

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Does the person fall to be excluded from a grant of protection?

- 1.3.8 Decision makers should note that members of Gaddafi's security forces have been responsible for serious human rights abuses and acts of terrorism against the Libyan people, and the international community. If it is accepted that a person was an active operational member of the security forces, decision makers should consider whether one of the Exclusion clauses is applicable. Decision makers should seek advice from a Senior Caseworker if they consider that a person in this category may have been responsible for crimes against humanity.
- 1.3.9 Where a person is excluded from protection under the Refugee Convention they are also excluded from Humanitarian protection but if there is a real risk of a breach of Article 3 ECHR or Article 15(c) of the Qualification Directive they may be entitled to Discretionary leave or Restricted leave.

See also:

- ▶ [Country Information](#)

and Asylum Instructions on:

- ▶ [Considering Protection \(Asylum\) Claims and Assessing Credibility](#)
- ▶ [Exclusion: Article 1F of the Refugee Convention](#)

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Are they able to seek effective protection?

- 1.3.10 Those perceived to be supporters of the Gaddafi regime cannot access effective protection from the government. The central government has collapsed, the justice system is no longer functioning and the country is riven by fighting between rival militias, which have left successive governments struggling to exercise authority. It has been acknowledged that torture is being carried out by officially recognised military and security entities and Libyan authorities have failed to conduct investigations, or prosecute those responsible for any of the unlawful killings since 2011, fostering a culture of impunity that has fuelled further abuses.
- 1.3.11 The country guidance case of AT and Others (Article 15c; risk categories) (CG) [2014] UKUT 318 (IAC) (14 July 2014) found that in general an individual of Tawurga, Tuareg and Mashashiya ethnicity who succeeds in establishing a real risk of harm will not be afforded a sufficiency of protection (paragraph 215 (17)).
- 1.3.12 Although the Constitutional Declaration provides for equality before the law, and the current Libyan government have enacted legislation aimed at the protection of women, the law criminalising discrimination towards women and ethnic minorities is not enforced. Moreover, a law on special procedures enacted by Libya's transitional

authorities in 2012 grants a blanket amnesty to those who committed crimes if their actions were aimed at “promoting or protecting the revolution” against Gaddafi.

- 1.3.13 Throughout Libya the severe structural weakness of the security services, the absence of the rule of law, and the lack of a judicial system with the capacity to deal with civil remedies for human rights violations, together with the reliance on and impunity of militia groups means that applicants in general are unable to access effective state protection.

See also:

- ▶ [Country Information](#)

and Asylum Instruction on:

- ▶ [Considering Protection \(Asylum\) Claims and Assessing Credibility](#)

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Are those at risk able to internally relocate within Libya to escape that risk?

- 1.3.14 Where members of ethnic minority groups do encounter local hostility they may be able to avoid this by moving elsewhere in Libya, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so.
- 1.3.15 However, if the person is known to be or will be perceived as a supporter of the Gaddafi regime it is unlikely that they would be able to internally relocate in order to escape the risk of persecution. Hatred and resentment against Gaddafi, and all those associated with his regime, remains widespread throughout the country. The country information suggests that persons suspected or known to have supported Gaddafi, his forces and/or his regime are frequently taken captive from the streets and at checkpoints.
- 1.3.16 The country guidance case of AT and Others (Article 15c; risk categories) (CG) [2014] UKUT 318 (IAC) (14 July 2014) held that the Tawurga, Tuareg and Mashashiya ethnic groups would for this reason, not, in general, have available to them the option of internal relocation (paragraph 215 (18)).
- 1.3.17 It also found that :
215. (22) In relation to the possibility for a woman to relocate internally, taking into account the position of women in society in Libya, the difficulty for women of accessing accommodation if alone, and the rarity of a woman arriving in a community without knowing any person there, internal relocation would not be reasonable and would be unduly harsh unless in the prospective area of relocation the woman has a close family or significant other connection, aside from merely a tribal connection.
- (23) In addition, bearing in mind the above factors, a woman is likely to be more conspicuous with the result that her presence may more easily be discovered by the prospective persecutor.

See also:

- ▶ [Country Information](#)

and Asylum Instruction on:

- ▶ [Internal Relocation](#)

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1.4 Policy Summary

- Ethnic minority groups continue to suffer discrimination in Libya and be marginalised. However this discrimination will not in general, reach the level of being persecutory or otherwise inhuman or degrading treatment.
- Other factors such as actual or perceived support for the Gaddafi regime may put some members of ethnic minority groups at real risk of serious harm.
- Such persons cannot access protection from the state, and are unlikely to be able to internally relocate to avoid such treatment.
- Whilst there remains a need for an individual assessment of each person's circumstances, a person who is Tawergha or Tuareg will in general be able to establish the need for international protection. The same is true of persons from the Mashashiya ethnic or tribal group
- Black Libyans who are not members of the Tawergha, Tuareg or Mashashiya tribes are not per se at risk of persecution. However, a person with additional risk factors particular to that individual may be able to establish the need for international protection.
- Decision makers should note that some individuals may have been an active operational member of the security forces during the conflict, and as such, may be responsible for serious human rights abuses. In cases such as these, decision makers need to ensure they refer to the asylum instruction on exclusion.
- Where a claim based on the person being a member of an ethnic minority who is known or perceived to have been a Gaddafi loyalist falls to be refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

See also the Asylum Instruction(s) on:

- ▶ [Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002](#)
- ▶ [Humanitarian Protection](#)
- ▶ [Discretionary Leave](#)

Section 2: Information

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2.1 Overview

- 2.1.1 According to the 2014 CIA World Factbook, the main ethnic groups in Libya are: Berber (Amazigh) and Arab 97%, others 3% (these include Greeks, Maltese, Italians, Egyptians, Pakistanis, Turks, Indians and Tunisians.¹ According to Libyan historian Faraj Nejm, Libya has some 140 tribes or clans with various geographic extensions and kinship links extending beyond the borders westwards into the Maghreb, southwards into Sub-Saharan Africa and eastwards into the Arabian Peninsula and the Levant. However, only 30 of these can be categorised as major tribes or kinship groupings with significant social and political influence.²
- 2.1.2 According to the BBC, the toppling of long-term leader Muammar Gaddafi in 2011 led to a power vacuum and instability, with no authority in full control. The BBC report continued:
- “The National Transitional Council (NTC), a rebel leadership council which had fought to oust the Gaddafi government, declared Libya ‘liberated’ in October 2011 and took over the running of the country. However, it struggled to impose order on the many armed militia that had become active in the months leading up to the ousting of Gaddafi. In August 2012 the NTC handed power to the General National Congress (GNC), an elected parliament which went on to select an interim head of state. Voters chose a new parliament to replace the GNC in June 2014 – the Council of Representatives (CoR), which relocated to Tobruk. The former GNC, dominated by Islamists, reconvened shortly afterwards and selected its own prime minister, challenging the authority of the CoR at a time of fighting in which even the capital, Tripoli, changed hands. The United Nations began talks to reconcile the two factions in September (2014).”³
- 2.1.3 The BBC further noted that “tensions between nationalists and Islamists have stymied attempts to produce a stable government, and in 2014 the country was riven by fighting between rival militias. Central government collapsed, and the United Nations has struggled to bring political factions together.”⁴
- 2.1.4 UNHCR explains that “Since January 2014, Libya has had rapid succession in the Executive branch that is closely linked to the increasingly divided political landscape. In February 2014, protests erupted when the parliament, the General National Congress (GNC), cited the need for drafting a new constitution and extended its mandate beyond 7 February 2014. On 16 May 2014, the situation further deteriorated when a former General, Khalifa Haftar, launched a military offensive against armed groups in Benghazi. Two days later, armed groups allied with former General Haftar stormed the parliament building in Tripoli accusing the then-elected Prime Minister Ahmed Maiteeq, of supporting Islamist groups. A new parliament, the House of Representatives, was elected in June. In August 2014, the political crisis escalated further, when the House of Representatives moved to Tobruk while a number of its members boycotted its proceedings and the GNC reconvened in Tripoli. The House of Representatives reappointed Abdullah Al Thinni as

¹ CIA, World Fact-book: Libya, last updated 20 June 2014, People and Society
<https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html> date accessed 15 October 2014

² Al-Ahram Weekly, Tribes and Abductions, 6 February 2014
<http://weekly.ahram.org.eg/News/5321/19/Tribes-and-abductions.aspx> date accessed 28 January 2015

³ BBC News: Libya Country Profile: Leaders – 14 October 2014
<http://www.bbc.co.uk/news/world-africa-13754899> Accessed 10 December 2014

⁴ BBC News, Libya profile: Overview, 14 October 2014
<http://www.bbc.com/news/world-africa-13754897> date accessed 28 January 2015

Prime Minister, while the GNC appointed Omar Al Hassi as Prime Minister, effectively leaving the country with two governments. ... On 6 November 2014, Libya's Supreme Court ruled the House of Representatives unconstitutional after a legal challenge by a group of politicians. In response to the ruling, certain members of the House of Representatives in Tobruk declared that they did not recognize the Supreme Court ruling. The ruling might deepen the political crisis and contribute to further turmoil."⁵

- 2.1.5 IRIN reports that "One government is in Tripoli, led by Prime Minister Omar al-Hassi and backed by the pro-Islamist General National Congress (GNC). The government and the GNC are supported by Fajr Libya ("Libyan dawn"), an Islamist-leaning coalition of hardliners-revolutionaries. Turkey and Qatar support these Tripoli-based institutions. The other is based in Tobruk, in the far east of the country. It was appointed by the House of Representatives. Both institutions have support from Zintanis and General Khalifa Haftar-backed armed groups in Libya. Outside the country, they are supported by foreign countries like Egypt, Saudi Arabia and the United Arab Emirates. The Tobruk-based government is recognized by the UN, but al-Hassi's government is not."⁶
- 2.1.6 The Constitutional Declaration contains clear references to equal rights, and states that all citizens are equal before the law in enjoying civil and political rights, equal opportunities, and the duties of citizenship without discrimination based on religion, sect, language, wealth, sex, descent, political views, social status, or regional, family, or tribal affiliations. On 9 April 2013, the GNC adopted a law mandating punishment of not less than one year's imprisonment for anyone guilty of discrimination on the basis of class, group, region, gender, or colour. The interim governments enforced neither the prohibitions nor the punishments effectively, particularly with regard to women and minorities.⁷
- 2.1.7 A political analyst writing for the Reuters News Agency wrote that:
"...Libya has long been divided between various ethnicities and groups including North Africa's indigenous Berber inhabitants, Arabs who arrived later and ethnic African tribal groups from further south. Cultural divisions between its two major cities of Tripoli and Benghazi can be traced to before the Romans...The prospect of increased friction or violent conflict between the country's tribes, clans and ethnic groups – specifically between the Arabs and Berbers – remains a serious source of concern..."⁸
- 2.1.8 According to the US State Department Country Report on Human Rights Practices for 2013 Arabic-speaking Muslims of mixed Arab-Amazigh ancestry constitute 97% of the citizenry. The principal linguistic-based minorities are Amazigh, Tuareg, and Tebu. These minority groups are predominantly Sunni Muslim but identify with their respective cultural and linguistic heritage rather than with Arab traditions.⁹
- 2.1.9 The report continued:

⁵ UNHCR, UNHCR Position on Returns to Libya: November 2014, paragraphs 2-3
<http://www.refworld.org/pdfid/54646a494.pdf> date accessed 28 January 2015

⁶ Integrated Regional Information Network, Libya's sidelined IDPs, 10 December 2014
<http://www.irinnews.org/report/100931/libya-s-sidelined-idps> date accessed 28 January 2015

⁷ US Department of State, Country Report on Human Rights Practices for 2013: Libya, Section 6, 27 February 2014, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220366> accessed 22 October 2014

⁸ Reuters News Agency: 'Fact-box: Libya's Tribal, Cultural Divisions' 25 August 2011
<http://www.reuters.com/article/2011/08/25/us-libya-tribes-idUSTRE77O43R20110825> date accessed 15 October 2014

⁹ US State Department 'Country Reports on Human Rights Practices – Libya 2013', 27 February 2014 section 6: National/Racial/Ethnic Minorities
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220366> date accessed 15 October 2014

“Language remained a point of contention. Under Gaddafi, Amazigh persons faced discrimination, including limitations on the use of their native language, Tamazight. They encouraged the new government to make Tamazight one of the official languages. Following the passage of the electoral law for the Constitutional Drafting Assembly that omitted stipulations on language, Amazigh groups launched a campaign of civil disobedience on 24 July (2013), including a boycott of the General National Congress (GNC). On 30 July (2013), the GNC officially recognised the Amazigh, Tuareg and Tebu languages and provided for them to be taught in schools.”

“There were societal discrimination and violence originating in ethnic differences. Racial discrimination existed against dark-skinned Libyans, including those originally of sub-Saharan descent, in part due to allegations that Gaddafi used African mercenaries during the conflict. There were reports that authorities removed dark-skinned Libyans as well as Tuaregs from their homes in Tripoli and held them in detention centres and prisons. There were also clashes between the Tebu and Zway tribes over smuggling routes in the southeast of the country”.¹⁰

- 2.1.10 In February 2014, the Egyptian weekly newspaper, El-Ahram, published a report providing a description of the tribal nature of Libyan society written by a Libyan historian.¹¹ The report stated:

“Libyan society is primarily structured along tribal lines, like many other societies in the Arab world. It is also an entirely Muslim country, which subscribes to the Maleki School of jurisprudence. The vast majority of the populace is Arab in origin, while five per cent is Amazigh, three per cent African, and one per cent Tuareg. The Libyan Jewish minority left the country in 1967 and the Italians that had remained by the time that Gaddafi took power were expelled in 1970.

“The Libyan tribe is a discrete entity with its internal hierarchy and codes, rendering it something of an autonomous entity capable of operating independently from the state, should it be so inclined. In the post-Gaddafi era, this inclination has reasserted itself strongly against the backdrop of the security deterioration that is plaguing the country. Indeed, official authorities, as embodied in the General National Congress (GNC), the highest political authority in the country, and the current interim government, have had to turn to various tribes in view of their own inability to restore security and resolve a range of other problems.

“However, the tribes are often as much a part of the problem as they have been a part of the solution, in view of the eruption of inter-tribal tensions and disputes in the post-revolutionary period. In western Libya, 80 tribal conflicts have flared as the consequence of security-related issues. The south has degenerated into near civil war, in the area of Sebha, due to the conflict between the ethnically African Tebou tribes and the Arab tribes in the region. To the northeast, the crisis surrounding the closure of the oil-exporting ports, which interrupted a vital source of revenues, has a strong tribal dimension for which reason the government has sought recourse to tribal mediators to resolve it.

“In the period that followed the overthrow of the Gaddafi regime, the rise in incidents of kidnapping has become a major indicator of the deterioration in the state of security in Libya. In the portrait of political violence depicted by Libyan interior ministry figures, assassinations predominate in the west and, in particular, in Benghazi and Derna. According to many press reports, militant Islamists are responsible for a good many of

¹⁰ US State Department ‘Country Reports on Human Rights Practices – Libya 2013’ 27 February 2014 section 6:National/Racial/Ethnic Minorities
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220366> 2014 date accessed 15 October 2014

¹¹ Al-Ahram Weekly: Tribes and Abductions: 6 February 2014
<http://week.ly.ahram.org.eg/News/5321/19/Tribes-and-abductions.aspx> accessed 31 December 2014

them. In the west, by contrast, kidnappings, sometimes followed by hostage exchanges, prevail while in the south, where the control of security forces is weak if not non-existent, killings and kidnappings have become equally widespread. ... Libyan authorities appear helpless in the face of the rising tide of kidnappings. That the majority of these are motivated by tribal conflicts underscores the chief impediment not just to law enforcement but also to the creation of a professional security apparatus capable of enforcing the law.”¹²

- 2.1.11 The OHCHR reports in September 2014 that: “In addition to the detention of fighters or suspected fighters, UNSMIL [UN Support Mission in Libya] has received initial reports that dozens of civilians were abducted in Tripoli and Benghazi during the reporting period [mid May- end of August 2014] 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.”¹³ UNHCR reported in December 2014 that: “Armed groups are holding people in official prisons but also in makeshift detention centres, as during the 2011 conflict. ... UNSMIL has also received allegations of torture and other abuses which are consistent with earlier patterns of ill-treatment of detainees, but are a cause of even greater concern because of the heightened political tensions and the ongoing active hostilities.”¹⁴
- 2.1.12 In November 2014, the UN Refugee Agency (UNHCR) issued a position paper on returns to Libya, based on political developments within the country, and the deteriorating security situation and humanitarian conditions. The UNHCR noted that according to some reports, there are up to 1700 different armed groups each controlling an area of territory, and divided along tribal and ideological lines which have left successive governments struggling to exercise authority in those areas. In a climate of instability and chaos, the country has seen intense clashes between armed groups and almost daily assassinations, bombings and kidnappings. Analysts have expressed concerns about the risk of Libya descending into civil war. They noted that intense fighting between rival armed groups takes its toll on civilians, as hundreds of thousands have been forcibly displaced across the country, with consequent destruction of infrastructure.¹⁵
- 2.1.13 UNHCR considers in its November 2014 Position on Returns that “Claims for international protection of persons having been directly affected by recent developments may need to be given particular attention, including, for example ... ethnic and religious minorities, and members of tribes or individuals perceived to be in support of the former Gaddafi regime.”¹⁶

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¹² Al-Ahram Weekly: Tribes and Abductions: 6 February 2014

<http://weekly.ahram.org.eg/News/5321/19/Tribes-and-abductions.aspx> accessed 31 December 2014

¹³ UN Office of the High Commissioner for Human Rights (OHCHR), Overview of Violations of International Human Rights and Humanitarian Law during the ongoing Violence in Libya, 4 September 2014, iv. Detentions, abductions, and torture.

<http://www.refworld.org/docid/540d627e4.html> date accessed 28 January 2015

¹⁴ UNHCR, Update On Violations Of International Human Rights And Humanitarian Law During The Ongoing Violence In Libya (Revised*), 23 December 2014, vi. Detentions, Abductions, Torture and Executions http://www.ecoi.net/file_upload/1226_1420623059_unsmil-ohchrjointly-report-libya-23-12-14.pdf date accessed 28 January 2015

¹⁵ UNHCR: UNHCR Position on Returns to Libya: November 2014, paragraph 1

<http://www.refworld.org/docid/54646a494.html>

accessed 16 January 2015

¹⁶ UNHCR, UNHCR Position on Returns to Libya: November 2014, paragraph 11

<http://www.refworld.org/pdfid/54646a494.pdf>

date accessed 28 January 2015

2.2 Tawerghans/Tawarghans/Tawurghans

- 2.2.1 IRIN reports that the dark-skinned Tawergha are a minority descended from former slaves brought to Libya in the 18th and 19th centuries, who resided in a coastal town of the same name 250km east of Tripoli.¹⁷
- 2.2.2 Amnesty International reports that “In mid-August 2011, at the height of Libya’s armed conflict, everyone living in the town of Tawargha was driven out by anti-Gaddafi militia, who vowed Tawerghans would never be able to return. The militia accused the Tawerghans, a community of black Libyans, of supporting Colonel Gaddafi’s government and of committing war crimes in Misratah on its behalf. Al-Gaddafi forces had used the Tawargha area, 40km south-east of Misratah, as a base when they laid siege to Misratah in 2011. For three months, Misratah residents were cut off from electricity and water as the city became the scene of the conflict’s most heavy fighting. Hundreds of civilians died in air strikes and rocket attacks; many more were injured. Allegations of rape and sexual abuse by Gaddafi forces in Misratah exacerbated tensions between the neighbouring towns.”¹⁸
- 2.2.3 The Cairo Institute for Human Rights Studies reports that “the forced displacement was followed by arbitrary arrests of Tawerghans, the looting and destruction of Tawerghan homes, torture, and extrajudicial killings”.¹⁹
- 2.2.4 Since the end of the conflict in 2011, Amnesty International has documented the abduction and enforced disappearance of dozens of Tawerghans from different cities. They were taken from checkpoints, camps, streets, homes and even hospitals, and immediately transferred to detention facilities in Misratah where they were tortured and otherwise ill-treated. Some subsequently died in detention; many remain missing. The fate of many others, both civilians and soldiers, who went missing during the conflict, including in combat, also remains unknown. Representatives of the Tawargha community estimate that over 1,300 Tawerghans are either missing or detained, most likely in Misratah. Testimonies collected by Amnesty International suggest that many were captured and summarily killed.²⁰
- 2.2.5 During a fact-finding visit to Libya in April/May 2013, Amnesty International delegates met dozens of Tawergha detainees held in state prisons and in facilities effectively run by militias without state oversight, who said they had been held since 2011 without charge or trial. The detainees from the Tawergha community, like other detainees, have also been tortured in detention and subjected to poor prison conditions. Torture methods cited included whipping, beating with objects such as metal bars and water pipes (known locally as Tube PPR), and electric shocks. Some say they were forced into hard labour in prison. The victims have had no means to challenge the legality of

¹⁷ Integrated Regional Information Networks (IRIN), Libya: ‘Rocky road ahead for Libya’s Tawergha minority’, 13 December 2011

<http://www.irinnews.org/report/94455/libya-rocky-road-ahead-for-libya-s-tawergha-minority>
date accessed 15 October 2014

¹⁸ Amnesty International, Barred from Their Homes - The Continued Displacement and Persecution of Tawarghas and Other Communities in Libya, 23 October 2013, Introduction p.4

<http://www.amnesty.org/en/library/asset/MDE19/011/2013/en/1bdf76a5-fbf9-4264-a637-066c665c75c4/mde190112013en.pdf> accessed 25 November 2014

¹⁹ Cairo Institute for Human Rights Studies, Written statement submitted to the Human Rights Council by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status; Ongoing human rights situation in Libya, 19 February 2013, Missing, disappeared and detained

http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A_HRC_25_42_ENG.DOC
accessed 25 November 2014

²⁰ Amnesty International, Barred from Their Homes - The Continued Displacement and Persecution of Tawarghas and Other Communities in Libya, 23 October 2013, Missing, Disappeared and Detained p. 10

<http://www.amnesty.org/en/library/asset/MDE19/011/2013/en/1bdf76a5-fbf9-4264-a637-066c665c75c4/mde190112013en.pdf> accessed 22 October 2014

their detention, report abuses they suffered, or seek redress. Many still carry the scars of the torture they endured, and have been denied medical care.²¹

2.2.6 Approximately 35,000 people from the town of Tawergha, in Libya's northeast, remained forcibly displaced at the end of 2013, with militias from nearby Misrata preventing them from returning to their homes. The militias accuse Tawerghans of supporting Gaddafi and committing serious crimes, including rapes and torture, against people in Misrata in 2011.²² According to the Head of the Local Council of Tawergha, a body formed after the conflict to represent the displaced community, some 18,000 Tawarghas fled to Benghazi and 13,000 sought refuge in Tripoli. Most live in poorly resourced makeshift camps. A further 7,000 live in Sabha in the south, in addition to smaller numbers in Sirte in the north, Tarhouna and Khoms in the west, Jura in the centre, and Ajdabiya in the east.²³

2.2.7 According to a January 2014 report of the United Nations High Commissioner for Human Rights, "The local council of Tawergha decided not to proceed with a unilateral return to the town originally scheduled for June 2013, following a commitment by the Government to develop a plan for their return and to improve their living conditions in the meantime. An overall strategy to ensure the return of the Tawergha communities and all other displaced communities to their homes is not yet in place."²⁴

2.2.8 On 27 June 2013, Human Rights Watch reported on the displacement of people from Tawergha, who were being barred from returning to their homes following their original flight from Tawergha in 2011. The report, from Tripoli, stated:

"Libyan authorities should allow displaced residents of the city of Tawergha to return to their homes safely. Local authorities in Ajdabiya turned back a group of Tawerghans on June 25, 2013. Some had left Benghazi in a convoy of about 40 cars for Tawergha, 750 kilometers west, only to be barred passage in Ajdabiya, 150 kilometers from Benghazi. "Tawerghans fled their hometown in August 2011 as armed fighters from the nearby city of Misrata approached. About 35,000 Tawerghans are dispersed across the country and have been prevented from returning by armed groups from Misrata. The Misrata groups accuse Tawerghans of fighting with pro-Gaddafi forces during the 2011 conflict and committing war crimes in Misrata. Whereas it is understandable that individuals in Misrata may want justice for crimes committed against them by individuals, that does not give them any right to block the right of return of displaced people to their homes Human Rights Watch said. Widespread or systematic forced displacement carried out as a policy, as in this case, amounts to a crime against humanity."²⁵

2.2.9 The report continued:

²¹ Amnesty International, Barred from Their Homes - The Continued Displacement and Persecution of Tawarghas and Other Communities in Libya, 23 October 2013, Missing, Disappeared and Detained p. 11 <http://www.amnesty.org/en/library/asset/MDE19/011/2013/en/1bdf76a5-fbf9-4264-a637-066c665c75c4/mde190112013en.pdf> accessed 9 December 2014

²² Human Rights Watch, World Report 2014 - Libya, 21 January 2014, <http://www.hrw.org/world-report/2014/country-chapters/libya> date accessed 28 January 2015

²³ Amnesty International, Barred from Their Homes - The Continued Displacement and Persecution of Tawarghas and Other Communities in Libya, 23 October 2013, Introduction p.5 <http://www.amnesty.org/en/library/asset/MDE19/011/2013/en/1bdf76a5-fbf9-4264-a637-066c665c75c4/mde190112013en.pdf> accessed 9 December 2014

²⁴ UN Human Rights Council: Technical Assistance for Libya in the field of human rights – 13 January 2014 paragraph 17 http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A_HRC_25_42_ENG.DOC accessed 9 December 2014

²⁵ Human Rights Watch: Libya: Displaced People from Tawergha Barred From Return: 27 June 2013 date accessed 29 October 2014 <http://www.hrw.org/print/news/2013/06/27/libya-displaced-people-tawergha-barred-return>

“An entire community is being held hostage to crimes allegedly committed by a few,” said Eric Goldstein, deputy Middle East and North Africa director at Human Rights Watch. “The onus is now on the government to end this collective punishment by ensuring that Tawerghans can exercise their right finally to return to their homes.”

“In recent weeks, the government, religious leaders, tribal leaders, and the United Nations mission in Libya have all cautioned against a unilateral initiative announced by the Tawergha community to return home on June 25. The government and others said they were concerned about possible confrontations by groups that oppose the Tawerghans’ return. The Local Council of Tawergha, the main body representing the displaced Tawergha community, decided to postpone the return operation. Nevertheless, a small group of Tawerghans, motivated in part by concern that a plan was afoot to resettle them permanently in a place other than Tawergha, set out for home. They were blocked by local authorities in Ajdabiya. The local officials apparently were acting in consort with the central government, which feared attacks on the convoy by groups from Misrata, a member of the convoy who attended the meetings with the local authorities told Human Rights Watch.”²⁶

2.2.10 The report went on to state:

“Human Rights Watch visited Tawergha regularly in 2011 and 2012 and reviewed satellite imagery of the destruction of the city over time. Researchers observed extensive burning and looting of residential and commercial buildings in most parts of the town by arson and targeted demolitions after the fighting there had stopped in mid-2011, in an apparent attempt to prevent Tawerghans from returning home. The government has been unwilling or unable to intervene to break the veto that Misrata militias are exercising over the return of Tawerghans. “Keeping people from going home is like detaining them ‘for their own good,’” Goldstein said. “The authorities should not only let them go home but should ensure them security as they go and when they get there.”²⁷

2.2.11 In November 2013, al-Fallah camp, which houses 1,200 displaced people from Tawergha, was attacked twice by militias, killing one camp resident and injuring three others. The attackers did not wear any insignia, but claimed they were from Misrata. They shouted obscenities at the residents, calling them “slaves”, among other terms. Al-Fallah camp residents told Human Rights Watch that the authorities have left the camp unguarded and without security since the end of 2012.²⁸

2.2.12 In her last report to the Security Council on 14 November 2013, the International Criminal Court (ICC) prosecutor said she remains concerned about allegations of crimes committed during the 2011 armed conflict by rebel forces in Tawergha. She said her office has reviewed allegations that following the siege of Misrata, “militias from Misrata subjected Tawerghan civilians to killings, looting, property destruction, detention, and forced displacement, and also that Misrata militias are preventing Tawerghan civilians from returning subsequently to their homes.”²⁹

²⁶ Human Rights Watch: Libya: Displaced People from Tawergha Barred From Return: 27 June 2013 <http://www.hrw.org/print/news/2013/06/27/libya-displaced-people-tawergha-barred-return> date accessed 29 October 2014

²⁷ Human Rights Watch: Libya: Displaced People from Tawergha Barred From Return: 27 June 2013 <http://www.hrw.org/print/news/2013/06/27/libya-displaced-people-tawergha-barred-return> date accessed 29 October 2014

²⁸ Human Rights Watch, Libya: Displaced Camp Residents Need Immediate Protection, 20 November 2013 <http://www.hrw.org/de/node/120698> date accessed 28 January 2015

²⁹ International Criminal Court: Sixth Report of the Prosecutor of the International Criminal Court to the UN Security Council pursuant to UNSCR 1970 (2011) 14 November paragraph 24 http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20statements/statement/Documents/Report%20to%20UNSC%20Nov2013EN.pdf

2.2.13 According to Human Rights Watch, successive Libyan authorities have been unwilling or unable to make Misrata militias let Tawerghans return, thereby failing to end what amounts to a crime against humanity. Moreover, a law on special procedures enacted by Libya's transitional authorities in 2012 grants a blanket amnesty to those who committed crimes if their actions were aimed at "promoting or protecting the revolution" against Gaddafi. Human Rights Watch has called on the ICC prosecutor to examine the crimes currently exempted from prosecution in Libya, and if appropriate, to investigate them.³⁰

2.2.14 Amnesty International reported that numerous camps for displaced Tawarighans were attacked by militias in 2011 and 2012. A militia raid on Janzur Camp in Tripoli in February 2012 resulted in the deaths of seven camp residents, including three children. At least 13 other residents were shot and injured. Women in the Libyan Red Crescent Camp in Benghazi told Amnesty International that they felt unsafe to leave the camp on their own, and would only leave with a male companion. Sporadic incidents continue to be reported until today.³¹

2.2.15 According to the US Department of State:

"IDPs were vulnerable to abuses, such as armed attacks, arbitrary detention, trafficking, forced labour and gender-based violence, from militia forces or other armed groups not under the control of the interim government. IDPs from tribes and cities thought to be loyal to the Gaddafi government, including Tawargha, Qawalish and Mashashiya additionally faced harassment, violence, intimidation and discrimination. Militia forces particularly harassed and abused Tawarighans and other dark-skinned citizens, suspected of being supporters of the Gaddafi regime, and sub-Saharan mercenaries."³²

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2.2.16 UNHCR reports that "On 17 October [2014], residents of the Gar Yunes camp for the displaced were evacuated, re-displacing some 2,500 Tawerghans who sought temporary shelter elsewhere, including along the road to Ajdabiya or in the town itself. Over 5,600 Tawerghans have been re-displaced from five camps in Benghazi since mid-October."³³ It also reports in August 2014 that "Since fighting started in Tripoli, an estimated 4,800 Tawerghans IDPs have been re-displaced".³⁴

2.2.17 The news agency 'Associated Press' reported on 20 October 2014 of further displacement of Tawerghan people, stating:

"After three years in a packed refugee camp, Mariam Mohammed fled with her seven children along with some 3000 members of Libya's persecuted Tawargha community in their second forced displacement. Their camp was caught in a cross-fire between Islamist militias and pro-government forces in the war-torn eastern city of Benghazi.

accessed 10 December 2014

³⁰ Human Rights Watch: Libya: 'Displaced Camp Residents Need Immediate Protection' 20 November 2013 <http://www.hrw.org/news/2013/11/19/libya-displaced-camp-residents-need-immediate-protection> accessed 10 December 2014

³¹ Amnesty International, Barred from Their Homes - The Continued Displacement and Persecution of Tawarighas and Other Communities in Libya, 23 October 2013, The Struggle to lead a normal life p. 19 <http://www.amnesty.org/en/library/asset/MDE19/011/2013/en/1bdf76a5-fbf9-4264-a637-066c665c75c4/mde190112013en.pdf> accessed 22 October 2014

³² US State Department 'Country Reports on Human Rights Practices – Libya 2013' 27 February 2014 section 1d Internally Displaced Persons (IDPs) date accessed 18 December 2014 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220366>

³³ UNHCR, Update On Violations Of International Human Rights And Humanitarian Law During The Ongoing Violence In Libya (Revised*), 23 December 2014, iv. Eastern Libya - Benghazi http://www.ecoi.net/file_upload/1226_1420623059_unsmil-ohchrjointly-report-libya-23-12-14.pdf date accessed 28 January 2015

³⁴ UNHCR, Libya Crisis UNHCR Regional Update, 25-31 August 2014 http://www.ecoi.net/file_upload/1930_1411388518_541a8d8f4.pdf date accessed 28 January 2015

"It's miserable, beyond anybody's imagination. Some of us had to jump in garbage trucks to escape. The horror makes you do anything," said the 45-year-old Mohammed. "There was no other option amid all destruction."

"She spoke to The Associated Press over the phone from her new school-turned-refugee camp outside Benghazi in an area called Tekka. This was the second time in three years that Mohammed and her fellow Tawergha have been forced to flee the violence of post-revolutionary Libya. In 2011, at the end of the eight-month civil war against Moammar Gaddafi, she and nearly 40,000 residents were forced to flee their western village - also called Tawergha. Rebel forces from the neighboring city of Misrata attacked her town believing the Tawergha had aided Gaddafi's forces. The rebels torched Tawergha homes, kidnapped and tortured the men and kept them in detention centers for years. The Tawergha are a racially distinct group, with darker skin than most Libyans, making it even harder for them to navigate Libya's chaotic post-revolutionary environment.

"After abandoning their home village, Mohammed and others lived for years in a refugee camp in Benghazi's Gar Younis neighborhood which has become the site of fierce daily clashes. On Friday morning, Mohammed and her children, along with more than 500 other Tawergha families, finally fled under a hail of bullets, rockets and mortars. Faraj Abdel-Kader, a representative of the abandoned camp, said that when the Tawergha returned later to pick up their belongings, they found the camp had been looted and torched. "It was burnt to ashes after it was looted and all belongings were stolen," he said. "The families were dispersed. Some found a shelter while others still sleep under trees."³⁵

2.2.18 Militias mainly from Misrata continued to arbitrarily detain, torture, harass and kill Tawerghans in custody. At the beginning of 2014, 1,300 people from Tawergha were detained, mainly in Misrata, or unaccounted for. The same militias also prevented residents of Tomina and Karareem, towns near Tawergha, from returning home.³⁶ Members of the Tawergha community continue to be at risk of arbitrary detention, especially outside camps, although to a lesser extent than in the immediate aftermath of the conflict.³⁷

2.2.19 Human Rights Watch reports in September 2014 that "Since the end of the 2011 conflict, Human Rights Watch has documented repeated attacks, mostly by militias from Misrata, on people displaced from Tawergha living in makeshift camps in Tripoli and elsewhere. Militias from Misrata have prevented some 40,000 former Tawergha residents from returning to their homes as a form of collective punishment for crimes some Tawerghans allegedly committed against people from Misrata during the 2011 uprising and conflict. Militias from Misrata have also arbitrarily arrested and harassed displaced Tawerghans, with impunity. The widespread and systematic nature of this ongoing forced displacement amounts to a crime against humanity. The Libyan government and militia forces have failed to stop such attacks, end the forced displacement, allow the displaced to return home, and hold those responsible to account despite repeated international calls for them to protect displaced communities."³⁸

³⁵ Associated Press on US. News & World Report: 'Libya's persecuted Tawergha people displaced for the 2nd time amid clashes that left 65 dead', 20 October 2014

<http://www.usnews.com/news/world/articles/2014/10/20/libyas-persecuted-people-displaced-again> date accessed 29 October 2014

³⁶ Human Rights Watch, World Report 2014 – Libya, 21 January 2014

<http://www.hrw.org/world-report/2014/country-chapters/libya> accessed 17 December 2014

³⁷ Amnesty International, Barred from Their Homes - The Continued Displacement and Persecution of Tawarighans and Other Communities in Libya, 23 October 2013, Missing, Disappeared and Detained p. 15

<http://www.amnesty.org/en/library/asset/MDE19/011/2013/en/1bdf76a5-fbf9-4264-a637-066c665c75c4/mde190112013en.pdf> accessed 10 December 2014

³⁸ Human Rights Watch, Libya: Spiralling Militia Attacks May Be War Crimes, 8 September 2014

- 2.2.20 Amnesty International reported in October 2014 that “Since the beginning of August [2014], at least 22 men from the Tawargha community have been abducted by several armed groups in and around Tripoli.”³⁹ It further notes that one Tawargha activist who was detained twice, was threatened with death, and repeatedly insulted: “They called me a slave and a mercenary. They accused me of supporting Warshafana and threatened that they would come and find me in the Tawargha camp in the Naval Academy. They said that the Tawargha do not deserve to live.”⁴⁰
- 2.2.21 Amnesty International further reports that “In the early hours of 30 August [2014], members of Libya Shield Forces allied with the Libya Dawn coalition attacked a camp for internally displaced Tawargha located in al-Fellah area of Tripoli. Rheel Abdallah Abd al-Salam was shot in the back and died on the spot. Three other Tawargha men were injured by gunfire in the attack. Militia members also abducted five men during the attack, and took them to the militia compound in Yarmouk. The men were ill-treated at the compound before their release was negotiated by the Tawargha Local Council. ... The Libyan authorities have failed to protect the displaced community of Tawargha from retaliatory attacks by militias since they were driven out of their homes in August 2011.”⁴¹
- 2.2.22 UNHCR reports that “On 1 December [2014], as fighting intensified near the al-Hallis displacement camp, 27 Tawargha families left the camp and were stopped at a checkpoint by fighters of the BRSC [Benghazi Revolutionaries’ Shura Council] coalition. On 24 November, 11 Tawarghas were reportedly abducted on suspicion that they supported Operation Dignity, and 13 more were abducted three days later. Ten of them were released by early December. Earlier on 24 November, Bennisir Musa’ed Bennisir, also from al-Hallis camp, was reportedly abducted, also at a BRSC checkpoint in Guwarsha, and found dead two days later in the Tika area of Benghazi.”⁴²

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2.3 Tuareg

- 2.3.1 IRIN notes that the Tuareg, an Imazighen non-Arab minority, a nomadic pastoralist group, are also found in Algeria, Mali, Niger and Burkina Faso. It further notes that 90 per cent of Libyans live along the Mediterranean coast and many see non-Arab southerners as belonging more to ‘Africa’ than Libya.⁴³
- 2.3.2 According to a June 2011 International Crisis Group report, approximately 10,000 Tuareg were believed to live in Libya, mostly in the desert oases of Ghat, Ghadames

<http://www.hrw.org/news/2014/09/08/libya-spiraling-militia-attacks-may-be-war-crimes> date accessed 28 January 2015

³⁹ 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

<http://www.amnesty.org/en/library/asset/MDE19/009/2014/en/57d72884-d2a4-4a4d-b6cb-317f82595823/mde190092014en.pdf> date accessed 28 January 2015

⁴⁰ 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

<http://www.amnesty.org/en/library/asset/MDE19/009/2014/en/57d72884-d2a4-4a4d-b6cb-317f82595823/mde190092014en.pdf> date accessed 28 January 2015

⁴¹ 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

<http://www.amnesty.org/en/library/asset/MDE19/009/2014/en/57d72884-d2a4-4a4d-b6cb-317f82595823/mde190092014en.pdf> date accessed 28 January 2015

⁴² UNHCR, Update On Violations Of International Human Rights And Humanitarian Law During The Ongoing Violence In Libya (Revised*), 23 December 2014, vi. Detentions, Abductions, Torture and Executions

http://www.ecoi.net/file_upload/1226_1420623059_unsmil-ohchrjointly-report-libya-23-12-14.pdf date accessed 28 January 2015

⁴³ Integrated Regional Information Networks, Libyan minority rights at a crossroads, 24 May 2012

<http://www.irinnews.org/printreport.aspx?reportid=95524> accessed 10 December 2014

and Murzuq in the south west.⁴⁴ The Jamestown Foundation notes that “besides the West African Tuareg who rallied to Gaddafi, Libya is home to a Tuareg community of roughly 100,000 people, though the regime has never recognized them as such, claiming they are only an isolated branch of the Arab race”.⁴⁵

2.3.3 During the conflict there were claims that Gaddafi used non-Libyan Tuareg as mercenaries against rebel forces.⁴⁶ The Jamestown Foundation reports that “at least 1,500 Tuareg fighters joined Muammar Gaddafi's loyalist forces (though some sources cite much larger figures) in the failed defence of his Libyan regime. Many were ex-rebels residing in Libya, while others were recruited from across the Sahel with promises of large bonuses and even Libyan citizenship”. It further explains that “though some Libyan Tuareg have opposed Gaddafi, many others have found employment in the Libyan regular army, together with volunteers from Mali and Niger. As a result, many Libyans tend to identify all Tuareg as regime supporters”.⁴⁷

2.3.4 IRIN reports that “thousands of non-Arabs like Tuaregs have no official documentation attesting to their citizenship... those who settled in the country 40 or 50 years ago were denied family booklet[s] and possess neither Libyan nor any other citizenship”. The United Nations Support Mission in Libya (UNSMIL) reports that there is an “issue of identity of some people in the South that perceive themselves as Libyans but do not have proper identity documents”.⁴⁸

2.3.5 Bertelsmann Stiftung reports that:

“The city of Ghadames was the place of bloody clashes between local Tuareg loyal to Gaddafi and other residents. The Tuareg were forced to flee the city in September 2011, and their former compatriots are resisting their return”.⁴⁹

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2.3.6 The US Department of State notes that “There were reports that authorities removed dark-skinned Libyans as well as Tuaregs from their homes in Tripoli and held them in detention centres and prisons. ... UNHCR identified as many as 25,000 primarily nomadic Tuareg in the southwest who had been living in the country for several decades but held no citizenship documentation. The UNHCR estimated the number of potentially stateless Tuareg and Tebu during the year as high as 100,000 and that approximately an

⁴⁴ International Crisis Group, Popular Protests in North Africa and the Middle East (V): Making Sense of Libya, 6 June 2011, B, Minorities: Berbers, Tebu and Tuareg,

<http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/North%20Africa/107%20-%20Popular%20Protest%20in%20North%20Africa%20and%20the%20Middle%20East%20V%20-%20Making%20Sense%20of%20Libya.pdf> accessed 25 November 2014

⁴⁵ Jamestown Foundation, What the Tuareg Do After the Fall of Gaddafi Will Determine the Security Future of the Sahel, 16 September 2011, Terrorism Monitor Volume: 9 Issue: 35,

http://www.jamestown.org/single/?tx_ttnews%5Btt_news%5D=38408 accessed 25 November 2014

⁴⁶ International Crisis Group, Popular Protests in North Africa and the Middle East (V): Making Sense of Libya, 6 June 2011, B, Minorities: Berbers, Tebu and Tuareg

<http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/North%20Africa/107%20-%20Popular%20Protest%20in%20North%20Africa%20and%20the%20Middle%20East%20V%20-%20Making%20Sense%20of%20Libya.pdf> accessed 27 November 2014

⁴⁷ Jamestown Foundation, What the Tuareg Do After the Fall of Gaddafi Will Determine the Security Future of the Sahel, 16 September 2011, Terrorism Monitor Volume: 9 Issue: 35,

http://www.jamestown.org/single/?tx_ttnews%5Btt_news%5D=38408 accessed 27 November 2014

⁴⁸ Immigration and Refugee Board of Canada, Libya: Identification documents, including national identity cards (NID) and birth certificates; requirements and procedures for obtaining and renewing identity documents, both within the country and abroad; availability of fraudulent documents (2011-November 2013), 26 November 2013, http://www.ecoi.net/local_link/265600/392624_de.html accessed 25 November 2014

⁴⁹ Bertelsmann Stiftung, BTI 2014 — Libya Country Report. Gütersloh: Bertelsmann Stiftung, 2014 <http://www.bti-project.org/fileadmin/Inhalte/reports/2014/pdf/BTI%202014%20Libya.pdf> accessed 27 November 2014

additional 50,000 persons were at risk of becoming stateless.”⁵⁰ Freedom House reports in August 2014 that “There were reports of discrimination against the Tebu and Tuareg minorities in employment, housing, education, and other services.”⁵¹

- 2.3.7 The UN Secretary-General reports that “On 12 June [2014], tensions between the Tuareg and the Arab Ahali communities in the town of Jerma led to violence, triggered on that occasion by Tuareg complaints over access to fuel. Six people were killed in the clashes that ensued.”⁵²
- 2.3.8 UNHCR reports that “The south of Libya has also experienced violence, in particular in early October, when fighting broke out in Awbari, a town mainly inhabited by the Tuareg but also the Ahali and Tabu. Clashes erupted between Tuareg and Tabu armed groups for control of the area, in a context in which both Zintan and Misrata armed groups are seeking to extend their networks of local alliances in the south. As a result, indiscriminate shelling damaged at least four schools, banks, official government buildings and several private houses. Some 140 people had reportedly been killed by mid December, including four boys in unclear circumstances: their bodies were handed over to Sabha hospital. (...) The humanitarian situation in Awbari has deteriorated as armed groups denied access for relief aid. As of early December some 3,500 families had been displaced, many to Ghat, Murzuq, Brak al-Shati and Sabha. Men from certain internally displaced populations, such as the Tuareg and Tabu, have been arrested and detained by armed groups on the basis of their suspected association with rival groups, particularly in such areas as Sabha, Muzurq and Ghat”.⁵³

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2.4 Tebu/Toubou/Tabu

- 2.4.1 The Tebu (also commonly written as Toubou or Tabu) are a traditionally nomadic Saharan tribe which has long inhabited an area straddling the borders of present-day Libya, Chad and Niger. Up to several tens of thousands reside in Libya, where they have traditionally lived in the sparsely populated South East of the country, in particular in the region of the Tibesti Mountains, along the frontier with Chad. Today there is a relatively high concentration in the Al Kufrah area. Libya’s total population currently stands at approximately 5.6 million, so the Tebu constitute a small minority group.⁵⁴
- 2.4.2 It is a widely reported fact that the Tebu have long suffered from persecution and oppression in Libya. This treatment was particularly acute under the former Gadaffi regime, when policies of Arabisation and ethnic purification had a detrimental effect on all non-Arab minorities in the country. The 1969 Constitutional Declaration and later the 1977 “Declaration on of the Establishment of the Authority of the People” defined Libya as an Arab nation with Arabic its only official language. Tebu people were commonly

⁵⁰ US State Department, Country Report on Human Rights Practices 2013: Libya, Section 6, 27 February 2014, Section 2.d Stateless persons and section 6. National/Racial/Ethnic Minorities <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220366> accessed 25 November 2014

⁵¹ Freedom House, Freedom in the World 2014 - Libya, 21 August 2014, <http://www.refworld.org/docid/53fae99f8.html> accessed 28 January 2015

⁵² UN, Report of the Secretary-General on the United Nations Support Mission in Libya, 5 September 2014, paragraph 32 <http://www.refworld.org/docid/54119b554.html> Date accessed 28 January 2015

⁵³ UNHCR, Update On Violations Of International Human Rights And Humanitarian Law During The Ongoing Violence In Libya (Revised*), 23 December 2014, v. Southern Libya – Awbari http://www.ecoi.net/file_upload/1226_1420623059_unsmil-ohchrjointly-report-libya-23-12-14.pdf date accessed 28 January 2015

⁵⁴ Tilburg University - Statelessness Programme , The Stateless Tebu of Libya?, May 2013, <http://www.refworld.org/docid/52aace474.html> accessed 25 November 2014

the victims of massive discrimination and subjected to forced evictions from their regular places of living. Large-scale displacement of the Tebu led to their dispersal across Libya and in some cases they were also pushed across the border to neighbouring countries. As well as passing a decree stripping the Tebu of Libyan citizenship, under Gadaffi's rule the Tebu were also denied access to education, health care and other basic services.⁵⁵

- 2.4.3 During the 1970s, under Gadaffi, Libya sought to take control of the region commonly referred to as the Aouzou strip – an area rich in minerals which then belonged to the territory of Libya's Southern neighbour, Chad. Libyan troops invaded the strip and military bases were established in order to maintain control. Libya's civil authorities proceeded to register the inhabitants of the Aouzou strip as Libyan citizens and issue them documentation accordingly. At this time, Libya's Tebu population was coerced into moving to this region and registering for new documentation with the civil administration set up in Aouzou. Tebu people who had previously resided in and been issued documentation from other Libyan municipalities now largely came to hold documents from Aouzou.⁵⁶
- 2.4.4 In 2007, the Libyan authorities began a policy of actively revoking citizenship documents from the Tebu, "stating that they were not Libyans but Chadians". There is no evidence that an actual assessment of Chadian nationality law or the citizenship status of any of the affected individuals was made, but rather this policy was implemented unilaterally and possibly arbitrarily. As a result, the 1996 and 2007 Libyan policies with respect to people holding documents from Aouzou may have led to cases of statelessness.⁵⁷
- 2.4.5 The ambiguity surrounding the legal status of the Tebu – and potentially others registered in Aouzou during the Libyan occupation of this area – is further complicated by a shift in policy during the final months of the Gadaffi regime. In an apparent bid to stave off any further opposition or open a new front for the revolution against the government in the South, Gadaffi reportedly annulled the 1996 Decree which had stripped nationality from anyone associated with Aouzou. To what extent this policy reversal was effectively communicated to the competent local and civil authorities at a time of chaos in the country is unclear.⁵⁸
- 2.4.6 Moreover, while it appears that some progress may have been made towards allowing people to (re)confirm their Libyan nationality during the Revolution in Libya, it remains unclear what legal standing any decrees issued during the final months of Gadaffi's rule have today. For instance, while on the one hand the 1996 Decree was reportedly annulled in 2011 and Aouzou document holders recognised as nationals again, on the other hand there were problems with registration for the 2012 elections as their status remained contested. In this context, election observers noted that 1085 voters were removed from the electoral register in Al-Kufra, with one of the given reasons being that of the cases of people who were "inhabitants of the Aouzou area and thus not citizens" according to the 1996 Decree. The scale and reach of statelessness among the Tebu today is unknown.⁵⁹

⁵⁵ Tilburg University - Statelessness Programme, The Stateless Tebu of Libya?, May 2013, <http://www.refworld.org/docid/52aace474.html> accessed 27 November 2014

⁵⁶ Tilburg University - Statelessness Programme, The Stateless Tebu of Libya?, May 2013, <http://www.refworld.org/docid/52aace474.html> accessed 10 December 2014

⁵⁷ Tilburg University - Statelessness Programme, The Stateless Tebu of Libya?, May 2013, <http://www.refworld.org/docid/52aace474.html> accessed 10 December 2014

⁵⁸ Tilburg University - Statelessness Programme, The Stateless Tebu of Libya?, May 2013, <http://www.refworld.org/docid/52aace474.html> accessed 10 December 2014

⁵⁹ Tilburg University - Statelessness Programme, The Stateless Tebu of Libya?, May 2013, <http://www.refworld.org/docid/52aace474.html> accessed 10 December 2014

- 2.4.7 The Oxford University Department of International Development, in a 2012 conference report about the impacts of the Arab Spring on forced migration, writes that the Tuareg and Tebu populations in southern Libya struggle with issues of citizenship and statelessness, respectively. The Tebu have had their citizenship withdrawn, have no documentation, and therefore enjoy no state rights. Similarly, on 23 April 2012, Amnesty International (AI) reported that the Tebu people have "been refused the renewal of their identification documents, driving licenses and passports."⁶⁰ Freedom House reports in August 2014 that : "There were reports of discrimination against the Tebu and Tuareg minorities in employment, housing, education, and other services."⁶¹
- 2.4.8 The 2014 Minority Rights Group report notes that "Xenophobic rhetoric about Tebu and other minorities, a common occurrence under Gaddafi, has lingered. There are ongoing reports of violence between Arab Zawiy tribes in the south and Tebu communities. These attacks occur against a backdrop of discrimination as well as competition for the control of the lucrative trans-Saharan smuggling routes in the region".⁶²
- 2.4.9 The US Department of State notes that "The UNHCR estimated the number of potentially stateless Tuareg and Tebu during the year (2013) as high as 100,000 and that approximately an additional 50,000 persons were at risk of becoming stateless. [...] There were also clashes between the Tebu and Zway tribes over smuggling routes in the southeast of the country".⁶³
- 2.4.10 The UN Secretary-General reports that :
- "Clashes between the Tabu community and the Awlad Suleiman tribe erupted on 9 January 2014, resulting in over 90 deaths. A ceasefire brokered on 13 January collapsed days later. Mediation efforts by both Government and civil society representatives remain ongoing, but progress has been limited. A complicating factor was the involvement of armed groups that are perceived to be supporters of the former regime. ... Heightened tension in Kufra in the south-east and Ajdabiya in the east led to fighting between the Tabu and the Zwaya tribe, which left at least four people dead and prompted a wave of tit-for-tat abductions and burning of homes. In response to promises of government action, Tabu protestors conditionally suspended a two-week blockade of the main highway into Kufra on 11 December 2013. The Tabu and Zwaya sides subsequently reached a prisoner exchange agreement on 6 January 2014. Meanwhile, clashes resumed in mid-January between the Zwaya and Tabu tribes over control of al-Sarir oil fields north of Kufra, resulting in power and water cuts affecting a number of cities in the east, as well as a shortage of goods to southeastern areas."⁶⁴
- 2.4.11 The Jamestown Foundation reported in January 2014 that "Libya's southern tribes are engaged in a new round of bitter urban warfare, as snipers, gun-battles and mortar fire take a heavy toll on the civilian population. At stake are control over the abundant

⁶⁰ Immigration and Refugee Board of Canada, Libya: Identification documents, including national identity cards (NID) and birth certificates; requirements and procedures for obtaining and renewing identity documents, both within the country and abroad; availability of fraudulent documents (2011-November 2013), 26 November 2013, <http://www.refworld.org/docid/52cea00b4.html> accessed 15 October 2014

⁶¹ Freedom House, Freedom in the World 2014 - Libya, 21 August 2014, <http://www.refworld.org/docid/53fae99f8.html> accessed 28 January 2015

⁶² Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2014, 3 July 2014, Libya p.199 <http://www.minorityrights.org/12473/state-of-the-worlds-minorities/mrg-state-of-the-worlds-minorities-2014.pdf> date accessed 28 January 2015

⁶³ US State Department 'Country Reports on Human Rights Practices – Libya 2013' section 6: National/Racial/Ethnic Minorities published 27 February 2014 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220366> accessed 15 October 2014

⁶⁴ UN Security Council, Report of the Secretary-General on the United Nations Support Mission in Libya, 26 February 2014, paragraphs 23 and 25 <http://www.un.org/en/sc/documents/sgreports/2014.shtml> accessed 15 October 2014

resources of the Libyan south, the heavy traffic of its trade routes (both licit and illicit) and the future of tribal and ethnic relations in a post-Qaddafist south”.⁶⁵

- 2.4.12 The Internal Displacement Monitoring Centre reports that “In January 2014, armed clashes between the Tebu and Awlad Suleiman tribes in and around the southern city of Sebha caused the displacement of approximately 21,000 people (OCHA, 30 April 2014). According to UNHCR, the majority of those displaced belonged to the Tebu tribe. While most of the displaced returned home after a truce was called in February-March 2014, unconfirmed reports suggest that approximately 4,800 people continue to be displaced (IDMC interview, 9 September 2014). Data has remained scant and unverifiable, as access to the south has been severely limited.”⁶⁶

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2.5 Black Libyans

- 2.5.1 The 2012 U.S. State Department reports that an estimated 1.5 million to 2 million foreign workers and undocumented migrants were present in Libya before the conflict began, of which almost 1 million were believed to be of Sahelian or sub-Saharan African origin.⁶⁷ The U.S. Department of State Report for 2013 noted “societal discrimination and violence originating in ethnic differences. Racial discrimination existed against dark-skinned Libyans, including those originally of sub-Saharan descent, in part due to allegations that Gaddafi used African mercenaries during the conflict. There were reports that authorities removed dark-skinned Libyans as well as Tuaregs from their homes in Tripoli and held them in detention centres and prisons”.⁶⁸
- 2.5.2 Bertelsmann Stiftung reports that “Black Africans were subject to general discrimination even under the Gaddafi regime. However, due to the accusation that many were Gaddafi loyalists and mercenaries this discrimination has intensified, leading even to atrocities perpetrated against them”.⁶⁹ It should be noted that the Tawarghas are a community of black Libyans⁷⁰ and that the Tebu are a tribe of indigenous Black African nomads.⁷¹

⁶⁵ Jamestown Foundation: Tripoli Battles Shadowy Qaddafists While Tribal Rivals Fight Over Southern Libya; Terrorism Monitor Volume: 12 Issue: 2, 23 January 2014
http://www.jamestown.org/regions/africa/single/?tx_ttnews%5Btt_news%5D=41866&tx_ttnews%5BbackPid%5D=55&cHash=d112afa9444ffe2e295fda172d098f6f accessed

⁶⁶ Internal Displacement Monitoring Centre, Libya IDP Figures Analysis (as of September 2014), 23 September 2014 <http://www.internal-displacement.org/middle-east-and-north-africa/libya/figures-analysis> date accessed 28 January 2015

⁶⁷ US Department of State, Country Report on Human Rights Practices for 2012: Libya, 19 April 2013, Section 6. National/Racial/Ethnic Minorities
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204373>
accessed 15 October 2014

⁶⁸ US State Department, Country Report on Human Rights Practices 2013: Libya, 27 February 2014, Section 6, National/Racial/Ethnic Minorities
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220366>
accessed 15 October 2014

⁶⁹ Bertelsmann Stiftung, BTI 2014 — Libya Country Report. Gütersloh: Bertelsmann Stiftung, 2014
<http://www.bti-project.org/fileadmin/Inhalte/reports/2014/pdf/BTI%202014%20Libya.pdf>
accessed 15 October 2014

⁷⁰ Amnesty International, Barred from Their Homes - The Continued Displacement and Persecution of Tawarghas and Other Communities in Libya, 23 October 2013, Introduction p.5
<http://www.amnesty.org/en/library/asset/MDE19/011/2013/en/1bdf76a5-fbf9-4264-a637-066c665c75c4/mde190112013en.pdf> accessed 16 October 2014

⁷¹ Jamestown Foundation: Tripoli Battles Shadowy Qaddafists While Tribal Rivals Fight Over Southern Libya; Terrorism Monitor Volume: 12 Issue: 2, 23 January 2014 http://www.ecoi.net/local_link/268655/383282_en.html
accessed 15 October 2014

- 2.5.3 In July 2012 Amnesty International reporting on the situation for foreign nationals, especially those from Sub-Saharan Africa, noted that “although they are no longer being arrested on a large scale on suspicion of being ‘foreign mercenaries’ in the pay of Colonel Gaddafi, they are still being routinely rounded up from their homes or seized at checkpoints or from streets by armed militias. Their ‘crime’ is to have entered or remained in the country ‘illegally’ They are held indefinitely in detention facilities under the control of armed militias in poor conditions, without any possibility to challenge the legality of their detention. Some have complained of beatings amounting to torture”.⁷²
- 2.5.4 Amnesty International further reports that armed militias have targeted whole communities accused of having supported Gaddafi and of committing crimes during the conflict, with Tawargha at the hands of Misratah militias particularly vulnerable to arrest. It also notes that militias take suspects captive from their homes, the street or at checkpoints and that easily identifiable targets such as black Tawarghas or Sub-Saharan Africans are particularly vulnerable.⁷³
- 2.5.5 In its report covering 2011 the Minority Rights Group stated that “According to rights groups, rebel fighters killed and detained black Libyans and sub-Saharan African migrant workers, claiming they were pro-Gaddafi mercenaries. However, allegations that Gaddafi employed many Africans from neighbouring countries such as Chad, Nigeria and Sudan as mercenaries appeared to be heavily exaggerated. Many Africans worked in civilian jobs. There have been reports of harassment and violence towards sub-Saharan African migrant workers from rebel fighters and civilians alike, and security missions have allegedly turned into persecution of Africans based on their skin colour.”⁷⁴
- 2.5.6 During a field mission in September 2011, Human Rights Watch (HRW) reported that Africans held in Libyan prisons were in overcrowded cells with appalling hygiene standards and no access to clean drinking water. In addition, many sub-Saharan Africans have been displaced by the fighting and for fear of reprisals; the largest group of displaced Africans was in the port of Janzur between Tripoli and Zawya, housed in camps with poor hygiene and sanitation conditions. Residents of the camp complained to HRW that armed Libyans frequently entered the camp to harass them and rape women.”⁷⁵

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2.6. Amazigh (Berber) Nationalism

- 2.6.1 The Minority Rights Group reports that the “Libyan Amazigh, also known as Berbers, are the country’s largest indigenous minority and faced discrimination and harassment under Gaddafi’s rule. The Amazigh language, Tamazight, was outlawed, and Gaddafi passed laws which banned the use of non-Arab Amazigh names on official documentation.

⁷² Amnesty International, Libya: Rule of law or rule of militias?, 5 July 2012, 1. Introduction <http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf> accessed 16 October 2014

⁷³ Amnesty International, Libya: Rule of law or rule of militias? 5 July 2012, Arbitrary arrests <http://www.amnesty.org/en/library/asset/MDE19/012/2012/en/f2d36090-5716-4ef1-81a7-f4b1ebd082fc/mde190122012en.pdf> accessed 15 October 2014

⁷⁴ Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2012 – Libya, 28 June 2012 <http://www.unhcr.org/refworld/topic,45a5fb512,46556af43,4fedb3f7c,0,,,LBY.html> accessed 15 October 2014

⁷⁵ Human Rights Watch: Libya: Stop arbitrary arrests of Black Africans; 4 September 2011 <http://www.hrw.org/news/2011/09/04/libya-stop-arbitrary-arrests-black-africans> accessed 18 December 2014

Amazigh New Year celebrations were considered un-Arab by Gaddafi, and Amazighs who expressed their culture and heritage were often persecuted by the state”.⁷⁶

- 2.6.2 The International Crisis Group reports that “Arabisation of the Berbers advanced more rapidly and completely in Libya than in any other Maghreb country”. It further notes that the regime suppressed any sign of Berber activism and attempted to ensure that Berbers marry only non-Berbers in order to erode their sense of identity.⁷⁷

Minority Rights Group reports that Amazigh living in the Nafusa Mountains in north-west Libya were among the first to protest against Gaddafi on 18 February 2011, and fighting between rebel forces and Gaddafi in the region forced nearly 55,000 people into neighbouring Tunisia.⁷⁸ Amnesty International describes in May 2011 that since the siege began, “scores of people, mostly young men, have “disappeared” in the Nafusa Mountain area at the hands of forces loyal to Colonel Gaddafi and have not been seen from or heard of again – they are victims of enforced disappearance. They are believed to have been transferred to detention facilities in and around Tripoli, and there are serious concerns about their safety and wellbeing”.⁷⁹

Language remained a point of contention. Under Gaddafi, Amazigh persons faced discrimination, including limitations on the use of their native language, Tamazight. They encouraged the new government to make Tamazight one of the official languages. Following the passage of the electoral law for the Constitutional Drafting Assembly that omitted stipulations on language, Amazigh groups launched a campaign of civil disobedience 24 July 2013, including a boycott of the GNC. On 30 July 2013, the GNC officially recognized the Amazigh, Tuareg, and Tebu languages and provided for them to be taught in schools.⁸⁰

The UN Secretary-General reports that “As for the elections for the Constitution Drafting Assembly of February 2014, the Amazigh community declined to present candidates or register voters, demanding constitutional guarantees for their rights.”⁸¹ The same source states “...much remains to be done to deal with unresolved issues regarding the participation of the Amazigh community, assert the independence of the process and protect it against the risks of intimidation and violence.”⁸²

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⁷⁶ Minority Rights Group, State of the World's Minorities and Indigenous Peoples 2012, 28 June 2012, Libya, <http://www.minorityrights.org/download.php?id=1112> accessed 26 November 2014

⁷⁷ International Crisis Group, Popular Protests in North Africa and the Middle East (V): Making Sense of Libya, 6 June 2011, B, Minorities: Berbers, Tebu and Tuareg,

<http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/North%20Africa/107%20-%20Popular%20Protest%20in%20North%20Africa%20and%20the%20Middle%20East%20V%20-%20Making%20Sense%20of%20Libya.pdf> accessed 26 November 2014

⁷⁸ Minority Rights Group, State of the World's Minorities and Indigenous Peoples 2012, 28 June 2012, Libya, <http://www.minorityrights.org/download.php?id=1112> accessed 10 December 2014

⁷⁹ Amnesty International, Disappearances in the besieged Nafusa Mountain as thousands seek safety in Tunisia, 27 May 2011, Introduction <http://www.amnesty.org/en/library/asset/MDE19/020/2011/en/aed13a1a-07b4-434b-bb28-0c0aa1d53069/mde190202011en.pdf> accessed 10 December 2014

⁸⁰ US Department of State, Country Report on Human Rights Practices for 2013: Libya, Section 6, 27 February 2014, Section 6. National/Racial/Ethnic Minorities <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220366> accessed 30 December 2014

⁸¹ UN, Report of the Secretary-General on the United Nations Support Mission in Libya, 5 September 2014, paragraph 45

<http://www.refworld.org/docid/54119b554.html>
Date accessed 28 January 2015

⁸² UN, Report of the Secretary-General on the United Nations Support Mission in Libya, 5 September 2014, paragraph 95
<http://www.refworld.org/docid/54119b554.html>
Date accessed 28 January 2015

2.7 The Mashashiya

2.7.1 The Mashashiya (also known as Mashashiya) tribes-people live in western Libya, and are reported to have originally been shepherds, nomadic people who followed their herds. They now live in the region around the Nafusa Mountains, Zintan and other towns in the area.⁸³ A report by 'SpiegelMobil' published in 2011 provides the background to the tribal rivalries between the Mashashiya and other tribes; the report states:

"They (elders of the Zintan tribe) say that the Mashashiya did not own the land they had inhabited and where they had built their houses, and that it was land that they had stolen from other tribes, including the Zintan, the Khaleifa and the Kikla. According to the Zintan elders, the Mashashiya are shepherds, as their name, which means "Walkers," signifies. They have never owned land and are not from the area. Instead, they are from southern Libya..."

"The elders say that the Mashashiya supported Gaddafi because he gave them the land in the region in the 1970s. They also say that Gaddafi bred discord in their valleys to play off the tribes against one another and safeguard his own power. The men speak of old deeds of ownership from the Italian period, deeds that allegedly prove which established tribes own the land. They also mention maps drawn by the former French colonial rulers in Algeria, which show the large tribal territory of the Zintan and make no mention of the Mashashiya..." "We've known about the tricks of the Mashashiya for a long time," says one man. "Sometimes they would move into empty houses, set up gravestones nearby and claim that their ancestors were buried there. They worked as informers for the Italians during the colonial period..."⁸⁴

2.7.2 The report continues:

"The people in Zintan say that the Mashashiya benefited under Gaddafi while the Zintan suffered from neglect. The hostility between the two tribes has simmered beneath the surface for decades. There was no intermarriage between members of the two tribes, they avoided each other and sometimes they went to court over land disputes. Then the revolution erupted and the Mashashiya declared their support for Gaddafi. The elders in Zintan say that they had negotiated three times with the Mashashiya elders since April, and that the latter had agreed to remain neutral. But Gaddafi's soldiers apparently used Awaniya as a base for their tanks, firing Grad rockets from there at the civilian population of Zintan and the surrounding villages for months. The tribes have been at war with each other ever since..."

"The Mashashiya will only be allowed to return if they can prove that the land belongs to them, but it doesn't, say the Zintan elders. Many of the rebels are more direct, saying that they don't like the Mashashiya and that "they should stay out of here." On the rebel side of the front, there are no longer any members of the tribe who could be asked about these accusations. The only remaining Mashashiya are in the Zintan prison, a former school. One of the two men interviewed admits that most members of his tribe are for Gaddafi, but the other one denies it. Both of the two men insist that they did not fight for Gaddafi. They say that they are only in prison because of their tribal affiliation..."⁸⁵

⁸³ Al-Araby al-Jadeed: Libya's new generation of disappeared: 27 November 2014
<http://www.alaraby.co.uk/english/features/60caae8d-526c-422a-92a0-2e9bffd6376c> accessed 31 December 2014

⁸⁴ Spiegel Mobil: Tribal Rivalries Complicate Libyan War: 26 July 2011
<http://ml.spiegel.de/article.do?id=776695&p=1> accessed 31 December 2014

⁸⁵ Spiegel Mobil: Tribal Rivalries Complicate Libyan War: 26 July 2011
<http://ml.spiegel.de/article.do?id=776695&p=1> accessed 31 December 2014

2.7.3 The NGO Human Rights Watch also reported in its annual report covering 2012 that the Mashashiya people (amongst other tribes) are barred from returning to their homes, stating:

“Other displaced groups include residents of Tamina and Kararim, also accused of having sided with pro-Gaddafi forces. Armed groups have barred the Mashashiya tribe from returning to their villages in the Nafusa Mountains due to tribal and political disputes.”⁸⁶

2.7.4 Amnesty International reports that “In June-July 2011, after militias from the town of Zintan gained control of the villages of ‘Awnya, Zawiyat al Bagul and Omer, they forced out the entire resident population who came from the Mashashya tribe. ... Scores of Mashashya were captured in June-July 2011 and detained in the nearby town of Zintan. Abductions during identity checks by Zintan militias continued well after the end of the conflict. ... Militias from Zintan accused the Mashashya of supporting Colonel al-Gaddafi during the siege of their town between March and June 2011. Mashashya leaders say that the community is being punished because of a longstanding local conflict over land and water. In September 2011, leaders and elders from the Nafusa Mountain area promised to allow the Mashashya to return home provided that they surrendered their arms, handed over wanted people and raised the “independence flag” in Shgeiga. The Mashashya say that even though they fulfilled these terms, the Libyan authorities have been unable or unwilling to ensure their safe return. Just like the Misratah militias who threaten Tawargha, militias from Zintan vowed that the Mashashya would never be able to return. The suffering of the Mashashya intensified following armed assaults on Shgeiga and Mizda in June 2012. The violence led to 105 deaths, according to government estimates, and further displacement. Since then, brigades under the Ministry of Defence have been deployed on the main road in the Nafusa Mountain, but they were unable to prevent violence in Mizda in March 2013 between the Mashashya and the Quntrar tribe, which is allied with Zintan. This outbreak of violence led to 15 deaths and temporarily displaced 1,000 families. The displaced Mashashya continue to live in fear of abductions and confrontation, and their movement in the area is greatly restricted.”⁸⁷

2.7.5 The Internal Displacement Monitoring Centre reports that as of 8 September 2014, at least 56,544 people have been in protracted displacement since the 2011 conflict that ended Muammar al-Gaddafi's 41-year rule, including approximately 9,200 IDPs from the Mashashya, Qawalish and Sian tribes who remained displaced in the Nafusa Mountains.⁸⁸

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⁸⁶ Human Rights Watch: World Report 2013 - Libya, 31 January 2013
<http://www.hrw.org/world-report/2013/country-chapters/libya?page=2>

Date accessed 28 January 2015

⁸⁷ Amnesty International, Barred from Their Homes - The Continued Displacement and Persecution of Tawarghas and Other Communities in Libya, 23 October 2013, Displacement of the Mashashya p.7
<http://www.amnesty.org/en/library/asset/MDE19/011/2013/en/1bdf76a5-fbf9-4264-a637-066c665c75c4/mde190112013en.pdf> accessed 28 January 2015

⁸⁸ Internal Displacement Monitoring Centre, Libya IDP Figures Analysis (as of September 2014), 23 September 2014 <http://www.internal-displacement.org/middle-east-and-north-africa/libya/figures-analysis> date accessed 28 January 2015

Annex A: Map of Libya

This is a map of Libya showing the main towns and cities.⁸⁹



⁸⁹ United Nations, Department of Field Support, Cartographic Section: Libya, March 2013
<http://www.un.org/Depts/Cartographic/map/profile/libya.pdf>

Weblinks for other maps on Libya:

ESRI/UN Cartographic Section (UNCS), Libya, September 2013

http://reliefweb.int/sites/reliefweb.int/files/resources/lby_ocha.pdf

Nations Online, Political map of Libya, Undated [Last accessed: 14/05/2014]

<http://www.nationsonline.org/oneworld/map/libya-political-map.htm>

Annex B: Caselaw

AT and Others (Article 15c; risk categories) (CG) [2014] UKUT 318 (IAC) (14 July 2014)

The Upper Tribunal held that (see paragraph 215):

Country guidance

(1) In the aftermath of the armed revolution that brought about the fall of the dictatorial and repressive regime of Colonel Qadhafi, the central government in Libya has relied on various militias to undertake security and policing functions. Those militias and the many others that operate within Libya, often have their own interests, loyalties and priorities which may or may not coincide with the interests of the central government.

Article 15(c)

(2) There is not such a high level of indiscriminate violence in Libya, within the meaning of Article 15(c) of Council Directive 2004/83/EC ("the Qualification Directive") so as to mean that substantial grounds exist for believing that an individual would, solely by being present there, face a real risk which threatens his or her life or person.

Former regime members and associates

(3) Having regard to the generally hostile attitude of society to the former regime, the following are, in general, at real risk of persecution or Article 3 ill-treatment on return to Libya: -

- (a) Former high ranking officials within the intelligence services of that regime;
- (b) others with an association at senior level with that regime.

(4) As a general matter, the closer an individual was to the centre of power within the former regime, the more likely that the individual will be able to establish a risk of persecution or Article 3 ill-treatment on return.

(5) The majority of the population of Libya either worked for, had some association with, or has a member of the family who worked for or had an association with the Qadhafi regime. Such employment or association alone is not sufficient to establish a risk of persecution or Article 3 ill-treatment on return.

(6) In general, family members of those described in (3) and (4) above are not at risk of persecution or a breach of their protected rights on return. It is possible, however, that an individual will be able to establish such a risk but this will need to be demonstrated by specific evidence relating to the individual's circumstances. Mere assertion of risk by association as a family member would not be sufficient without fact-specific evidence of the risk to that particular family member.

Black Libyans etc

(7) A 'Black Libyan' is a Libyan of black African appearance, and includes a person who may not actually possess Libyan nationality but for whom Libya is their country of former habitual residence. There is endemic racism within Libyan society towards Black Libyans. However, Black Libyans who are not Tawurga or Tuareg are not per se at risk of persecution or Article 3 ill-treatment on return, and will only be able to establish the need for international protection with reference to some additional factor particular to that individual.

(8) The Tawurga are Black Libyans who are perceived by Libyans to have been mercenaries on the side of the Qadhafi regime and to have committed human rights abuses during the revolution. The Tuareg are also Black Libyans and are also perceived to have been supporters of the former regime.

(9) Whilst there remains a need for an individual assessment of each individual's circumstances, a person who is Tawurga or Tuareg will in general be able to establish the need for international protection. The same is true of persons from the Mashashiya ethnic or tribal group. The Mashashiya are not Black Libyans but are similarly perceived as a group to have been supporters of the Qadhafi regime.

Women

(10) Whilst Libya is a male-dominated society and there is evidence of discrimination and violence against women and poor recognition of women's rights, being female does not per se establish a risk on return. However, taking into account all the circumstances, including a woman's age, health, level of education and economic status, one or more of the following characteristics or factors are likely, depending on the circumstances, to be significant in relation to the assessment of risk on return for a woman:

- a) African ethnicity;
- b) Being a victim of sexual violence, including having been raped by soldiers loyal to the Qadhafi regime or by other combatants;
- c) Being a woman accused or suspected of sexual misdemeanours or offences against family honour.

Failed asylum seekers

(11) Failed asylum seekers are not, for that reason alone, at real risk on return.

Risk at point of return

(12) There is no real risk of harm to the ordinary traveller arriving either at Tripoli international airport or Benghazi airport.

(13) However, a person who has established that they come within one of the risk categories set out at (3), (4), (9) and (10) above, will be at risk from government security forces or from militias, on arrival at Tripoli International Airport, on account of information that is required to be given by passengers on arrival.

Risk following return

(14) Even if a person described in (13) above is able to pass through the airport without being detained, because of the presence of militias at various checkpoints such a person is reasonably likely to be detained at a checkpoint en route to his or her home area.

(15) Notwithstanding the prevalence of checkpoints manned by militias, it is possible to travel overland from Tripoli airport to other destinations without a real risk of persecution, serious harm or Article 3 ill-treatment. Land travel in general is possible and can be undertaken without giving rise to a risk of harm that requires recognition in terms of international protection. The evidence does not reveal such a level of arbitrary or irrational conduct on the part of militias at checkpoints such as to put the ordinary traveller at real risk. A claim to international protection is unlikely to succeed simply on the basis of a claimed risk of travel to any particular area of Libya. Area specific evidence would have to be adduced which establishes such a risk.

(16) The 'family book' is the main proof of citizenship, listing family members and being required, for example, to obtain employment or a bank loan. However, the fact that a person does not possess a 'family book' would not prevent travel within Libya and the lack of a family book would not itself give rise to a risk of harm.

Sufficiency of protection

(17) In general, an individual who succeeds in establishing a real risk of harm by reference to the risk categories set out at (3), (4), (9) and (10) above, will not be afforded a sufficiency of protection from that harm.

Internal relocation

(18) Likewise, such individuals would not, in general, have available to them the option of internal relocation.

(19) For persons who have established a real risk of proscribed ill-treatment in their home area for a reason other than by reference to one of the categories set out above, for example because of a family or tribal feud, or because of hostility from a particular militia, it is possible to be able safely to travel from one part of Libya to another, depending on whether the reason for the risk is one that would give rise to further risk for that same reason, on encountering a checkpoint.

(20) A male seeking to avoid a local risk of harm such as described in (19) above, would be able in practical terms to relocate to another area of Libya, be it for example Tripoli or Benghazi, particularly if the person has tribal or family connections there. The absence of such connections would not prevent the person from establishing himself, in the sense of being able to live in the new community and find accommodation. It would not be unduly harsh for such a person to relocate internally.

(21) However, such a person may not be able to avoid a risk of harm in a new area where the person has no connections in terms of tribal or family links, but the person or group that is feared does have such links. A fact-specific enquiry is essential. An appellant's assertion that the individual or group that is feared has links to say, Tripoli or Benghazi, or another prospective place of relocation, will need to be assessed in the light of the findings in relation to overall credibility.

(22) In relation to the possibility for a woman to relocate internally, taking into account the position of women in society in Libya, the difficulty for women of accessing accommodation if alone, and the rarity of a woman arriving in a community without knowing any person there, internal relocation would not be reasonable and would be unduly harsh unless in the prospective area of relocation the woman has a close family or significant other connection, aside from merely a tribal connection.

(23) In addition, bearing in mind the above factors, a woman is likely to be more conspicuous with the result that her presence may more easily be discovered by the prospective persecutor.

(24) The following cases are superseded by this decision and are no longer to be treated as providing country guidance:

ME (Risk, Failed Asylum Seekers, Hassan) Libya CG [2003] UKIAT 00200 (29 October 2003)

HH (Risk, Failed Asylum Seekers) Libya CG [2003] UKIAT 00202 (24 February 2004) KK

(Failed Asylum Seeker) Libya CG [2004] UKIAT 00151 (27 May 2004)

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