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UNHCR POSITION ON RETURNS TO LIBYA - UPDATE I

1. This document provides an update of and replaces the *UNHCR Position on Returns to Libya*¹ published in November 2014.

Introduction

2. The current situation in Libya is characterized by a continued lack of rule of law and order, ongoing fighting between rival armed groups² in many parts of the country and daily assassinations, bombings and kidnappings.³ Intense fighting between opposing armed groups over control of territory, resources and infrastructure since May 2014 has resulted in the death of thousands of people, including civilians,⁴ and led to the displacement of over 435,000 individuals,⁵ the destruction of vital infrastructure, disruption of basic services and deteriorating humanitarian conditions.⁶

¹ UNHCR, *UNHCR Position on Returns to Libya*, 12 November 2014, <http://www.refworld.org/docid/54646a494.html>.

² For the purpose of this document, “armed groups” refer to a multitude of factions with different affiliations, command and control structures and agendas. While many have *de jure* connections to the state, they largely operate independently of state authority: “*Libya’s security sector is highly fragmented and characterized by the relatively minor role that institutional security actors play. Since 2013, the roles of both the National Police and the National Army have further declined across the country. Libya’s security sector is thus characterized by the increased role of auxiliary forces, often paid by the state but outside real state control, and the struggle between institutional security actors and these auxiliary forces*”; United States Institute of Peace (USIP), *Perceptions of Security in Libya - Institutional and Revolutionary Actors*, May 2015, p. 30, <http://www.usip.org/sites/default/files/PW108-Perceptions-of-Security-in-Libya.pdf>. “*Hundreds of armed groups, comprising more than 200,000 fighters, continue to be paid from central State funds. Some are nominally affiliated with either the Ministry of Defence or the Ministry of the Interior. Those groups exercise effective control in localized areas (...)*”; UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Libya and on Related Technical Support and Capacity-Building Needs*, 12 January 2015, A/HRC/28/51, <http://www.refworld.org/docid/54e1fc704.html> (hereafter: UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015), para 7.

³ For an overview of the security situation in the different parts of the country, see successive reports by the UN Secretary-General on the UN Support Mission in Libya (UNSMIL), available at: <http://unsmil.unmissions.org/Default.aspx?tabid=3549>.

⁴ Civilians, including women and children, account for a high proportion of the casualties as the fighting has been concentrated in densely populated urban areas. It is estimated that at least 20,000 civilians have been injured as a result of the conflict between July 2014 and May 2015, with the actual number likely higher due to underreporting and ongoing fighting; OCHA, *2015 Libya Humanitarian Needs Overview - September 2015*, 1 October 2015, http://reliefweb.int/sites/reliefweb.int/files/resources/Libya_HNO_Final_English.pdf [hereafter: OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015], p. 8. Libya Body Count has recorded a total of 2,825 “violent deaths” in 2014 in addition to 1,378 such deaths between January and 17 October 2015, based on media reports and reports from the public websites of the Libyan Ministry of Health, Interior Ministry and Defense Ministry. Note: the organization does not make a distinction between civilians and combatants. See Libya Body Count, accessed 20 October 2015, <http://www.libyabodycount.org/table>. Note that several media sources use casualty figures provided by Libya Body Count. UNHCR is not aware of its methodology and its reliability as a source has not been independently verified.

⁵ See below “*Internal Displacement and External Displacement*”.

⁶ IOM/UNSMIL/UNHCR/UNICEF/WFP, *Interagency Rapid Assessment – Libya*, December 2014, p. 1, <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp271609.pdf> (hereafter: *Interagency Rapid Assessment*, December 2014).

3. Since the overthrow of Colonel Muammar Gaddafi and his government in October 2011, successive transitional governance arrangements have failed to produce a stable political and security environment with central authority exercised throughout the country. Two distinct parliaments and governments claim legitimacy: the internationally recognized government in Tobruk and Al-Bayda, headed by Prime Minister Abdullah Al-Thinni, and the government of “National Salvation”, headed by Khalifa Al-Ghwell, based in Tripoli.⁷ However, political institutions reportedly have limited influence on the ground.⁸ Each of the political camps is associated with a loose coalition of armed groups, which were originally brought together for specific offensives and counter-offensives known as Operation Dignity⁹ and Libya Dawn.¹⁰ Groups affiliated with Libya Dawn and Operation Dignity forces have been engaged in battles in the Nafusa Mountains and along Libya’s western coast.¹¹ In the east of the country, fighting continues primarily between Operation Dignity forces and armed Islamist groups, including in Benghazi and Derna. The South continues to see intermittent violent conflict primarily linked to inter and intra-ethnic rivalries.¹² Armed groups are organized along ideological, regional, tribal, and/or ethnic lines.¹³ Consequently, conflict dynamics

⁷ European Institute of the Mediterranean (IEMed), *Libya’s Dangerous Divisions*, IEMed Mediterranean Yearbook 2015, September 2015, <http://bit.ly/1iKfiGu> (hereafter: IEMed, *Libya’s Dangerous Divisions*, September 2015), p. 1. Associated Press, *Benghazi, Where Libya’s Uprising Began, Now a Shattered City*, 2 July 2015, <http://apne.ws/1CMIjMeS>; International Business Times, *Battle for Libya: A Guide to the Country’s Factions and Militias*, 15 June 2015, <http://ibt.uk/A006Joo>; European Council on Foreign Relations (ECFR), *Mapping Libya’s Factions*, 9 April 2015, <http://www.ecfr.eu/mena/mappinglibya>.

⁸ “Control of Libya is currently divided between two loosely-tied coalitions of non-state armed groups, with small pockets of non-allied armed groups in the north. (...) many parts of the country are under the de facto control of militias and tribes, which do not answer to either Tripoli or Tobruk. Instead, these local groups enter into alliances that benefit them, resulting in a security situation that is much more complex than having two, three, or even four warring sides. (...) The loyalties of armed groups lie primarily with informal ties to regions, tribes, brigades or cities, and even militias that have been officially integrated into the National Liberation Army [national armed force of Libya, established by the National Transitional Council in 2011], have little interest in taking orders from the House of Representatives. Still, the militants welcome the funding and legitimacy that comes with being state security providers”; The Broker, *Libya’s Conflict: A Patchwork of Local Divisions and Regional Interests*, 7 July 2015, <http://bit.ly/1Jz2cos>. “(...) the lack of a central authority, as well as the tribal fragmentation and rivalry, and the fighting for the economic resources has led to a complex political situation in which two weak governments are trying to obtain continuity and recognition, but in fact control nothing. Indeed, real control lies with the armed militias and private armies, which are giving their allegiance to one or the other government (or to the Islamic State), but also changing their allegiance depending on the military situation or on the economic opportunities”; The Maghreb and Orient Courier, *Libya – Political, Economic and Tribal Complexity*, August 2015, <http://bit.ly/1VbgiBD>. “Any survey of Libya’s political landscape should bear in mind that politicians and elected representatives generally wield less influence than the country’s multitude of armed groups, most of which are on the state payroll”; ECFR, *Mapping Libya’s Factions*, 9 April 2015, <http://www.ecfr.eu/mena/mappinglibya>. See also IEMed, *Libya’s Dangerous Divisions*, September 2015, p. 1; Clingendael/Netherlands Institute of International Relations, *Addressing Libya’s Multiple Crises: When Violent Politics, Extremism and Crime Meet*, July 2015, <http://bit.ly/1L3mJUP> (hereafter: Clingendael, *Addressing Libya’s Multiple Crises*, July 2015), pp. 3-4; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, p. 1.

⁹ On 16 May 2014, former General Khalifa Haftar launched an air and ground offensive dubbed “Operation Dignity” against Islamist groups in Benghazi. The coalition “comprises several shifting alliances of mutual convenience based largely on short-term goals”, including army units, tribal militias, eastern federalists, Zintani battalions, and armed civilians (“Sahwat”). In March 2015, General Haftar was appointed as commander of the Libyan Army by the internationally recognized House of Representatives; ECFR, *Mapping Libya’s Factions*, 9 April 2015, <http://www.ecfr.eu/mena/mappinglibya>; Reuters, *Libya’s Haftar Appointed Army Chief for Recognised Government*, 2 March 2015, <http://reut.rs/1K7Fyqv>.

¹⁰ In response to “Operation Dignity”, a military coalition launched operation “Libya Dawn” on 13 July 2014. It comprises armed forces from Misrata and a diverse range of Islamist and non-Islamist groups from cities and towns of western Libya (e.g. Tripoli, Zawiya, Gherian), including from the ethnic Amazigh communities. Libya Dawn controls much of western Libya, including the cities of Misrata and Tripoli; IEMed, *Libya’s Dangerous Divisions*, September 2015, p. 1; ECFR, *Mapping Libya’s Factions*, 9 April 2015, <http://www.ecfr.eu/mena/mappinglibya>; BBC, *Guide to Key Libyan Militias*, 9 October 2015, <http://bbc.in/1v4ryEu>.

¹¹ In north-western Libya, local ceasefire and reconciliation initiatives, some supported by UNSMIL, have reportedly resulted in a reduction of military hostilities; UN News Centre, *At Security Council, UN Envoy Says Libyan Parties Must Come Together, Make ‘Final Push’ for Peace*, 26 August 2015, <http://www.un.org/apps/news/story.asp?NewsID=51728>; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 13 August 2015, S/2015/624, <http://www.refworld.org/docid/55dc41d54.html> (hereafter: *Report of the Secretary-General on the UNSMIL*, 13 August 2015), paras 23-27, 79. However, sporadic clashes between rival militias continue in the north-west, including in Tripoli. The capital also suffers from a lack of law and order and sees regular bombings, abductions, and other attacks; *Report of the Secretary-General on the UNSMIL*, 13 August 2015, paras 41, 48, and 71. See also The Guardian, *Ban Ki-Moon Calls for Libya Peace Deal as Factions Miss Ceasefire Deadline*, 2 October 2015, <http://gu.com/p/4dxbj/stw>; Agence France Press, *Bomb Hits near Libya Prison Holding Former Kadhafi Officials*, 9 September 2015, <http://yhoo.it/1VklCSe>; Reuters, *Car Bomb Damages Italy’s ENI Joint Venture Office in Libyan Capital*, 31 August 2015, <http://reut.rs/1Fcme48>.

¹² For an overview of the security situation by region, see *Report of the Secretary-General on the UNSMIL*, 13 August 2015, paras 23-37.

¹³ “A closer examination of actors within the opposing camps, however, reveals that their interests are manifold, fluid, localized and often based on ideological, tribal and social connections. (...) With no existing state structure in place, the unity of the Libyan state was challenged by a plethora of interest groups and their constituencies based on tribes, cities, regions and various

are often shaped by regional and local interests with local conflicts partly overlapping with divisions at the national level.¹⁴ The lack of central government authority has reportedly weakened the Libyan state and its social fabric.¹⁵ Exploiting the political and security vacuum in the country, extremist groups, including the Shura Council of Islamic Youth, which has declared its allegiance to the Islamic State of Iraq and Al-Sham (ISIS)¹⁶ and Al-Qa'eda-linked Ansar Al-Sharia (AS),¹⁷ have gained a foothold, further exacerbating the intensity of the violence.¹⁸ The overall security situation in Libya remains highly volatile and unpredictable.¹⁹

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- Islamist tendencies*"; Clingendael, *Addressing Libya's Multiple Crises*, July 2015, p. 1, 2. "Understanding the fault lines of Libya's turmoil requires moving beyond the one-dimensional narratives peddled by various actors in the conflict. All have an interest in spinning certain tropes about the crisis, painting it either as Islamists versus "liberals" or self-proclaimed "revolutionaries" versus former regime elements trying to stage a comeback. Others hold that the fighting is primarily driven by tribal rivalries or regional power plays like that between Zintan and Misrata in the west and federalists and their opponents in the east. In fact, all of these elements are present to various degrees in Libya's unraveling, but none overrides the others as a dominant narrative"; ECFR, *Mapping Libya's Factions*, 9 April 2015, <http://www.ecfr.eu/mena/mappinglibya>. See also UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 26 February 2015, S/2015/144, <http://www.refworld.org/docid/55dd88c64.html> (hereafter: *Report of the Secretary-General on the UNSMIL*, 26 February 2015), para 2.
- ¹⁴ "Most of the fighting is fuelled by local rather than national or ideological concerns"; The Broker, *Libya's Conflict: A Patchwork of Local Divisions and Regional Interests*, 7 July 2015, <http://bit.ly/1Jz2cos>. "Libya's crisis is a multi-faceted one, with localized conflicts feeding into the broader national power struggle between the internationally recognized government of Abdullah al-Thinni in eastern Libya and a rival administration in Tripoli"; ECFR, *Mapping Libya's Factions*, 9 April 2015, <http://www.ecfr.eu/mena/mappinglibya>. See also The Conversation, *Debunking Three Dangerous Myths about the Conflict in Libya*, 21 January 2015, <http://bit.ly/1ulQrIJ>.
- ¹⁵ *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 77.
- ¹⁶ The "Islamic State of Iraq and Al-Sham" (ISIS) (Arabic: *Ad-Dawlah Al-Islāmiyyah fi Al-Iraq wa Al-Sham*) is also known as the "Islamic State of Iraq and the Levant" (ISIL) and has proclaimed itself as "Islamic State" (IS). Reports document ISIS activity mainly in Derna, Sirte, Sabratha and Benghazi; BBC, *Guide to Key Libyan Militias*, 9 October 2015, <http://bbc.in/1v4ryEu>; Carnegie Endowment for International Peace, *Taking on Operation Dawn: The Creeping Advance of the Islamic State in Western Libya*, 24 June 2015, <http://ceip.org/1SMoJIH>; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 16.
- ¹⁷ Ansar Al-Sharia emerged following the February 2011 anti-government uprising. It has been designated as a "terrorist group" by the UN Security Council; UN Security Council, *Security Council Al-Qaida Sanctions Committee Adds Two Entities to Its Sanctions List*, 19 November 2014, <http://www.un.org/press/en/2014/sc11659.doc.htm>. See also BBC, *Guide to Key Libyan Militias*, 9 October 2015, <http://bbc.in/1v4ryEu>.
- ¹⁸ "The Islamic State and other jihadi groups have spread their presence in Libya dramatically since 2014, taking control of several towns in the Gulf of Sirte and carrying out a series of attacks against foreign workers, oil infrastructure and military and civilian targets in areas controlled by either of the two main camps, most recently striking twice in Misrata"; International Crisis Group (ICG), *The Libyan Political Dialogue: An Incomplete Consensus*, 16 July 2015, <http://www.refworld.org/docid/55aca7f64.html>. See also Washington Post, *In Libya, the Islamic State's Black Banner Rises by the Mediterranean*, 8 October 2015, <http://wpo.st/kENg0>; IEMed, *Libya's Dangerous Divisions*, September 2015, p. 3; *Report of the Secretary-General on the UNSMIL*, 13 August 2015, paras 29-30, 33; The New Yorker, *ISIS Rises in Libya*, 4 August 2015, <http://nyr.kr/1IHKfk8>; UN Security Council, *Security Council Resolution 2214 (2015) [on Threats to Peace and Security Caused by Terrorist Acts by Al-Qaida and Associated Groups Operating in Libya]*, 27 March 2015, S/RES/2214 (2015), <http://www.refworld.org/docid/553df0614.html>.
- ¹⁹ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 71; UNSMIL, *UNSMIL Deeply Concerned about Clashes in South, Calls for Ceasefire, Supports Reconciliation Efforts*, 23 July 2015, <http://t.co/9InpJALXce>; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 72.

4. United Nations and international efforts to facilitate a peaceful resolution to the political and institutional crisis in Libya and to bring an end to the armed conflict resulted in a sixth and final draft agreement on forming a Government of National Accord (GNA) presented to the parties on 21 September 2015.²⁰ A renewed military escalation in Benghazi was condemned by the UN as an attempt to derail the peace process.²¹ On 8 October 2015, UN Special Envoy to Libya, Bernardino León, announced that the Libyan parties had reached an agreement on the composition of the Presidency Council of the GNA.²² The initial agreement and the formation of the GNA require the endorsement of the two rival parliaments, the internationally recognized House of Representatives in Tobruk and the General National Congress in Tripoli. At the time of writing, reports emerged that the House of Representatives has rejected the peace agreement.²³ Independent analysts caution that the process of stabilizing the country remains fraught with uncertainty in light of continued divisions among political actors and the multitude of political, security and humanitarian challenges that would need to be addressed by a unity government.²⁴

Violations of International Human Rights and Humanitarian Law

5. Violations and abuses of international human rights and humanitarian law continue across Libya.²⁵ All sides to the conflict reportedly violate international human rights and humanitarian law.²⁶ According to reports, armed groups frequently launch indiscriminate attacks in densely populated areas, including in Tripoli, Benghazi, Warshafana, Sabha, the Nafusa Mountains and elsewhere, using a wide variety of weapons, including small arms, rockets, mortars, anti-aircraft guns, tanks and air attacks.²⁷ Parties on all sides of the conflict are also reported to systematically engage in the abduction, torture and killing of rival fighters and civilians, reportedly based on their “*actual or suspected tribal, family political or religious affiliation and nationality*”.²⁸ Armed groups with different affiliations reportedly also engage in the destruction of civilian property belonging to

²⁰ Reuters, *U.N. Hands Libya Final Text of Peace Deal*, 21 September 2015, <http://reut.rs/1NPOSRO>.

²¹ UNSMIL said on 20 September 2015 “(...) the air strikes are a clear attempt to undermine and derail the ongoing efforts to end the conflict at a time when the negotiations have entered a final and most critical stage”; UNSMIL, *UNSMIL Condemns Benghazi Military Escalation, Calls for Ceasefire, Swift Conclusion of Dialogue*, 20 September 2015, <http://bit.ly/1JBFKYH>.

²² UN Security Council, *Security Council Press Statement on Libya*, 9 October 2015, <http://bit.ly/1LfvDpC>; UNSMIL, *Names of Government of National Accord Proposed*, 8 October 2015, <http://bit.ly/1VNiSBQ>. See also *Joint Statement on Libya by the Governments of France, Germany, Italy, Spain, the United Kingdom, and the United States*, 9 October 2015, <http://www.state.gov/r/pa/prs/ps/2015/10/248082.htm>.

²³ Agencies, *Libya's Western-Backed Parliament 'Rejects' UN Proposal*, 19 October 2015, <http://aje.io/8w8r>.

²⁴ For further analysis of developments in Libya, see e.g. Reuters, *Bumpy Road ahead for U.N.-Proposed Libya Peace Deal*, 12 October 2015, <http://reut.rs/1Zvzq0p>; ICG, *Crisis Group Reaction to Announcement of New Government of National Accord in Libya*, 9 October 2015, <http://bit.ly/1Mn3nGp>; The Atlantic Council, *The Libyan Agreement: The First Step in a Long Journey*, 9 October 2015, <http://t.co/3hcYckJK8H>; and *What if Libya's Political Dialogue Fails?*, 2 October 2015, <http://www.atlanticcouncil.org/blogs/menasource/what-if-libya-s-political-dialogue-fails>; The Economist, *An Agreement, of Sorts: The UN Tries to Stitch Libya Back Together*, 9 October 2015, <http://econ.st/1LnLB9l>; Deutsche Welle, *Libya: 'They Won't Succeed in Untangling the Chaos'*, 17 August 2015, <http://dw.com/p/1GGjO>; ICG, *The Libyan Political Dialogue: An Incomplete Consensus*, 16 July 2015, <http://www.refworld.org/docid/55aca7f64.html>.

²⁵ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 39; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, para 2; Human Rights Watch (HRW), *Libya: Tragic Year for Human Rights*, 29 January 2015, <https://www.hrw.org/news/2015/01/29/libya-tragic-year-human-rights>.

²⁶ The ICRC has called on “all parties to the conflict” to respect applicable provisions of international humanitarian law; see ICRC, *Libya: Tens of Thousands Affected by Fighting*, 11 December 2014, <https://www.icrc.org/en/document/libya-tens-thousands-affected-fighting>.

²⁷ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, paras 40-41; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, paras 11-12.

²⁸ UN News Service, *Libya: UN Mission Urges End to Abduction of Civilians, Warns of Criminal Liability for Such Acts*, 15 May 2015, <http://www.refworld.org/docid/555b0a5c4.html>. See also *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 46; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, paras 45, 55-56; UN Office of the High Commissioner for Human Rights (OHCHR) / UNSMIL, *Update on Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya (Revised*)*, 24 December 2014, p. 7, <http://www.refworld.org/docid/551929554.html> (hereafter: OHCHR/UNSMIL, *Update on Violations of International Human Rights and Humanitarian Law*, 24 December 2014); Amnesty International, *Amnesty International Report 2014/15 - Libya*, 25 February 2015, <http://www.refworld.org/docid/54f07dce15.html> (hereafter: Amnesty International, *Report 2014/2015*); HRW, *World Report 2015 - Libya*, 29 January 2015, <http://www.refworld.org/docid/54cf83986.html>; Amnesty International, *Rule of the Gun: Abductions, Torture and other Militia Abuses in Western Libya*, 30 October 2014, <http://www.refworld.org/docid/545797924.html>; HRW, *Libya: Assassinations May Be Crimes Against Humanity*, 24 September 2014, <http://www.refworld.org/docid/542560db4.html>; HRW, *Libya: Spiraling Militia Attacks May Be War Crimes*, 8 September 2014, <http://www.refworld.org/docid/540ea9974.html>.

perceived opponents.²⁹ According to reports, human rights defenders, politicians, civil society activists, media professionals, religious leaders, government officials, as well as members of the judiciary and law enforcement agencies are deliberately singled out by various groups for intimidation, abduction, burning and looting of homes, as well as unlawful killings in a climate of impunity.³⁰ Reports document the widespread use of torture and other ill-treatment in detention facilities run by Libya's internationally recognized government and its allied forces as well as by other armed groups.³¹ A new Counter-Terrorism Law (Law 3/2014), passed by the House of Representatives, the elected parliament of Libya's internationally recognized government based in Tobruk, on 14 September 2014, uses a broad and vague definition of "terrorism" and observers have expressed concern over the possible curtailing of fundamental freedoms on the basis of the law.³²

6. Armed groups affiliated with ISIS reportedly target and terrorize civilians, including through bombings and beheadings, and impose harsh punishments on civilians for what these groups perceive are infractions of Islamic law.³³
7. Reports indicate that the administration of justice is severely hampered as a result of conflict, particularly in Sirte, Derna and Benghazi.³⁴ Prosecutors and judges are reportedly frequently singled out for intimidation and attacks across the country,³⁵ and law enforcement officials lack

²⁹ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, paras 40-41; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, para 15. For example, "[D]isplaced people from Warshafana told UNSMIL of hundreds of houses, farms and other businesses which were shelled, burnt down, or looted and destroyed by bulldozers. Some individuals provided photographs of the damage to their homes or other property. In mid-October [2014], as UNSMIL drove into Tripoli from the Tunisian border, it observed houses and shops in al-Maya damaged or destroyed, with fires still smouldering." And further: "UNSMIL has also received reports that armed elements aligned with Operation Dignity have deliberately destroyed scores of houses and other property of perceived opponents, including through the use of bulldozers. Over 100 houses have reportedly been destroyed in this way in al-Salmani neighbourhood. These actions have apparently triggered reprisals against houses of perceived Dignity supporters"; OHCHR/UNSMIL, *Update on Violations of International Human Rights and Humanitarian Law*, 24 December 2014, pp. 4, 5-6.

³⁰ "Abductions of civilians by armed groups have become a daily feature of post-al-Gaddafi Libya. (...) Various armed groups and forces across Libya, including those affiliated with rival governments such as Libya Dawn and Operation Dignity forces as well as those pursuing their own agendas, are responsible for abductions of civilians on account of their origin, opinion, perceived political affiliation or tribal belonging. (...) Among those abducted are journalists, activists, members of the judiciary targeted for their activities, public officials, civil servants, aid workers and foreign nationals abducted on account of their religion, race or nationality"; Amnesty International, *Libya: 'Vanished Off the Face of the Earth' - Abducted Civilians in Libya*, 4 August 2015, MDE 19/2178/2015, p. 2, <http://www.refworld.org/docid/55c32b924.html>. "Hundreds of individuals, including security officials, state employees, religious leaders, activists, journalists, judges and prosecutors were killed in politically motivated assassinations in Benghazi, Derna and Sirte allegedly by Islamist armed groups. None of those responsible were held to account"; Amnesty International, *Report 2014/2015*. HRW documented that at least 250 such killings occurred between January and September 2014 in the eastern cities of Benghazi and Derna alone; HRW, *Libya: Assassinations May Be Crimes against Humanity*, 23 September 2014, <https://shar.es/1siHIF>. See also *Report of the Secretary-General on the UNSMIL*, 13 August 2015, paras 43-44; OHCHR/UNSMIL, *Human Rights Defenders under Attack*, 25 March 2015, <http://www.refworld.org/docid/5519295f4.html>; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, paras 51-52, 57; HRW, *War on the Media: Journalists under Attack in Libya*, 9 February 2015, <http://www.refworld.org/docid/54ff00d84.html>; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, paras 38-40; OHCHR/UNSMIL, *Update on Violations of International Human Rights and Humanitarian Law*, 24 December 2014, pp. 2-3; International Service for Human Rights, *The Situation of Human Rights Defenders*, August 2014, <http://www.ishr.ch/sites/default/files/article/files/libyabriefingpaper.pdf>.

³¹ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 48; HRW, *Libya: Widespread Torture in Detention*, 17 June 2015, <http://www.refworld.org/docid/55891f4a40f.html>; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015; OHCHR/UNSMIL, *Update on Violations of International Human Rights and Humanitarian Law*, 24 December 2014.

³² HRW, *Libya: Amend Counterterrorism Law*, 13 May 2015, <http://www.refworld.org/docid/5555ecb14.html>; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, paras 55-56.

³³ Washington Post, *How Justice Is Delivered in the Islamic State's New Capital along Libya's Mediterranean Coast*, 9 October 2015, <http://wapo.st/1LaBCRI>; *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 47; United States Department of State, *Country Reports on Terrorism 2014 - Libya*, 19 June 2015, <http://www.refworld.org/docid/5587c74a34.html>; Amnesty International, *Report 2014/2015*; HRW, *Libya: Extremists Terrorizing Derna Residents*, 27 November 2014, <http://www.refworld.org/docid/547837474.html>.

³⁴ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 52; United States Department of State, *Country Reports on Human Rights Practices for 2014 - Libya*, 25 June 2015, pp. 2-3, <http://www.state.gov/documents/organization/236824.pdf> (hereafter: US Department of State, *Country Report on Human Rights Practices*, 25 June 2015); Amnesty International, *Report 2014/2015*; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, paras 48-51.

³⁵ UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, para 48. See also Times of India, *IS Kills Captured Judge in Libya*, 6 August 2015, <http://bit.ly/1eUNNYu>; Reuters, *Judge Shot Dead Outside Court in Eastern Libyan City*, 16 June 2013 <http://reut.rs/1ai7OCq>.

sufficient capacity, training and equipment.³⁶ Non-state mechanisms to resolve disputes and maintain order are reported to have emerged to fill the void, but are not considered fair or effective and further undermine the rule of law.³⁷

8. **Women** are subjected to severe discrimination in law and practice.³⁸ Women political and civil society activists, journalists and those not complying with strict interpretations of religious and societal gender norms are reportedly singled out by various actors for intimidation, assaults and assassination across the country.³⁹
9. **Children** are disproportionately affected by the escalation in fighting and the deteriorating humanitarian situation.⁴⁰ Children are also reportedly abducted, including by armed groups seeking ransom from their families.⁴¹ Child recruitment is another human rights concern. According to reports, boys as young as 15 years of age are recruited into various armed groups across the country.⁴² Many children are reportedly in need of psychosocial support given the conflict's devastating psychological impact.⁴³

Humanitarian Situation

10. Armed conflict and political instability have had a detrimental impact on over three million people, i.e. nearly half the population. Of these, an estimated 2.44 million persons are in need of protection and some form of humanitarian assistance, including IDPs, the non-displaced conflict-affected population, refugees, asylum-seekers and migrants.⁴⁴ Needs are reported to be particularly severe in the east and south of the country.⁴⁵ In Benghazi, persistent fighting since May 2014 has caused the breakdown of much of the city's public services and left entire neighbourhoods devastated by

³⁶ UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, para 49.

³⁷ Ibid., para 50; OHCHR/UNSMIL, *Update on Violations of International Human Rights and Humanitarian Law*, 24 December 2014; USIP, *Security and Justice in Post-Revolution Libya: Where to Turn?*, 18 September 2014, <http://bit.ly/1wEPmkd>; OHCHR/UNSMIL, *Overview of Violations of International Human Rights and Humanitarian Law during the Ongoing Violence in Libya*, 4 September 2014, <http://www.refworld.org/docid/540d627e4.html>.

³⁸ "Libyan women also face discrimination in personal status and other matters, such as polygamy, prohibition to travel without a male guardian and the inability to pass on their nationality to their children or spouses"; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015 para 23. See also US Department of State, *Country Report on Human Rights Practices*, June 2015, pp. 28-30; Amnesty International, *Report 2014/2015*; HRW, *World Report 2015 - Libya*, 29 January 2015, <http://www.refworld.org/docid/54cf83986.html>; Al-Monitor, *Women Face Setbacks in New Libya*, 23 March 2015, <http://almon.co/2e4u>; HRW, *The Law is Failing the Women of Libya*, 18 June 2014, <https://www.hrw.org/news/2014/06/18/law-failing-women-libya>.

³⁹ "There were numerous incidents of violence against women during 2014. In the lead-up to the February 2014 elections for the Constitution Drafting Assembly, UNSMIL/OHCHR received reports of threats and attacks against female candidates, which contributed to their reluctance to run for election, and staff observed posters of female candidates being torn down. On 25 June, prominent human rights defender Salwa Bughaigis was shot dead in her Benghazi residence, after casting her vote in elections for the House of Representatives. On 17 July, former member of the General National Congress Fariha Barkawi was assassinated in Derna. Several women activists reported that they had been pressured to abandon their public roles"; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, paras 21-22. See also *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 43; OHCHR/UNSMIL, *Human Rights Defenders under Attack*, 25 March 2015, p. 2, <http://www.refworld.org/docid/5519295f4.html>; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 50; Amnesty International, *Libya Must Ensure Proper Investigation after Prominent Lawyer Shot Dead*, 26 June 2014, <http://www.refworld.org/docid/53ad29de4.html>.

⁴⁰ Children account for 40 percent of those in need of humanitarian assistance; OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, pp. 8, 20. See also *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 27; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, paras 26-27.

⁴¹ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 46.

⁴² UNFPA/IOM/UNDP/WFP/UNICEF/UNHCR, *Libya Multi-Sector Needs Assessment*, June-July 2015, http://reliefweb.int/sites/reliefweb.int/files/resources/JMW_reach_lby_report_libya_multi_sector_needs_assessment_aug_2015.pdf (hereafter: *Libya Multi-Sector Needs Assessment*, June-July 2015), p. 12; Save the Children, *Save the Children Egypt-Libya-Tunisia Assessment (SCelta)*, 18 June 2015, http://reliefweb.int/sites/reliefweb.int/files/resources/SCelta%20Final%20Report_18_Jun_2015.pdf (hereafter: SCelta, June 2015), pp. 7, 33-34; US Department of State, *Country Report on Human Rights Practices*, 25 June 2015, pp. 14, 31.

⁴³ It is estimated that in Tripoli and Benghazi alone some 270,000 children are in need of psychosocial support; OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, pp. 8, 18.

⁴⁴ OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, pp. 4, 5, 7.

⁴⁵ Benghazi and Sabha, followed by Wadi Al-Hayat, Tripoli, Derna, Al-Zawiya and Sirte are the areas most impacted by conflict, forced displacement and disruptions to basic service provision, particularly health care. As a result, humanitarian needs were found to be most severe in these areas; OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 15.

shelling and street fighting.⁴⁶ The humanitarian crisis has reportedly been aggravated by the closure of much of the Libyan airspace to commercial flights and diminished state capacity to provide basic services.⁴⁷ While humanitarian actors are able to access some areas, other locations are completely inaccessible.⁴⁸ The majority of IDPs require varying degrees of support, including food, non-food items, and alternative shelter for those accommodated in schools and other public facilities.⁴⁹ Host communities are reported to be under growing strain from the influx of IDPs; they are also reported to struggle with rising prices for food, cooking oil and fuel, which in some cases have doubled compared to the price level before the start of the conflict.⁵⁰ Asylum-seekers, refugees and migrants are reported to be particularly vulnerable in terms of access to basic services across most sectors.⁵¹ Due to their status, they are reportedly frequently denied access to basic services, including health care and education.⁵²

11. *Food Security*: Food insecurity has significantly increased and is estimated to affect 1.28 million persons,⁵³ including 175,000 IDPs, who are considered to be the most vulnerable.⁵⁴ The most severe cases are reported in Benghazi and in the south.⁵⁵ Food insecurity also affects refugees, asylum-seekers, and migrants, who commonly lack support from host communities.⁵⁶
12. *Livelihoods*: The conflict also has had a significant impact on the livelihoods of many Libyans due to reduced income options, unpaid salaries and social benefits and a non-functioning banking system.⁵⁷ It is estimated that some 1.5 million people are affected by the loss of livelihoods.⁵⁸ At the same time, household expenditures have reportedly increased, mainly due to the rise in prices for several staple food items including flour, rice and sugar.⁵⁹ As a result, many households are reported to be spending their savings and reducing other expenditure, such as education and healthcare.⁶⁰ Without access to a government salary or pension - the most commonly cited income

⁴⁶ UN News Service, *Libya: UN Envoy Calls for End to Fighting in Benghazi, Urges Political Solution to Crisis*, 10 July 2015, <http://www.refworld.org/docid/55a38fa540c.html>; Associated Press, *Benghazi, Where Libya's Uprising Began, Now a Shattered City*, 2 July 2015, <http://apne.ws/1CMJMeS>; HRW, *Libya: Civilians Trapped in Benghazi*, 26 May 2015, <http://www.refworld.org/docid/556835974.html>; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 26; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, para 15.

⁴⁷ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 74; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 3.

⁴⁸ OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 33. UNHCR, *Libya Situation Operational Update*, 16 June 2015, <http://www.unhcr.org/538484ab9.html> (hereafter: UNHCR, *Libya Operational Update*, 16 June 2015), p. 5; World Food Programme (WFP), *WFP Resumes Food Assistance to Families Displaced by Conflict in Libya*, 21 May 2015, <http://bit.ly/115aZ21>.

⁴⁹ *Interagency Rapid Assessment*, December 2014, p. 2.

⁵⁰ UNHCR, *Numbers of Internally Displaced in Libya Double since September*, 30 June 2015, <http://www.refworld.org/docid/55929ad94.html> (hereafter: UNHCR, *Numbers of Internally Displaced Double since September*, 30 June 2015); UNHCR, *UNHCR Delivers Medical Aid to Hospital in Benghazi*, 12 February 2015, <http://www.unhcr.org/54dcabaf9.html>.

⁵¹ *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 5, 45.

⁵² OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 10.

⁵³ "This increase in food insecurity is mainly due to the armed conflict disrupting commercial supply routes, which in turn has limited the availability of food and led to severe price increases, with staples such as flour, rice and sugar tripling since May 2014. (...) In addition, a loss of livelihoods, impacting 1.5 million people in Libya, has resulted in a reduction in household income with many families unable to meet their food needs or relying on savings and/or reducing their health and education expenditure to feed themselves"; OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 11. See also *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 4-5, 36.

⁵⁴ OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, pp. 22, 23.

⁵⁵ *Ibid.*, pp. 11, 22-23.

⁵⁶ Conditions are also particularly worrisome for refugees, asylum-seekers and migrants in detention where no food assistance is available; *ibid.*, p. 23.

⁵⁷ The majority of IDP/returnee households surveyed reported a decrease of income and although many engage in skilled labour and salaried work, they rely heavily on kinship supports, remittances and savings; ACAPS, *Libya - Humanitarian Impact of the Conflict*, Secondary Data Review, 5 June 2015, p. 8, <http://reliefweb.int/sites/reliefweb.int/files/resources/s-acaps-sdr-libya-humanitarian-impact-of-the-conflict-5-jun-2015.pdf> (hereafter: ACAPS, *Humanitarian Impact of the Conflict*, 5 June 2015), pp. 1. See also OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 30.

⁵⁸ The most affected groups are residing in Benghazi, Sabha and two municipalities of Tripoli; OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 30.

⁵⁹ OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 22. *Interagency Rapid Assessment*, December 2014, pp. 1. See also Reuters, *Libya Food Imports Fall as Turmoil Disrupts Deliveries*, 31 July 2015, <http://ara.tv/ga23n>.

⁶⁰ In eastern Libya, where food expenditure was found to be higher, households were more likely to resort to more extreme coping strategies, including begging; REACH, *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 4, 36.

source for IDPs - many refugees and migrants lack a stable source of income, particularly refugees and asylum-seekers who were less likely than migrants to be in skilled employment.⁶¹

13. *Health*: The health system has come under severe strain as a result of the conflict.⁶² Medical facilities report overcrowding amidst diminished capacity following the exodus of foreign health workers who used to make up a majority of health staff in the country. In conflict areas, access to health services is severely hampered due to insecurity.⁶³ In Benghazi, only three out of seven major hospitals remain operational amidst increasing numbers of patients with war-related injuries.⁶⁴ Lack of medicines and medical supplies and/or the increased prices of medicine have also been reported.⁶⁵ Access to mental health and psychosocial support is very limited due to the lack of functioning facilities and specialized staff.⁶⁶ Refugee and asylum-seeker households' lack of financial resources and documentation negatively affects their access to healthcare.⁶⁷
14. *Shelter*: Shelter has been identified as an urgent need across the country.⁶⁸ Initially, many IDPs were taken in by relatives or local communities. However, as the number of IDPs continued to rise, host communities' capacity to absorb IDPs has been exhausted.⁶⁹ As a result, shelter arrangements for many IDPs range from rented accommodation to schools, factories, garages and empty buildings.⁷⁰ In the southern desert border town of Ghat some IDP families live in empty water tanks.⁷¹ The destruction and looting of homes has been reported as a reason for displacement.⁷² Many refugees, asylum-seekers and migrant households have reportedly resorted to sharing accommodation with other families to reduce costs, or were found to be living in more vulnerable

⁶¹ *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 5, 45, 48-49.

⁶² "An estimated 18 per cent of primary healthcare clinics and more than 20 per cent of hospitals are not functioning, with over 60 per cent of hospitals at times inaccessible or closed in conflict areas over the last six months"; OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, pp. 10, 17-18.

⁶³ OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 10; *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 27-30; ICRC, *Libya: Lack of Personnel and Resources Threaten Health Service Collapse*, 13 April 2015, <https://www.icrc.org/en/document/libya-lack-personnel-resources-health-service-collapse>; *Interagency Rapid Assessment*, December 2014, p. 17.

⁶⁴ Two of these, the Benghazi Medical Centre and the Jalaa Hospital, have been hit in early July, resulting in at least 10 civilian fatalities, including children; UNSMIL, *Briefing by the Special Representative of the Secretary-General for Libya to the Security Council*, 15 July 2015, <http://bit.ly/1G04K17>; Agence France Press (AFP), *14 Killed in Clashes in Libya's Benghazi*, 9 July 2015 <http://ara.tv/rhhbj>; Libya Observer, *Dignity Gunmen Vandalize Benghazi Medical Center*, 5 July 2015, <http://www.libyaobserver.ly/variety/dignity-gunmen-vandalize-benghazi-medical-center>. See also Médecins Sans Frontières (MSF), *Libya: Medical Needs Increase as Conflict Intensifies*, 1 July 2015, <http://bit.ly/1K8WcTy>; UNHCR, *Numbers of Internally Displaced Double since September*, 30 June 2015.

⁶⁵ IRIN, *In Libya's Desert South, a Town Fends for Itself*, 27 August 2015, <http://bit.ly/1KQZoBF>; *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 66; *Interagency Rapid Assessment*, December 2014, pp. 1, 17.

⁶⁶ OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 18.

⁶⁷ The Libya Multi-Sector Needs Assessment found that almost half of refugee and asylum-seeker households reported having limited or no access to healthcare; *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 5, 45, 48. See also OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, pp. 10, 18.

⁶⁸ UNHCR, *Libya Operational Update*, 16 June 2015.

⁶⁹ UNSMIL, *UNHCR Provides Assistance to IDP Families Taking Refuge in Benghazi Schools*, 16 June 2015, <http://bit.ly/1i1IWac>; IDMC, *Libya: State Collapse Triggers Mass Displacement*, 30 March 2015, <http://bit.ly/1V6nCzz>; UNHCR, *UNHCR Delivers Medical Aid to Hospital in Benghazi*, 12 February 2015, <http://www.unhcr.org/54dcabaf9.html>.

⁷⁰ The Libya Multi-Sector Needs Assessment, which focusses on the needs of the conflict-affected population, both non-displaced and displaced, found that the largest proportion of those surveyed are currently hosted in rented accommodation with their own family. A quarter of all assessed households were found to be living in precarious accommodation types, including unfinished buildings and spaces not normally used for shelter, such as garages, collective shelters or public spaces. These households were likely to be particularly vulnerable, facing a higher risk of eviction and less likely to have access to adequate privacy, protection and sanitation facilities. Over a third of households reported a risk of eviction, most commonly because they were unable to afford rental payments, the cost of which accounted for a significant proportion of monthly rent for internally displaced households, returnees, refugees and migrants; *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 3, 20-22.

⁷¹ UNHCR, *Numbers of Internally Displaced Double since September*, 30 June 2015.

⁷² According to the Libya Multi-Sector Needs Assessment, participants in several focus group discussions reported having fled as a result of the destruction of their home, or having subsequently learnt that their house had been destroyed or looted. Overall, damage to homes was more commonly reported in the South than in the East and West, with 73 percent of key informants reporting some level of damage to houses in their community in the South, 60 percent in the West, and 52 percent in the East. Despite this, the majority of key informants in all areas reported that few or very few houses were damaged, suggesting that significant levels of shelter damage were limited to specific neighborhoods, mostly in the South, where 13 percent of key informants reported that a large proportion of houses in their community had sustained damage; *Libya Multi-Sector Needs Assessment*, June-July 2015, p. 21.

shelter types such as private and public spaces not normally used for shelter, or unfinished residential buildings.⁷³ Many lack secure tenure arrangements, resulting in a risk of eviction.⁷⁴

15. *Education*: While Libya used to have one of the highest school enrolment rates across the region, the conflict resulted in a drop in enrolment rates of 20 per cent across the country, with conflict areas particularly affected.⁷⁵ A number of schools sustained serious damage as a result of shelling, while others are reportedly used as bases by parties to the conflict or have been converted into makeshift shelters for IDPs.⁷⁶ Refugee and asylum-seeker households' lack of financial resources negatively affects access to education.⁷⁷
16. *Water, Sanitation, Fuel and Electricity*: Water, gas and electricity supply are reportedly frequently disrupted, although the degree of disruption varies from one location to another.⁷⁸ The quantity and quality of drinking water are of concern especially in areas where the water network infrastructure has sustained damage as a result of conflict.⁷⁹ Access to sanitation is considered problematic for IDPs living in inadequate shelter arrangements.⁸⁰ Garbage collection has reportedly been disrupted in Benghazi, creating health hazards.⁸¹

⁷³ *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 5, 20, 46-47.

⁷⁴ The Libya Multi-Sector Needs Assessment found 62 percent of refugees and 57 percent of migrants reporting a risk of eviction, or being forced to move against their wishes. In contrast, a fear of eviction was reported by only 27 percent of IDP households; *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 21, 46.

⁷⁵ "The conflict and resulting negative impact on the economy are contributing to a decrease in access to education for hundreds of thousands of children across Libya. An estimated 150,000 children are at risk of no longer having access to education (...). Needs are particularly urgent in Benghazi, which has been the worse hit for education. Enrolment rates have dropped as low as 50 per cent and out of around 239 schools, only 65 schools are functioning, with 64 schools currently occupied by IDPs and around 110 schools inaccessible due to their location in conflict-affected area"; OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 28. The Libya Multi-Sector Needs Assessment found that levels of enrollment remained relatively high across all regions, with 81 percent of households reporting that their school-age children were regularly attending school. However, significant regional variations were found, with school access and functionality considerably worse in conflict areas, such as Benghazi. Of those children who were not attending school, almost half had not attended school for more than three months. Some of these are likely to have been out of school since becoming displaced over six months ago, and risk falling significantly behind in their studies and struggling to restart their education in the future; *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 3, 23-26. See also *Interagency Rapid Assessment*, December 2014, pp. 18-19. "Once a country with the highest literacy rates in the region, half of the children are now out of school, especially in areas directly affected by armed conflict. In Benghazi, 75% of boys and girls have no access to education"; SCELTA, June 2015, p. 8. See also *Interagency Rapid Assessment*, December 2014, p. 1.

⁷⁶ US Department of State, *Country Report on Human Rights Practices*, 25 June 2015, p. 30; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 26; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, para 28.

⁷⁷ The Libya Multi-Sector Needs Assessment found that around 50 percent of refugee and asylum-seeker children are not attending school; *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 5, 45, 47.

⁷⁸ *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 21-22, 31-32; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, para 13; *Interagency Rapid Assessment*, December 2014, p. 16. See also Reuters, *UPDATE 1-Libya to Get Electricity from Egypt, Tunisia to Ease Blackouts - Tripoli Govt*, 5 August 2015, <http://reut.rs/1E8M48B>.

⁷⁹ According to the Libya Multi-Sector Needs Assessment, the majority of key informants reported that water quality monitoring was not taking place while others reported that water in their community smelled or tasted bad. Diarrhea, already the most commonly cited health concern, was more often reported by key informants in areas where the quality of drinking water was reported to be problematic; *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 4, 32-33.

⁸⁰ The Libya Multi-Sector Needs Assessment found that access to sanitation was generally adequate for IDPs, although households living in the most vulnerable shelter types were less likely to report good access to facilities. Levels of hygiene and sanitation for IDPs in camps were found to be of particular concern; *Libya Multi-Sector Needs Assessment*, June-July 2015, pp. 4, 31. See also OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 11.

⁸¹ OHCHR/UNSMIL, *Update on Violations of International Human Rights and Humanitarian Law*, 24 December 2014, p. 5.

Internal Displacement and External Displacement

17. During the armed conflict in 2011, more than half a million Libyans were reportedly displaced. Although most of these had returned to their areas of origin by December 2013, as of February 2015, some 60,000 IDPs reportedly remained in protracted displacement.⁸²
18. Since May 2014, the escalation of conflict has led to new internal displacement in various parts of the country, particularly in the eastern city of Benghazi, on the western outskirts of the capital Tripoli, and in the areas around Awbari in the south-west. While exact displacement figures are unavailable, the number of people internally displaced as a result of conflict since mid-2014 is estimated at more than 435,000,⁸³ including approximately 290,000 women and children.⁸⁴ Many IDPs have been displaced multiple times as they sought to escape the widening geographic area affected by the conflict. As a result of these multiple displacements, they are at risk of becoming disconnected from their social, economic and assistance networks.⁸⁵ While new displacement is ongoing,⁸⁶ some IDPs have been able to return to their place of origin, often, however, to unsustainable conditions.⁸⁷ Ongoing insecurity in many parts of the country, the destruction of homes and infrastructure as well as the presence of landmines and unexploded ordnance prevent the return of many IDPs, as a result of which their displacement situation is at risk of becoming protracted.⁸⁸
19. Libya's borders remain by and large open for Libyan nationals holding valid travel documents.⁸⁹ It is estimated that between one and two million Libyans have crossed, mainly into Tunisia and

⁸² This figure includes some 30,000 persons from the town of Tawergha, who had been forcibly displaced in August 2011 on account of their perceived support of the former government. Since then, they have been unable to return and have been subjected to human rights abuses and military raids and shelling, resulting in further displacement; International Displacement Monitoring Centre (IDMC), *Libya - Uprising and Post-Qadhafi Tribal Clashes, Displacement in a Fragmenting Libya*, 30 March 2015, <http://reliefweb.int/sites/reliefweb.int/files/resources/201503-me-libya-overview-en.pdf> (hereafter: IDMC, *Displacement in a Fragmenting Libya*, 30 March 2015); *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 48; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, para 30.

⁸³ "The level of displacement has almost increased seven fold since April 2014, with displacement patterns revealing both cross-regional displacement, that is populations fleeing from one side of the country to another, as well as localized displacement, with populations fleeing within their own provinces, particularly in the northwest." For an overview of displacement causes, locations and patterns, see OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 4 and *Libya Multi-Sector Needs Assessment*, June-July 2015, p. 12-16. See also *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 60; UNHCR, *Numbers of Internally Displaced Double since September*, 30 June 2015; UNHCR, *Libya Operational Update*, 16 June 2015, p. 2; IDMC, *Displacement in a Fragmenting Libya*, 30 March 2015.

⁸⁴ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 60.

⁸⁵ *Libya Multi-Sector Needs Assessment*, June-July 2015, p. 14; UNHCR, *Numbers of Internally Displaced Double since September*, 30 June 2015; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 24.

⁸⁶ Since late July 2015, fighting escalated in Sabha and Awbari in the south-west and in the Kufra area, resulting in the displacement of thousands of people. Others have been displaced in August 2015 by fighting between ISIS and rival fighters in the coastal town of Sirte; IRIN, *In Libya's Desert South, a Town Fends for Itself*, 27 August 2015, <http://bit.ly/1KQZoBF>; UNHCR, *UNHCR Delivers Aid to Thousands in Southern Libya as Conflict Rages*, 25 August 2015, <http://www.unhcr.org/55dc84836.html>; UNSMIL, *UNSMIL Deeply Concerned about Clashes in South, Calls for Ceasefire, Supports Reconciliation Efforts*, 23 July 2015, <http://t.co/9InpJALXce>; AFP, *Ethnic Clashes Claim 40 in Libya*, 22 July 2015, <http://bit.ly/1gjetEa>.

⁸⁷ UNHCR, *Numbers of Internally Displaced Double since September*, 30 June 2015; *Interagency Rapid Assessment*, December 2014, p. 9.

⁸⁸ Ibid. See also IDMC, *Libya: State Collapse Triggers Mass Displacement*, 30 March 2015, <http://bit.ly/1V6nCzz>.

⁸⁹ In Tunisia, whose border (Ras Jdir) with Libya remains open for Libyans with valid travel documents, there are an estimated 500-800,000 Libyans. On Libyans' legal status and access to services and employment in Tunisia, see ACAPS, *Humanitarian Impact of the Conflict*, 5 June 2015, p. 6; The Brookings Institution, *The Impact of Libyan Middle-Class Refugees in Tunisia*, 17 March 2015, <http://brook.gs/1OyJ8b0>. Despite the existing bilateral agreement between Egypt and Libya, in practice the visa-free regime for Libyans entering Egypt is no longer applied since 2013. Libyans seeking to enter Egypt by sea, land or air require a valid visa issued by the Egyptian Embassy in Tripoli. Libyans are also required by the Libyan authorities to be in possession of the new blue Libyan Passport issued since 1 January 2014. Certain categories of people benefit from visa exemptions, including injured persons or those with critical medical needs; all female Libyans; male Libyans below the age of 15/above the age of 60; and Libyans married to Egyptians. They can obtain a one-time entry to Egypt, allowing them to remain in the country for three months. After its expiry, the permit is not renewable. Border crossings with Sudan (Al-Awainat) and Niger (Al-Taoum) remain open. According to recent media reports, Algeria has re-opened border with Libya in early August 2015; however, the border at Esayan reportedly remains closed at the time of writing except for serious medical cases approved by the Algerian authorities; UNHCR information, September 2015; Turkish Weekly, *Algeria Opens Border with Libya after 28-Month Closure*, 5 August 2015, <http://bit.ly/1eULxkc>.

Egypt, with smaller numbers reported to have departed to Algeria, Chad, Turkey, Jordan and other countries.⁹⁰

Situation of Third Country Nationals (including Asylum-Seekers, Refugees and Migrants)

20. Libya is not party to the 1951 Convention relating to the Status of Refugees or its Protocol.⁹¹ It has ratified the 1969 Convention governing the Specific Aspects of Refugee Problems in Africa (OAU Convention),⁹² but has yet to adopt asylum legislation or establish asylum procedures. As of July 2014, UNHCR in Libya had registered over 36,000 asylum-seekers and refugees, including Syrians, Palestinians, Eritreans and Iraqis, many of whom have been residing in Libya for years.⁹³ In addition to asylum-seekers and refugees registered with UNHCR, there are third country nationals or stateless persons with international protection needs who have not registered with UNHCR in Libya, including for reasons such as UNHCR's suspension of new registration activities in Libya since May 2014 for security reasons,⁹⁴ or because they intend to move onwards to seek international protection elsewhere.⁹⁵
21. The conflict in Libya has further exacerbated the already vulnerable situation of asylum-seekers, refugees and migrants (in particular, but not exclusively, those from sub-Saharan countries). In a situation characterized by insecurity, increased violence and an absence of rule of law and functioning institutions, asylum-seekers, refugees and migrants are at risk of serious abuses, including abduction, arbitrary and prolonged detention in abusive conditions, torture and other ill-treatment, exploitation, extortion and killings by various armed groups as well as smugglers and traffickers.⁹⁶ Members of religious minorities amongst third-country nationals are reported to be particularly at risk of abuse and attacks on account of their religion.⁹⁷
22. Libyan law criminalizes all irregular entry, stay, or departure, for example without the appropriate documentation or through unofficial border posts, without distinguishing between asylum-seekers/refugees, migrants, or victims of trafficking. Applicable Libyan laws provide for the indefinite detention and deportation of persons who have violated immigration rules.⁹⁸ Thousands,

⁹⁰ SCELTA, June 2015, pp. 7, 26.

⁹¹ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, <http://www.refworld.org/docid/3be01b964.html>; UN General Assembly, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations Treaty Series, vol. 606, p. 267, <http://www.refworld.org/docid/3ae6b3ae4.html>.

⁹² Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa ("OAU Convention")*, 10 September 1969, 1001 U.N.T.S. 45, <http://www.refworld.org/docid/3ae6b36018.html>.

⁹³ Out of the total of 36,868 persons registered as refugees or asylum-seekers by UNHCR Libya, there were 18,653 Syrians, 5,391 Palestinians, 4,719 Eritreans and 3,053 Iraqis. Other registered nationalities include Somalis, Sudanese, Ethiopians, Congolese and Chadians; UNHCR, July 2014. These figures have not been updated due to lack of access and regular verification.

⁹⁴ UNHCR suspended all new registration activities in May 2014. In 2015, UNHCR conducted emergency registration of six new asylum-seekers. The Office will continue examining the feasibility of resuming registration. In June 2015, the Office began renewing attestations for refugees and asylum-seekers who were previously registered with UNHCR and whose documents have expired; UNHCR, *Libya Operational Update*, 16 June 2015.

⁹⁵ UNHCR, *Libya Operational Update*, 16 June 2015.

⁹⁶ *Report of the Secretary-General on the UNSMIL*, 13 August 2015, paras 45, 50; Clingendael, *Addressing Libya's Multiple Crises*, July 2015, pp. 6-7; Amnesty International, *'Libya is Full of Cruelty': Stories of Abduction, Sexual Violence and Abuse from Migrants and Refugees*, 10 May 2015, MDE 19/1578/2015, <http://www.refworld.org/docid/5551f0194.html> (hereafter: Amnesty International, *'Libya is Full of Cruelty'*, 10 May 2015); UNSMIL, *The Situation of Migrants in Transit through Libya en Route to Europe - Briefing Note 08 May 2015*, 8 May 2015, <http://bit.ly/1LlhcrP> (hereafter: UNSMIL, *The Situation of Migrants in Transit through Libya*, 8 May 2015); UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015; OHCHR/UNSMIL, *Update on Violations of International Human Rights and Humanitarian Law*, 24 December 2014.

⁹⁷ "New evidence gathered by Amnesty International suggests that Christians in Libya are often subjected to abductions, torture, theft and physical assaults by criminal gangs and people smugglers, in addition to abuses perpetrated by armed groups such as IS and Ansar al-Shari'a. Those who are held in immigration detention centres under the control of the Department for Combating Irregular Migration of the Ministry of Interior or militias also continue to face torture and other ill-treatment on account of their religion"; Amnesty International, *'Libya is Full of Cruelty'*, 10 May 2015, p. 17. See also ACAPS, *Humanitarian Impact of the Conflict*, 5 June 2015; UNSMIL, *The Situation of Migrants in Transit through Libya*, 8 May 2015; *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 53; UN, *Security Council Press Statement on Murder of over 30 Ethiopian Christians*, 20 April 2015, <http://www.un.org/press/en/2015/sc11867.doc.htm>; UN News Service, *UN Rights Chief Condemns Murder of 21 Christians in Libya, Urges Rejection of 'Takfiri Groups'*, 17 February 2015, <http://www.refworld.org/docid/550180744.html>.

⁹⁸ Provisions for the detention of non-citizens for immigration-related violations are contained in two laws: Law No. 6 (1987) Regulating Entry, Residence and Exit of Foreign Nationals to/from Libya as amended by Law No. 2 (2004), and Law No. 19 of 2010 on Combating Irregular Migration. According to an unofficial translation of Article 6 of Law No. 19, "The illegal migrant will be put in jail and condemned to forced labour in jail or a fine of 1,000 Libyan dollars. (...) The person must be expelled

including women and children, are reportedly currently held in detention centres run by the Department for Combatting Illegal Migration (DCIM) after having been rescued or intercepted at sea, off the Libyan coast, or on land during house raids or identity checks including near land borders.⁹⁹ The majority of detainees originate from sub-Saharan African countries, Pakistan and Bangladesh. Syrians, Palestinians and Iraqis are also detained.¹⁰⁰ Detention conditions, a long-standing concern, fail to meet international standards and are said to have deteriorated further as a result of the conflict and the related breakdown in public services, with scarcity of food, medicine and other basic items reported.¹⁰¹ Third-country nationals are reportedly also held by various armed factions in unofficial detention centres in conditions that fall short of international standards.¹⁰² Asylum-seekers, refugees, and migrants are reportedly routinely subjected to torture or ill-treatment, including on account of their religion, in detention facilities run by the government or armed groups.¹⁰³ Sexual abuse in detention, particularly of women and girls, has frequently been reported.¹⁰⁴

23. The situation for Syrian and Palestinian refugees, which was said to have been comparatively better prior to the conflict in comparison to nationals from sub-Saharan Africa, has reportedly also continued to deteriorate,¹⁰⁵ and many have been displaced as a result of violence, in particular from

from Libyan territory once he finishes his time in prison”; Global Detention Project, *Libya Detention Profile*, last updated February 2015, <http://www.globaldetentionproject.org/countries/africa/libya/introduction.html> (hereafter: Global Detention Project, *Libya Detention Profile*, February 2015). See also, Amnesty International, ‘*Libya is Full of Cruelty*’, 10 May 2015, Footnote 10. By July 2015, more than 2,400 individuals have been assisted to return from Libya to Tunisia, Niger and Egypt; UNHCR information, July 2015.

⁹⁹ It is estimated that between 2,000 and 4,500 third-country nationals are held in the 15 official migrant detention centres managed by DCIM at any given time; OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 11. See also UNHCR, *Libya Operational Update*, 16 June 2015, p. 2. See also North Africa Mixed Migration Task Force, *Detained Youth – The Fate of Young Migrants, Asylum-Seekers and Refugees in Libya Today*, July 2015, <http://bit.ly/1I5C4Q0> (hereafter: North Africa Mixed Migration Task Force, *Detained Youth*, July 2015), p. 51; AFP, *Up to 7,000 Migrants Held in Libya, Says Official*, 4 May 2015, <https://shar.es/1szen9>; UNHCR, *UNHCR and Partners Help Sea Crossing Survivors in Libya Detention Centres*, 28 April 2015, <http://www.unhcr.org/553f8b2e6.html>.

¹⁰⁰ “Most detainees were Sub-Saharan Africans, along with several Bangladeshi and Pakistani nationals. There were few instances of Syrians, Palestinians, or Iraqis being detained, although these nationalities represent the majority of persons of concern registered with UNHCR (...)”; North Africa Mixed Migration Task Force, *Detained Youth*, July 2015, p. 51. See also *Report of the Secretary-General on the UNSMIL*, 26 February 2015, para 49.

¹⁰¹ “Conditions in migrant detention centres do not meet minimum international standards; they are invariably overcrowded, with poor sanitation and often no separation of men, women, and children, creating a heightened risk of sexual and gender-based violence”; *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 63. See also Amnesty International, ‘*Libya is Full of Cruelty*’, 10 May 2015, p. 20; UNSMIL, *The Situation of Migrants in Transit through Libya*, 8 May 2015; UNHCR, *UNHCR and Partners Help Sea Crossing Survivors in Libya Detention Centres*, 28 April 2015, <http://www.unhcr.org/553f8b2e6.html>; Global Detention Project, *Libya Detention Profile*, February 2015; HRW, *Libya: Whipped, Beaten, and Hung from Trees*, 22 June 2014, <http://www.refworld.org/docid/53aa7e2f4.html>.

¹⁰² OCHA, *2015 Libya Humanitarian Needs Overview*, 1 October 2015, p. 11; *Report of the Secretary-General on the UNSMIL*, 13 August 2015, para 63; ACAPS, *Humanitarian Impact of the Conflict*, 5 June 2015, p. 7; Global Detention Project, *Libya Detention Profile*, February 2015.

¹⁰³ “Following interception or rescue at sea, house raids or identity checks, thousands of migrants, asylum-seekers and refugees are arrested and detained in Libya for migration-related offences. UNSMIL is concerned that they faced torture and other ill-treatment upon arrest and in detention centres run by the Department of Combatting Irregular Migration (DCIM) and directly by armed groups. Many report beatings and whippings including with metal rods, cables and sticks; racial and other verbal insults; and suspension in contorted positions. In some centres, women are subjected to strip-searches, including intrusive cavity-searches, by male guards”; UNSMIL, *The Situation of Migrants in Transit through Libya*, 8 May 2015. See also North Africa Mixed Migration Task Force, *Detained Youth*, July 2015; Amnesty International, ‘*Libya is Full of Cruelty*’, 10 May 2015.

¹⁰⁴ Amnesty International, ‘*Libya is Full of Cruelty*’, 10 May 2015, p. 21; UN Human Rights Council, *Situation of Human Rights in Libya*, 12 January 2015, para 33.

¹⁰⁵ “While during the 2011 crisis, migrants were rumoured to be supporting Gadhafi and his regime, in 2014, rumours linked migrants to particular militia groups. However, this was more commonly the case for Syrian refugees, as opposed to the sub-Saharan migrants and asylum seekers in the country. Syrians, and to some extent, Palestinians, were also scapegoated during the 2014 crisis and believed to have been benefiting from the instability by running businesses when Libyans were unable to do so. While Syrians and Palestinians had traditionally benefited from a relatively positive situation in Libya (Syrians and Palestinians enjoyed free access to education and healthcare and a general sympathy for their situation. Moreover, much like Iraqi refugees in Libya, Syrians and Palestinians are rarely detained by DCIM for illegal entry or stay in Libya), this began to change during the 2014 crisis, and in its lead up, and many of these benefits were no longer extended”; Altai Consulting (prepared for IOM MENA Regional Office), *Migration Trends across the Mediterranean: Connecting the Dots*, June 2015, http://www.altaiconsulting.com/docs/migration/Altai_Migration_trends_across_the_Mediterranean.pdf. See also UN News Service, *UN Agency ‘Deeply Concerned’ about Safety of Refugees in Embattled Libya*, 5 August 2014, <http://www.refworld.org/docid/53e4d3ea4.html>.

Benghazi.¹⁰⁶ Palestinian¹⁰⁷ and Syrian long-term residents of Libya are increasingly approaching UNHCR as they find themselves in need of protection and assistance due to the conflict, loss of employment and rising living costs.¹⁰⁸ In January 2015, the internationally recognized government in Tobruk issued an entry-ban for Syrians, Palestinians, Bangladeshis and Sudanese, which was expanded in September 2015 to also include Yemenis, Iranians and Pakistanis.¹⁰⁹ It remains unclear if or how the entry ban is being implemented.

24. Libya is an important transit and departure point for irregular migration by sea to Europe.¹¹⁰ Between January and mid-October 2015, more than 140,000 asylum-seekers, refugees and migrants arrived in Italy by sea, the vast majority having departed from Libya,¹¹¹ while thousands are believed to have died or are missing.¹¹²

Access to Territory and International Protection

25. As the situation in Libya remains fluid and uncertain, UNHCR calls on all countries to allow civilians (Libyan nationals, habitual residents of Libya and third country nationals) fleeing Libya access to their territories.
26. All claims of nationals and habitual residents of Libya seeking international protection should be processed in fair and efficient procedures in accordance with international and regional refugee law.¹¹³ For individuals whose claim had been rejected previous to recent events, the current situation may, depending on the individual circumstances of the claim, give rise to changed circumstances, which need to be considered if a new asylum claim is submitted. Claims for international protection of persons having been directly affected by developments since 2011 may need to be given particular attention, including, *inter alia*, claims submitted by political and human rights activists, members of the judiciary and law enforcement officers, women engaged in the public sphere, humanitarian workers, bloggers and media professionals, members of ethnic and religious minorities, individuals of (real or perceived) diverse sexual orientations and gender identities, and members of tribes/families or individuals perceived to be in support of one of the conflict parties or

¹⁰⁶ UNHCR, *Concern Mounts for Refugees and Asylum-Seekers in Libya*, 5 August 2014, <http://www.refworld.org/docid/53e1de614.html>.

¹⁰⁷ There may be several categories of Palestinians residing in Libya as they arrived in the country in different waves. The largest group is presumed to have been displaced as a result of the Arab-Israeli conflict in 1948. UNRWA does not operate in Libya, and thus there is a presumption that Palestinians in Libya are eligible for refugee status under Article 1D of the 1951 Convention Relating to the Status of Refugees (unless they are excluded by Articles 1E or 1F). In addition, Libya also hosts Palestinians, including Palestine refugees, who have fled subsequent conflicts in the Middle East, including, most notably, the ongoing conflict in Syria (Syria hosted over half a million UNRWA-registered Palestine refugees before the outbreak of conflict in 2011).

¹⁰⁸ UNHCR, *Libya Operational Update*, 16 June 2015.

¹⁰⁹ Reuters, *Libya's Official Government Bans Yemenis, Iranians, Pakistanis from Entry, 1 September 2015*, <http://reut.rs/1EwwRnl>.

¹¹⁰ According to Issandr El Amrani of the International Crisis Group, “[T]here is no effective government in Libya to limit human trafficking, or even have some minimum control of borders anymore. It has become much easier for traffickers to get people across Libya, with no police or army to stop them”; AFP, *Post-Revolt Libya: A Hub for People Smuggling*, 21 April 2015, <https://shar.es/1sze6S>.

¹¹¹ The main countries of origin are Eritrea, Nigeria, Somalia, Sudan and Syria; International Organization for Migration (IOM), *Mediterranean Update – Missing Migrants Project*, 20 October 2015, <http://missingmigrants.iom.int/en/mediterranean-update-20-october-2015>. In 2014, over 170,100 persons arrived in Italy, of whom the vast majority (141,484 persons) had departed from Libya; UNHCR, *Libya Operational Update*, 16 June 2015, p. 2.

¹¹² Between 1 January and 20 October 2015, 2,822 fatalities have been documented on the Central Mediterranean route; IOM, *Mediterranean Sea – Data of Missing Migrants*, last updated 20 October 2015, <http://missingmigrants.iom.int/en/mediterranean>.

¹¹³ Applicable frameworks include that of the 1951 Convention relating to the Status of Refugees [*Convention Relating to the Status of Refugees* (“1951 Convention”), 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, <http://www.refworld.org/docid/3be01b964.html>] and its Protocol [*Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, <http://www.refworld.org/docid/3ae6b3ae4.html>], the EU Qualification Directive, relating to refugees or persons in need of subsidiary protection [European Union, *Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)* (“Qualification Directive”), 13 December 2011, <http://www.refworld.org/docid/4f06fa5e2.html>] or other applicable regional frameworks; the OAU Convention [*Convention Governing the Specific Aspects of Refugee Problems in Africa* (“OAU Convention”), 10 September 1969, 1001 U.N.T.S. 45, <http://www.unhcr.org/refworld/docid/3ae6b36018.html>], and the Cartagena Declaration [*Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, <http://www.refworld.org/docid/3ae6b36ec.html>].

the former Gaddafi regime.¹¹⁴ Persons with these and other profiles may be in need of international protection in accordance with the 1951 Convention, for reason of real or imputed political opinion, or for reasons related to other 1951 Convention grounds. Claims need to be considered on an individual basis, carefully taking into account the particular circumstances of each case. Furthermore, UNHCR considers that persons fleeing Libya may be in need of international protection in accordance with Article 1(2) of the 1969 OAU Convention, or, in countries of asylum outside the African Union and in cases where the 1951 Convention criteria are found not to apply in the individual case, may meet the criteria for complementary forms of protection.¹¹⁵

27. There may be individuals who have been associated with acts that bring them within the scope of the exclusion clauses contained in Article 1F of the 1951 Convention.¹¹⁶ In such cases, it will be necessary to examine carefully any issues of individual responsibility for crimes which may give rise to exclusion from international refugee protection. In addition, to preserve the civilian character of asylum, States would need to assess the situation of arrivals carefully so as to identify armed elements and separate them from the civilian refugee population.¹¹⁷

UNHCR Position on Returns

28. UNHCR commends any measure taken by States to suspend forcible returns of nationals or habitual residents of Libya, including those who have had their asylum claim rejected. UNHCR urges all States to suspend forcible returns to Libya, including Tripoli, until the security and human rights situation has improved considerably. Given the volatility of the situation, the fragmentation of control and the plethora of armed groups, UNHCR considers that, in the current circumstances, the relevance and reasonableness criteria for an internal flight or relocation alternative are unlikely to be met.¹¹⁸ Suspension of forcible returns of nationals and habitual residents to Libya serves as a minimum standard and should not replace international protection for persons found to meet the criteria for refugee status under the 1951 Convention and the 1969 OAU Convention. This advice is valid until such time as the security and human rights situation in Libya has improved sufficiently to permit a safe and dignified return.

¹¹⁴ See above “Violations of International Human Rights and Humanitarian Law”. See also D+C Development and Cooperation, *The Situation of Homosexuals in Libya is Getting Worse*, 22 June 2015, <http://bit.ly/1DO1VJR>; UNSMIL, *UN Humanitarian Coordinator Calls for Immediate Release of Abducted Libyan Aid Workers*, 12 June 2015, <http://bit.ly/1LjSpvj>; Los Angeles Times, *Islamic State's War on Gays*, 8 June 2015, <http://fw.to/82u1n4L>; Malta Today, *Three Men Executed by IS for Homosexuality in Libya*, 1 May 2015, <http://bit.ly/1IoLSTA>; Minority Rights Group International, *Peoples under Threat 2015*, pp. 3, 6-7, http://www.minorityrights.org/13054/attachments/MRG_SWM15_PUTBrief_COMB_8.pdf; Reuters, *Islamic State Kills Five Journalists Working for Libyan TV Station - Army Official*, 27 April 2015, <http://reut.rs/1GAIW9>; Reporters Without Borders, *Unable to Work Journalists Flee Libya Because of Violence*, 27 April 2015, <http://bit.ly/1PexjYw>; Middle East Eye, *The Attempt to Silence Libya's Activist Generation*, last updated 13 February 2015, <https://shar.es/1sDNum>; HRW, *War on the Media: Journalists under Attack in Libya*, 9 February 2015, <http://www.refworld.org/docid/54ff00d84.html>; UN News Centre, *Libya: UN Rights Chief Condemns Ongoing Attacks against Rights Defenders, Activists*, 14 October 2014, <http://www.un.org/apps/news/story.asp?NewsID=49075>; HRW, *Libya: Wave of Political Assassinations*, 8 August 2013, <http://www.refworld.org/docid/5204e0054.html>; IRIN, *Analysis: Libyan Minority Rights at a Crossroads*, 24 May 2012, <http://bit.ly/1Irmml0>.

¹¹⁵ In the context of human rights obligations, or of applicable regional frameworks, such as the EU Qualification Directive.

¹¹⁶ UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, CR/GIP/03/05, <http://www.unhcr.org/refworld/docid/3f5857684.html>.

¹¹⁷ See UNHCR, *Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum*, September 2006, <http://www.refworld.org/docid/452b9bca2.html>.

¹¹⁸ The decision-maker bears the burden of proof of establishing that an analysis of relocation is relevant to the particular case. If considered relevant, it is up to the party asserting this to identify the proposed area of relocation and provide evidence establishing that it is a reasonable alternative for the individual concerned. See UNHCR, *Guidelines on International Protection No. 4: Internal Flight or Relocation Alternative Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, <http://www.refworld.org/pdfid/3f2791a44.pdf>, and paras 33-35. For an IFA/IRA to be relevant, the proposed area of relocation must be practically, safely and legally accessible. Further, where the claimant has a well-founded fear of persecution at the hands of the State and its agents, there is a presumption that consideration of an IFA/IRA is not “relevant” for areas under the control of the State. If the applicant fears persecution by a non-state agent of persecution, the ability to pursue the claimant in the proposed area and the State’s ability to provide protection there must be considered, see paras 9-21. UNHCR considers that a similar analysis would apply when the applicability of IFA is considered in the context of determining eligibility for subsidiary protection.

International Protection Needs of Third-Country Nationals Departing from/through Libya

29. Among those who have found themselves compelled to leave Libya, including by sea, are third-country nationals, including persons who were recognized as refugees or registered as asylum-seekers in Libya by UNHCR, or persons transiting through Libya who have been registered with or recognized as refugees in other countries where they resided before reaching Libya (by UNHCR or in state asylum procedures), as well as other persons in need of international protection.
30. The situation in which a state exercises jurisdiction over people as a result of interception at sea requires respect for the principle of non-refoulement. UNHCR urges states to refrain from returning to Libya any third-country nationals intercepted at sea and to ensure that those in need of international protection are able to access fair and effective asylum procedures upon disembarkation.¹¹⁹
31. Upon arrival in a country of asylum, third country nationals seeking or otherwise indicating a possible need for international protection should be referred to national asylum procedures, for consideration of their applications for international protection.

Designation of Libya as Safe Third Country

32. UNHCR does not consider it appropriate for States to designate or apply in practice a designation of Libya as a so-called “safe third country”. The designation of a country as a “safe third country” may result in a request for international protection not being considered on its merits but declared inadmissible, or processed in an accelerated procedure with reduced procedural safeguards. Even before the current unrest and insecurity, UNHCR considered that Libya should not be regarded as a safe third country in light of the absence of a functioning asylum system, the widely reported difficulties and abuses faced by asylum-seekers and refugees in Libya, the absence of protection from such abuses and the lack of durable solutions.¹²⁰ UNHCR calls on States not to channel applications for international protection from third country nationals into an accelerated procedure or declare them inadmissible, merely on the basis of the fact that they previously resided in or transited through Libya.

Designation of Libya as a Place of Safety for the Purpose of Disembarkation following Rescue at Sea

33. In the context of rescue at sea, international law provides that disembarkation occurs in a place of safety.¹²¹ When asylum-seekers and refugees are rescued at sea, “*the need to avoid disembarkation in territories where [their] lives and freedoms (...) would be threatened*” is relevant in determining what constitutes a place of safety.¹²² In light of the volatile security situation in general and the particular protection risks for third-country nationals (including detention in substandard

¹¹⁹ See UN Security Council Resolution 2240 (2015), which authorizes Member States to inspect vessels on the high seas off the Libyan coast if they are suspected of migrant smuggling or human trafficking from Libya, and to seize vessels which are confirmed as being used for these purposes. The resolution recognizes that “*that among these migrants may be persons who meet the definition of a refugee under the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto*” and urges states to respect the rights of migrants and “*to comply with their obligations under international law, including international human rights law and international refugee law, as applicable*”; UN Security Council, *Resolution 2240 (2015)*, Adopted by the Security Council at its 7531st Meeting, on 9 October 2015, S/RES/2240 (2015), 9 October 2015, <http://www.un.org/press/en/2015/sc12072.doc.htm>. See also UNHCR, *UNHCR Intervention before the European Court of Human Rights in the Case of Hirsi and Others v. Italy*, March 2010, Application No. 27765/09, <http://www.refworld.org/docid/4b97778d2.html>.

¹²⁰ UNHCR, *UNHCR Intervention before the European Court of Human Rights in the Case of Hirsi and Others v. Italy*, March 2010, Application No. 27765/09, <http://www.refworld.org/docid/4b97778d2.html>. See also above “*Situation of Third Country Nationals (including Asylum-Seekers, Refugees and Migrants)*”.

¹²¹ International Maritime Organization (IMO), *Resolution MSC.155(78), Adoption of Amendments to the International Convention on Maritime Search and Rescue, 1979*, 20 May 2004, Annex 5, <http://www.refworld.org/docid/432acad44.html>; IMO, *Resolution MSC.167(78), Guidelines on the Treatment of Persons Rescued At Sea*, 20 May 2004, <http://www.refworld.org/docid/432acb464.html>; IMO, *International Convention on Maritime Search and Rescue, 27 April 1979*, 1403 UNTS, Annex, para 1.3.2, <http://www.refworld.org/docid/469224c82.html>.

¹²² IMO, *Resolution MSC.167(78), Guidelines on the Treatment of Persons Rescued at Sea*, 20 May 2004, para 6.17, <http://www.refworld.org/docid/432acb464.html>.

conditions, and reported abuses against asylum-seekers, refugees and migrants),¹²³ UNHCR does not consider that Libya meets the criteria for being designated as a place of safety for the purpose of disembarkation following rescue at sea.

Updating and Review

34. UNHCR's position will be reviewed as the situation evolves and will be updated as necessary.

UNHCR
October 2015

¹²³ See above "*Situation of Third Country Nationals (including Asylum-Seekers, Refugees and Migrants)*".