



Australian Government
Department of Foreign Affairs and Trade



DFAT Country Information Report

Libya

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Contents

Contents	2
1. Purpose and Scope	3
Acronyms	4
2. Background Information	5
Recent History	5
Demography	5
Economic Overview	6
Political System	9
Human Rights Framework	9
Security Situation	9
3. Refugee Convention Claims	11
Race/Nationality	11
Religion	15
Political Opinion (Actual or Imputed)	16
Groups of Interest	16
4. Complementary Protection Claims	23
Arbitrary Deprivation of Life	23
Death Penalty	23
Torture	24
Cruel, Inhuman or Degrading Treatment or Punishment	24
5. Other Considerations	26
State Protection	26
Internal Relocation	29
Treatment of Returnees	30
Documentation	31

1. Purpose and Scope

1.1 This Country Information Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian Government policy with respect to Libya.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision-makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision-makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the *Migration Act 1958* states that:

Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision-maker, the decision-maker must take into account that assessment, where relevant, in making their decision. The decision-maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources, including governmental, diplomatic and civil society organisations in Tunis, Malta and Rome. It takes into account relevant and credible open source reports, including US State Department and UK Home Office reports; those from relevant UN agencies, including the Office of the United Nations High Commissioner on Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), the United Nations Children's Fund (UNICEF), the United Nations Economic, Scientific and Cultural Organisation (UNESCO), and the United Nations Development Programme (UNDP); recognised human rights organisations such as Human Rights Watch, Reporters Without Borders and Amnesty International; and reputable news organisations. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

Acronyms

ISIL	Islamic State in the Levant
GNA	Government of National Accord
HoR	House of Representatives
GNC	General National Congress
MSNA	Multi-Sector Needs Assessment
TNC	Transitional National Council
UNSMIL	United Nations Support Mission in Libya
NPF	National Police Force
PFG	Petroleum Facilities Guard
LROR	Libyan Revolutionaries Operations Room
NID	National Identity Database
NIN	National Identity Number
FSC	Family Smart Card

2. Background Information

Recent History

2.1 In 1911, Italy supplanted the Ottoman Turks as colonial rulers in Libya's populated coastal region and maintained its hold until its Second World War defeat by the Allies in 1943. Libya then passed to international administration before independence as a monarchy was granted by the UN in 1951. In 1969, during the king's absence overseas, a group of young officers led by Colonel Muammar Gaddafi staged a military coup and assumed control of the country.

2.2 Although he held no official title for most of his rule, Colonel Gaddafi quickly became the dominant leader of Libya, introducing a political system which was a combination of socialism and Islam. Gaddafi used Libya's significant oil revenues to advance his geopolitical goals abroad, including, at various stages, pan-Arabism, pan-Africanism, the Palestinian cause and anti-Americanism. Under Gaddafi, Libya was accused of direct or partial participation in global terrorism, most notably the downing of two airliners (over Scotland and northern Africa) and the bombing of a Berlin nightclub. UN sanctions implemented in 1992 isolated Libya politically and economically. The sanctions were lifted in 2003 when Libya accepted responsibility for the Lockerbie bombing, agreed to claimant compensation, and renounced its clandestine nuclear weapons program.

2.3 For the majority of his rule, effective opposition to Gaddafi inside Libya was minimal. The government operated a substantial internal intelligence network to detect even minor dissent. However, in early 2011, unchecked protests in the eastern city of Benghazi carried out at the time of the wider Arab Spring quickly led to an ideologically disparate range of dissident groups taking up arms against the Gaddafi regime. Aided by NATO air support sanctioned by the UN Security Council, and the defection of key members of Gaddafi's political and security elite, the rebels quickly gained control of large amounts of territory. The last major pro-Gaddafi city, Sirte, fell to the rebels in October 2011 and Gaddafi himself was captured and killed by militants while attempting to flee Libya. On 23 October 2011, the head of the largest opposition group, the Transitional National Council (TNC), declared Libya to be 'officially' liberated.

2.4 The removal of the Gaddafi state apparatus left a major power vacuum that no single group or personality has thus far been able to fill. Free parliamentary elections held in July 2012 resulted in a political deadlock between two rival blocs, loosely described as 'Islamists' and 'nationalists' but more accurately representing a broader complex mix of regional, tribal and familial loyalties. Further parliamentary elections in June 2014 resulted in a victory for the 'nationalists'. However, the 'Islamists' refused to recognise the results and occupied much of Tripoli, leading to the 'nationalists' leaving the capital and basing themselves in the eastern city of Tobruk. Both sides declared themselves to be the legitimate government of Libya, and in July 2014, large-scale fighting broke out between the rival administrations, drawing in additional tribal factions and militias. The breakdown of security across the country has also enabled extremist groups, particularly Islamic State in Iraq and the Levant (ISIL, aka Daesh), to consolidate their presence in Libya (see 'Security').

2.5 As of the publication date, the two rival administrations continue to hold power in Tobruk and Tripoli respectively. The Tobruk-based administration, known as the House of Representatives (HoR), has been Libya's internationally recognised government, although the Tripoli-based entity, the General National Congress (GNC), continues to occupy the capital. In December 2015, the UN-backed Presidential Council announced the creation of a third entity, the Government of National Accord (GNA), aimed at ending the political division. On 31 March 2016, seven senior GNA members arrived in Tripoli, including its Prime Minister-designate. However, while the GNA has secured strong international backing, neither administration have committed to cooperating with or supporting it, and it is too early to tell whether its creation will lead to

significant political change in Libya. For the purposes of this report only, 'the Libyan government' when used in the present tense refers to the HoR.

Demography

2.6 Libya has not conducted a population census since 2006. Although the resumption of conflict makes it difficult to obtain precise figures, at the beginning of 2016 Libya's estimated population was 6.4 million, with an estimated population growth rate of 2.23 per cent. Ninety per cent of Libyans reside in 10 per cent of the country's area, primarily along the Mediterranean coast. Libya's population is heavily urbanised, with around 90 per cent of Libyans residing in the four largest cities of Tripoli, Benghazi, Misrata and Bayda, although Benghazi has been largely destroyed in the civil war.

2.7 Libya's citizen population is almost exclusively Arab and Amazigh/Berber (97 per cent), with the remaining three per cent consisting of minority Saharan tribes. Libya's official language is Arabic. Italian and English are widely spoken and understood in major cities and a number of Berber languages are also spoken. Islam is the official religion, and virtually all Libyans are Sunni Muslim (apart from a small population of Ibadi Muslims, see 'Amazigh').

2.8 Before the resumption of conflict in July 2014, non-national foreign workers made up approximately 12 per cent of Libya's total population. This number has likely decreased considerably as large numbers of foreign workers have returned to their home countries, particularly Egyptians, Filipinos, and South Asians. After the beheading of 21 Egyptian Copts on a Mediterranean beach by ISIL militants in February 2015, Egypt imposed a ban on its citizens travelling to Libya and facilitated the evacuation of those already there.

2.9 Libya is not party to the 1951 *Convention Relating to the Status of Refugees* or its Protocol. It has ratified the 1969 *Convention Governing the Specific Aspects of Refugee Problems in Africa* but has not adopted asylum legislation or established asylum procedures. UNHCR suspended new registration activities in Libya in May 2014 for security reasons. It reported in July 2014 that it had registered over 36,000 asylum-seekers and refugees, including Syrians, Palestinians, Eritreans and Iraqis, many of whom had been residing in Libya for years. In addition to asylum-seekers and refugees registered with UNHCR, DFAT understands there are a large number of third-country nationals or stateless persons in Libya who have not registered with UNHCR. This may be because they were unable to do so before UNHCR suspended new registration activities in Libya in May 2014, or because they intended to move onwards to seek international protection elsewhere.

2.10 The lack of a single centralised government with the ability to exercise border controls has contributed to an exponential increase in the number of asylum seekers using Libya as a transit and departure point for irregular sea migration to Europe. As of December 2015, up to 250,000 asylum-seekers and migrants were estimated to be residing or transiting through the country, with major countries of origin including Eritrea, Nigeria, Sudan, Somalia, and Syria. 153,840 people arrived by sea in Italy in 2015, virtually all of whom transited through Libya. In the absence of effective protection mechanisms and a lack of rule of law and functioning institutions, refugees and asylum-seekers (particularly those from sub-Saharan Africa) were subjected to harassment, arbitrary detention, limited freedom of movement, extortion, violence and sexual assault.

Economic Overview

2.11 Libya ranked 55th out of 187 countries in the United Nations Human Development Index for 2014, and was rated as a High Human Development country. However, while it retained this rating in the Human Development Index for 2015, Libya fell in the overall rankings to 94th.

2.12 Income from the sale of crude oil and natural gas, coupled with a small population, has given Libyans one of the highest nominal per capita GDPs in Africa. However, economic development has been hindered by a long-running failure to invest in national infrastructure. The capacity of key Libyan economic agencies and ministries is very weak. The World Bank has provided capacity-building for economic agencies representing both Libyan governments, including some joint seminars. Economic commentators have expressed concerns, however, over the significant risks of devaluation, hyperinflation, drawdown of reserves, and future inability to pay public salaries.

2.13 Libya's post-Gaddafi economic transformation away from a notionally socialist model towards a market-based economy has stalled due to shrinking revenues, political uncertainty and inadequate security. The resumption of conflict in 2014 has halted funding for economic reform and infrastructure projects. The rival administrations in Tripoli and Tobruk have competed for control of the central bank and the national oil company, and at the time of publication there were two central banks claiming to represent Libya.

2.14 Libya's formal economy is almost entirely dependent on its energy sector, which generates about 65 per cent of GDP and 95 per cent of government revenue. Libyan sales of oil and natural gas collapsed during the 2011 conflict, rebounded in 2012-13 but fell sharply in late 2013 and throughout 2014 due to major disruptions at Libyan oil ports and around the country. At the time of publication, Libya was no longer earning revenue from customs, while oil production was hovering at 300,000 barrels per day, about a quarter of pre-conflict levels. State salaries (see 'Employment') and subsidies on basic goods account for an unsustainable 70 per cent of Libya's official expenditure, and the budget deficit was close to 40 per cent of GDP in 2015, up from about four per cent in 2013.

2.15 The breakdown of security caused by the lack of political stability in Libya has contributed to the growth of a self-sustaining and significant black market economy. This economy is based primarily on cross-border smuggling, including of people, subsidised fuel and foodstuffs, drugs, and weapons. The large amounts of money involved in this black economy have led to a number of former anti-Gaddafi rebel groups becoming criminals to earn money.

2.16 The business environment across Libya is extremely difficult. Letters of credit and bank transfers are no longer available, labour costs have risen considerably, and both electricity and fuel can be difficult to obtain. The lack of security has led to an increase in the numbers of kidnappings for ransom, and many Libyan business people based outside the country (predominately in Tunis, Cairo or Malta) now conduct very short visits to the country, accompanied by heavy security. The security of facilities is a major concern, and vehicle theft has become rampant. Most business people have been compelled to pay protection money to enable supply chains to continue to operate.

2.17 Although Libya has ratified the *United Nations Convention Against Corruption*, corruption is widespread throughout Libyan society and its institutions, including the rival governments, the public sector, the oil industry, and private businesses. Transparency International's 2015 Corruption Perception Index ranked Libya equal 161st out of 168 countries (168 being the most corrupt). The Gaddafi regime left a legacy of administrative corruption through its nepotism, tribal/political patronage, financial irregularities, and circumventing of regulations within institutions. This has been exacerbated since Gaddafi's fall by political instability and deteriorating security, which has led to an extreme lack of accountability and transparency, and a growth in bribery, extortion in exchange for public services and embezzlement of public resources. Government institutions have had little impact on reducing corruption in Libya with the exception of the country's Audit Bureau, which has continuously monitored the work of government institutions and published audit reports regarding their annual budgets. A number of civil society organisations have also served as corruption 'watchdogs'.

Health

2.18 The resumption of conflict in 2014 has severely damaged health services in the country. In August 2014, the Ministry of Health warned of a possible collapse of the health system after the evacuation of 3,000 health workers originating from the Philippines and India, accounting for 80 per cent of Libya's hospital staff.

2.19 While the health system continues to function, a Multi-Sector Needs Assessment (MSNA) conducted in September 2015 by the UN found that an estimated 18 per cent of primary health care clinics and more than 20 per cent of hospitals were not functioning, with over 60 per cent of hospitals at times inaccessible or closed in conflict areas in the preceding six months. Several major hospitals had been shelled, and armed groups had occupied a number of others. Those facilities and hospitals that were open and accessible were overcrowded with patients, had limited resources to respond, and often had to prioritise trauma care workers. There was also a severe shortage of essential medicines, medical supplies and vaccines. Health network coordination, surveillance and information-sharing had been curbed due to breakdowns in communication, particularly between different administrations. Access to healthcare has been particularly difficult for vulnerable groups such as the elderly, the very sick, and those requiring transportation.

2.20 The MSNA also found that an estimated 680,000 people were in need of humanitarian assistance to meet their basic water and sanitation needs. Wastewater treatment was a growing concern, particularly for the internally displaced, refugees, asylum seekers and migrants who were residing in collective centres in semi-built structures and public buildings.

2.21 Prior to the resumption of conflict, Libyan health indicators were generally good: life expectancy for both sexes (74 for males and 77 for women) and the rates of under-five and maternal mortality all improved over the period 2000-12. In 2013, the most recent year for which reliable data is available, the government spent 4.3 per cent of its GDP on health. Libya previously provided comprehensive health care to all citizens free of charge through primary health care units, health centres and district hospitals. The army and National Oil Company also provided health services to members of the armed forces and company employees, and a private health sector was also emerging. The major causes of death in Libya as of 2013 were cardiovascular diseases, cancer, road traffic injuries, and diabetes.

2.22 While more recent statistics on health indicators in Libya are not available, it is highly likely that they have deteriorated substantially since the resumption of conflict. The MSNA reported that in September 2015, 1.9 million people in Libya required humanitarian assistance to meet their basic healthcare needs. Areas of particular concern included Benghazi, Tripoli, Derna, Sirte, Al Jifarah, Al Kufra, Wadi al-Hayat and Ghat.

Education

2.23 The lack of security throughout Libya caused by ongoing conflict has had a major impact on the delivery of education services in the country. Insecurity, damage to schools, lack of space in local schools, and resource constraints are all factors which hinder the delivery of education services nationwide, particularly to children displaced by conflict.

2.24 The MSNA conducted in September 2015 found that school enrolment rates had dropped on average by 20 per cent across the country (21 per cent boys and 17 per cent girls). Benghazi was the worst affected province, with enrolment rates as low as 50 per cent, due to 73 per cent of schools no longer being functional. Of Benghazi's 239 schools, 110 were inaccessible due to the conflict and 64 were occupied by IDPs. As many as 150,000 Libyan children were at risk of no longer having access to education due to the ongoing crisis.

2.25 Before the resumption of conflict in 2014, Libya provided near universal access to education services. Its literacy rate was one of the highest in the region, at an estimated 91 per cent of those aged fifteen and above (96.7 per cent for males, and 85.6 per cent for females). Despite substantial financial investment in the education sector, however, the overall quality of Libya's education sector was of concern, due to a severe lack of teacher training. In 2014, the World Economic Forum's annual Global Competitiveness Report ranked Libya 128th out of 144 countries for quality of primary education.

Employment

2.26 Employment in Libya has been dominated by the state sector, which employed more than 80 per cent of the Libyan workforce in 2014. In an unsuccessful attempt to ensure loyalty during the 2011 conflict, Gaddafi raised the salaries of 2.4 million state employees. As of September 2015, the majority of the approximately 2 million Libyans who had fled by road or air to Tunisia, Egypt and other countries to escape the current insecurity were still receiving their salaries from the Central Bank despite not being physically present in Libya.

2.27 The absence of official statistics due to the lack of a single functioning central government make measuring Libya's unemployment rate difficult. Official data released in September 2013 put the unemployment rate at 13 per cent for the year, down from a high level of about 20 per cent in 2011. However, unofficial estimates suggest that the actual figure as of the publication date is closer to 30 per cent. The World Bank estimates that youth unemployment is around 50 per cent, with many of those unemployed holding university degrees. The deteriorating security environment caused by the resumption of conflict in 2014 will most likely have increased formal unemployment significantly.

Political System

2.28 Prior to the Italian invasion in 1911, the area covered by modern Libya was administered as three separate provinces of the Ottoman Empire: Tripolitania (north-west), Fezzan (south-west), and Cyrenaica (east). Despite occasional attempts at re-organisation, these divisions were largely maintained until 1963, when independent Libya divided into ten governates. A series of short-lived re-divisions took place between 1983-2007, at which time Libya adopted its present administrative arrangement of 22 districts.

2.29 Libya's current political divisions correspond roughly to the former Ottoman boundaries. The GNC administration in Tripoli loosely controls the bulk of Tripolitania, while the HoR government in Tobruk loosely controls the former Cyrenaica and small areas in western Libya around the city of Zintan and along the northern Tunisian border. The Saharan south-west of Libya, comprising the former Fezzan province, is controlled by neither administration, and is the subject of competition by rival tribal militias and jihadists. Many municipalities now operate autonomously of either the HoR or GNC administrations, often under the control of local militias (see 'State Protection – Militias'). The breakdown of security across the country has enabled extremist groups, including ISIL, to consolidate their presence in Libya (see 'Security Situation').

Human Rights Framework

2.30 Under Gaddafi, Libya ratified most of the major UN conventions on human rights, including the two *International Conventions on Civil and Political Rights*; the *International Convention on Economic, Social and Cultural Rights*; the *International Convention on the Elimination of all Forms of Racial Discrimination*; the *Convention on the Elimination of All Forms of Discrimination Against Women*; the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*; the *Convention on the Rights of the Child*; and the *Convention on the Protection of Migrant Workers and Members of their Families*. Moreover, Libya has signed the first optional protocol attached to the *Covenant on Civil and Political Rights* concerning filing complaints by individuals; the optional protocol of the *Convention on Eliminating All Forms of Discrimination Against Women*; and the two optional protocols of the *Convention on the Rights of the Child* concerned with the involvement of children in armed conflicts, the sale of children, and the exploitation of children in prostitution and pornographic materials.

2.31 Libya has also acceded to the eight International Labor Organization (ILO) conventions on human rights, namely: the two Conventions (87 and 98) on *Freedom of Association and Collective Bargaining*; the two Conventions (29 and 105) on *Forced or Compulsory Labour*; the two Conventions (100 and 111) concerning the *Elimination of Discrimination in Respect of Employment and Occupation*; and the two Conventions (138 and 182) pertaining to *Forbidding the Employment of Children and Minors*.

2.32 In July 2015, the United Nations Human Rights Council's Universal Periodic Review (UPR) examined Libya's human rights record, making 202 recommendations. Of these recommendations, Libya (represented by the HoR) fully accepted 171; noted 28; partially accepted 10; and did not accept three. The unaccepted recommendations were that Libya remove its reservations to the *Convention on the Elimination of all Forms of Discrimination Against Women* and take temporary special measures in favour of gender equality; review all laws and practices that discriminate on the basis of gender and bring them in line with international standards, including legislation with regard to marriage, divorce and inheritance; and take measures without delay to ensure that forces loyal to the government are made accountable for their indiscriminate targeting of civilians, civilian vessels as well as civilian property and infrastructure, to end the atmosphere of impunity.

Security Situation

2.33 While security conditions vary from place to place, the overall security situation in Libya is dire. The lack of political stability since the outbreak of civil conflict in 2011, compounded by the resumption of conflict in 2014, has contributed to a situation where the rule of law as provided by a national government does not exist for the majority of Libyans.

2.34 The struggle for political ascendancy in Libya has included a number of battles for control over Libya's vital oil and gas infrastructure, fought by a range of state and non-state actors. These have included a February 2015 terrorist attack at Mabruk oilfield, 170km south-east of Sirte, which killed nine and resulted in the kidnapping of three foreign oil workers; a March 2015 attack by ISIL-affiliated militants at Al Ghani

oilfield, 600km south-east of Tripoli, which killed eight oil workers and resulted in the kidnapping of nine foreign nationals; and attacks in early January 2016 by ISIL-affiliated militants on the neighbouring oil ports of al-Sidra and Ras Lanuf which killed at least nine guards and injured at least 40 people, and resulted in five massive oil storage tanks being set ablaze.

2.35 Terrorist attacks have occurred frequently across Libya. In January 2015, at least nine people (including five foreign nationals) were killed in a terrorist attack on the Corinthia Hotel in Tripoli, an international hotel frequently used by foreigners. Since November 2014, there have been a number of car bomb attacks in public areas in Tripoli, Tobruk and Benghazi, which have caused many casualties. On 7 January 2016, a truck bomb targeting a police training centre in the western city of Zliten killed at least 47 recruits and injured more than 100 people.

2.36 The breakdown of security across Libya has involved a number of attacks against foreign interests, including several attacks against diplomatic premises. On 11 September 2012, Islamist militants attacked two US diplomatic compounds in Benghazi, killing the US Ambassador and three other Americans. In addition, between November 2014 and April 2015 there were separate attacks in Tripoli against the Embassies of Egypt and the United Arab Emirates (both 13 November 2014), Algeria (17 January 2015), Sudan (3 February 2015), Morocco (13 April 2015), and Spain (20 April 2015). As a result of this instability, the majority of diplomatic missions, international agencies and NGOs have relocated their offices to Tunis. This relocation has made it harder for agencies to conduct humanitarian operations, and to gain accurate information on the humanitarian and security situation within the country. As of September 2015, only nine international NGOs retained an operational presence in Tripoli, Benghazi, Misrata and Sabha, with international staff conducting visits from outside the country.

2.37 Humanitarian access to areas in need has varied considerably across provinces. Areas under ISIL control have not been accessible. As of September 2015, ISIL controlled a 200km stretch of coastline around the city of Sirte, and also had a presence in the cities of Derna and Benghazi and near the Egyptian border. Armed conflict and violence have posed access challenges elsewhere, particularly in the east and south, including Benghazi, Al Kufrah, Sabha, Awbari and Ghat. Logistical access to remote areas of the south has been difficult.

2.38 The UNHCR reported in October 2015 that the current conflict has uprooted and displaced over 435,000 Libyans, with Benghazi the worst affected area. According to the report, an estimated 1.9 million people require urgent humanitarian assistance to meet their basic health care needs, and access to food is a major problem for approximately 1.2 million people, particularly in Benghazi and the east. Power cuts are endemic in many areas of the country. The UNHCR also reported that there have been many instances of rape, gender-based violence, land mines, and a lack of access to shelter and food throughout the country. UNICEF has designated Libya a country of special concern, due to anecdotal evidence that children are being recruited and used in armed conflict, as well as concerns over the safety of children in government-run detention centres.

2.39 The dire security situation throughout the country has been particularly problematic for Libya's minority groups. The absence of the rule of law, the presence of extremist movements such as ISIL, and the continued hostility of sections of Libyan society towards ethnic and religious minorities have led to sporadic incidents of violence and intimidation (see 'Race/Nationality').

3. Refugee Convention Claims

Race/Nationality

Legal Protections Against Discrimination

3.1 The Gaddafi regime's policy of Arabisation had a detrimental effect on all non-Arab minorities in Libya. The 1969 *Constitutional Declaration* and a later 1977 *Declaration on the Establishment of the Authority of the People* defined Libya as an Arab nation with Arabic its only official language. Ethnic minorities were commonly the victims of discrimination under Gaddafi, and were frequently denied access to education, health care and other basic services. After the fall of the Gaddafi regime, the recognition of civil, political and cultural rights for the three main minority groups: Amazigh (Berbers); Tuareg; and Tebu was considerably extended. For example, the Amazigh, Tuareg and Tebu languages were officially recognised in 2013, with provision for them to be taught in schools.

3.2 In August 2011, the TNC introduced a draft *Constitutional Charter for the Transitional Stage* (the 'Constitutional Declaration'). The Constitutional Declaration was intended to remain in effect until a permanent constitution was written and ratified in a referendum, which has not yet occurred. The Constitutional Declaration remains nominally in effect throughout Libya, although the extent to which it is practically observed varies considerably across the country. The Constitutional Declaration states that Libyans are equal before the law; enjoy equal civil and political rights; have the same opportunities; and are subject to the same public duties and obligations, without discrimination due to religion, doctrine, language, wealth, race, kinship, political opinions, and social status, tribal or eminent or familial loyalty.

3.3 *Law No. 10 Concerning the Criminalisation of Torture, Forced Abduction, and Discrimination (2013)* provides for terms of imprisonment of three to fifteen years for depriving a person of any of his or her rights because of membership in a group or clan, residence in a geographic area, or ethnicity (or colour). The law assigns the same punishments to political, administrative, executive, or military leaders who fail to take necessary measures to prevent or discover crimes specified in previous articles when those acts were committed by persons under their command and control. The extent to which the law is practically observed varies considerably across the country.

Amazigh (Berbers)

3.4 The Amazigh (Berbers) are Libya's largest indigenous minority. The Amazigh are native inhabitants of North Africa, with a population extending from Morocco to Egypt. Many Amazigh are Ibadi Muslims, an early interpretation of Islam that predates both Sunnism and Shi'ism. Ibadism is a school of Islam dominant in Oman and Zanzibar. Although Ibadi Muslims consider themselves Sunnis, most other Sunnis would disagree. The total number of Ibadi Muslims in Libya is estimated at up to 600,000, or nearly ten per cent of the total population. However, it is difficult to provide an accurate number as many Libyans are of mixed Arab-Amazigh background and do not self-identify as Amazigh.

3.5 Under the Gaddafi regime, the Amazigh were subjected to considerable discrimination and harassment due to Gaddafi's policy of Arabisation. The Amazigh language, Tamazight, was outlawed, and laws were passed which prohibited the use of non-Arab Amazigh names on official documentation. Amazighs who expressed their culture and heritage were often targeted by the state, which suppressed activities such as Amazigh New Year celebrations. The state also attempted to ensure that Amazigh marry only non-Amazigh, in order to erode their sense of identity.

3.6 Amazigh living in the Nafusa Mountain in north-west Libya were among the first to protest against the Gaddafi regime in February 2011, and fighting in the region forced nearly 55,000 Amazigh to flee into neighbouring Tunisia. Scores of Amazigh, mostly young men, 'disappeared' in the Nafusa Mountain area at the hands of Gaddafi loyalist forces.

3.7 The removal of the Gaddafi regime has led to a considerable rise in Amazigh political and cultural consciousness. For example, the Amazigh strongly advocated for Tamazight to be adopted as one of Libya's official languages. The omission of stipulations on language from the electoral law for the Constitutional Drafting Assembly led Amazigh groups to launch a short-lived campaign of civil disobedience. The Amazigh language was officially recognised on 30 July 2013, with provision for it to be taught in schools.

3.8 Along with some other minority communities, the Amazigh largely boycotted elections held in February 2014 (for a Constitutional Drafting Assembly) and in June 2014 (for the HoR), demanding greater assurances for minority rights in advance of any political participation. The June 2014 elections produced a government led by an Amazigh, Abdullah al-Thinni. At the time of publication, Al-Thinni continued to lead Libya's internationally recognised HoR government.

3.9 DFAT assesses that the majority of Amazigh, particularly those who do not self-identify as Amazigh, are not at any higher risk of experiencing violence or societal or official discrimination than Libyans of other ethnicities. However, politically active and high profile Amazigh may face a risk of societal violence from those opposed to the extension of political and cultural minority rights, particularly armed militias. Although DFAT is not aware of any reports of attacks by Islamists on Ibadi Muslims, the presence in Libya of ISIL and other extremist Sunni groups means Ibadi Muslims may be at some risk, like many other Libyans.

Black Libyans

3.10 A 'Black Libyan' is a Libyan of sub-Saharan African appearance, who may or may not hold Libyan citizenship. The Black Libyan category includes Tawergha and Saharan peoples such as Taureg and Tebu, as well as up to a million foreign workers and undocumented migrants present in Libya before the commencement of the 2011 conflict.

3.11 There had been reports of social discrimination, such as verbal abuse and denial of housing and jobs, and occasional violent attacks against dark-skinned residents of Libya occurring during the Gaddafi era. The frequency of these incidents increased considerably after Gaddafi's fall, due in part to allegations that he had relied on African mercenaries during the 2011 conflict. The US State Department reported in 2014 that interim government authorities had removed dark-skinned citizens from their homes in Tripoli and held them in detention centres and prisons. Government officials and journalists often distinguished between 'loyal' and 'foreign' populations of Taureg and Tebu in the south of the country, and advocated the expulsion of minority groups affiliated with political rivals on the basis that they were not truly 'Libyan'. A number of Taureg and Tebu communities received sub-standard or no services from municipalities, lacked national identity numbers (and thus access to formal employment), and faced widespread social discrimination as outlined previously.

3.12 DFAT assesses that 'Black Libyans' of all categories face a high risk of societal discrimination and violence due to their perceived association with the Gaddafi regime. This may include being illegally detained, beaten or tortured; having death threats made against them or their families; or being killed. Those 'Black Libyans' who cannot prove their Libyan citizenship face a high risk of official discrimination and violence, including being detained, beaten or tortured.

Tawergha (see also 'Black Libyans')

3.13 The Tawergha are the descendants of slaves brought to Libya from sub-Saharan Africa in the 18th and 19th centuries, who resided in a coastal town of the same name 250km east of Tripoli. From April-May 2011, Gaddafi loyalists used Tawergha as a base while besieging the city of Misrata, 40km to the north west. Misrata became the scene of some of the heaviest fighting in the 2011 conflict. Hundreds of civilians died in air strikes and rocket attacks, with many more injured. Numerous allegations were made of rape and sexual abuse committed by Gaddafi forces, including by Tawergha.

3.14 In mid-August 2011, at the height of the conflict, the entire population of Tawergha was driven out by anti-Gaddafi forces, who vowed they would never be allowed to return. Numerous credible sources have reported that the forced displacement was followed by arbitrary arrests of Tawergha, the looting and destruction of Tawergha homes, torture and extra-judicial killings. Most of those expelled from Tawergha remain displaced, predominantly in Tripoli or Benghazi.

3.15 Human Rights Watch (HRW) reported in September 2014 that there had been repeated documented attacks on displaced Tawergha living in makeshift camps in Tripoli and elsewhere, mostly carried out by militias from Misrata. The HRW report stated that some 40,000 former Tawergha residents had been prevented by Misratan militias from returning to their homes as a form of collective punishment for the crimes allegedly committed by Tawergha in 2011. The report added that the Libyan government (prior to the HoR-GNC split) and militia forces had failed to stop attacks on the Tawergha; to end the forced displacement; to allow the displaced to return home; and to hold those responsible to account.

3.16 DFAT assesses that Tawergha face a high level of societal discrimination and violence, particularly from Misratan militias, due to their perceived association with the Gaddafi regime. This may include being illegally detained, beaten or tortured; having death threats made against themselves or their families; or being killed. While this treatment can occur throughout Libya, it is particularly likely to occur in areas where the Misratan militias have a strong presence. DFAT assesses that Tawergha face a high level of official discrimination due to the ongoing failure of Libyan officials (representing either administration) to provide them with protection from violent attacks and to enable them to return to their homes.

Tuareg (see also 'Black Libyans')

3.17 The Tuareg are a non-Arab nomadic pastoralist group who reside in a large area throughout the North-West African Sahel region, including in Algeria, Mali, Niger and Burkina Faso. Estimates of the size of the Libyan Tuareg population vary widely and range from 10,000 to 100,000, based primarily in the south-western oases of Ghat, Ghademes and Murzuq. Many Tuareg have no official documentation attesting to their Libyan citizenship.

3.18 During the 2011 conflict, the Gaddafi regime recruited at least 1,500 non-Libyan Tuareg as mercenaries against rebel forces. Many of these recruits were ex-rebels residing in Libya, while others were recruited from across the Sahel with promises of large bonuses and Libyan citizenship in some cases. Many other Tuareg, from Libya and other Sahel countries, were employed in the Libyan national army.

3.19 Although some Tuareg also opposed Gaddafi, many Libyans have tended to identify all Tuareg as supporters of the Gaddafi regime. Following the removal of the regime, there were reports that interim government authorities removed Tripoli-based Tuareg from their homes and held them in detention centres and prisons. Government officials and journalists often distinguished between 'loyal' and 'foreign' populations of Tuareg in the south, and advocated the expulsion of minority groups affiliated with political rivals on the basis that they were not truly 'Libyan'. Actual or perceived former Gaddafi loyalists, and displaced Tuareg in general, have been subjected to retaliatory attacks, harassment, intimidation, discrimination, and other abuses.

3.20 Repeated armed clashes between Tuareg and other tribes, particularly the Tebu and Zwai, have occurred in multiple locations in the years since the fall of the Gaddafi regime. These clashes have resulted in several hundred deaths, and the displacement of large numbers of people.

3.21 DFAT assesses that Tuareg face a high risk of societal discrimination and violence, similar to that of other categories of 'Black Libyans', due to their perceived association with the Gaddafi regime. This may include being illegally detained, beaten or tortured; having death threats made against themselves or their families; or being killed. While this treatment can occur throughout Libya, the risk is higher for those Tuareg located outside their traditional tribal areas in the south. Those Tuareg without documentation to prove their Libyan citizenship face a high risk of official discrimination and violence, including being detained, beaten or tortured. This risk is also particularly high in areas outside their traditional tribal areas.

Tebu (Toubou/Tabu) (see also 'Black Libyans')

3.22 The Tebu (Toubou/Tabu) are a traditionally nomadic Saharan tribe which has long inhabited an area straddling the borders of present-day Libya, Chad and Niger. An estimated population of 50,000 Tebu live in Libya, where they have traditionally resided in the sparsely populated south east of the country, in particular the Tibesti Mountains region along the Chadian frontier. There is also a relatively high concentration of Tebu in the al Kufrah area.

3.23 In the 1970s, Libya invaded the mineral-rich Aouzou strip belonging to Chad, and registered its inhabitants as Libyan citizens. Libya's Tebu population was coerced into moving to the region, and applying for new documentation with the civil administration set up in Aouzou. Libya's Tebu population thus largely came to hold documentation issued from Aouzou.

3.24 Following several years of conflict between Libya and Chad, a ceasefire was reached in 1987. However, the territorial boundary remained unclarified until February 1994, when the International Court of Justice ruled that the Aouzou strip was Chadian territory. Libya recognised the court's decision. In 1996, the Gaddafi regime passed *Decree No. 13 (1485)* which declared that all those carrying documentation issued in Aouzou should be considered foreigners and were to come under the jurisdiction of the laws applicable to foreigners. This policy applied regardless of whether individuals had actually been compelled to register in Aouzou and had their regular place of residence elsewhere in Libya; and regardless of whether they had acquired or maintained Chadian nationality.

3.25 In 2007, Libyan authorities began a policy of actively revoking citizenships from the Tebu, on the grounds that they were Chadians rather than Libyans. This policy was implemented unilaterally, and there is no evidence that any assessment of Chadian nationality law or the citizenship of any of the affected individuals was made. The combined 1996 and 2007 policies have likely led to cases of Tebu being left stateless, although the numbers of those affected remain unclear.

3.26 During the final months of the Gaddafi regime, Gaddafi reportedly annulled the 1996 Decree which had stripped nationality from those associated with Aouzou. To what extent this policy reversal was effectively communicated to the competent local and civil authorities at a time of national chaos is unknown. The scale and rate of statelessness among the Tebu today is unknown.

3.27 Repeated armed clashes between Tebu and other tribes, particularly the Tuareg, Zwai, and Awlad Suleiman, have occurred in multiple locations in the years following the fall of the Gaddafi regime. These clashes have resulted in several hundred deaths, and the displacement of large numbers of people. The violence has occurred against a backdrop of discrimination, as well as competition for control of the lucrative trans-Saharan smuggling routes in the region.

3.28 DFAT assesses that Tebu face a high risk of societal discrimination and violence, similar to that of other categories of 'Black Libyans', due to their perceived association with the Gaddafi regime. This may include being illegally detained, beaten or tortured; having death threats made against themselves or their families; or being killed. While this treatment can occur throughout Libya, the risk is higher for those Tebu located outside of their traditional tribal areas. Those Tebu without documentation to prove their Libyan citizenship face a high risk of official discrimination and violence, including being detained, beaten or tortured. This risk is also particularly high in areas outside their traditional tribal areas.

Mashashiya (Mashashya)

3.29 The Mashashiya (Mashashya) tribespeople reside in western Libya, in the region around the Nafusa Mountains, Zintan and other towns in the area. The Mashashiya are believed to have originally been nomadic shepherds who followed their herds to the area from southern Libya and then settled there. Reliable population figures for the Mashashiya are unavailable.

3.30 Limited land and water resources have been sources of longstanding rivalries between the Mashashiya and other local communities. These rivalries were exacerbated by the systematic policy of patronage pursued by the Gaddafi regime. Under Gaddafi, the regime manipulated ethnic and tribal tensions, encouraging a competition over resources and favours at the expense of the development of a strong sense of national identity. The Mashashiya are generally perceived to have been a group favoured by the regime.

3.31 Between March and June 2011, anti-Gaddafi rebels targeted the Mashashiya for their alleged support for the regime during the siege of the town of Zintan. After capturing a number of villages and towns around Zintan, the rebels forcibly displaced Mashashiya people from the area. Majority Mashashiya towns were looted and witnessed significant destruction. Roughly 10,000 Mashashiya have been prevented from returning to their home towns, with most living in protracted displacement in Sgeiga, the Nafusa Mountains, or Tripoli. Ongoing clashes in 2012-3 in Misdah and Sgeiga between the Mashashiya and rival tribes led to a further deterioration in the situation facing displaced Mashashiya, with dozens killed or wounded and thousands forced to flee the two towns.

3.32 According to Amnesty International, displaced Mashashiya continue to be at risk of retaliatory attacks, including abductions, and face serious restrictions to their freedom of movement. Actual or perceived former Gaddafi loyalists, and displaced Mashashiya in general, have been subjected to retaliatory attacks, harassment, intimidation, discrimination, and other abuses.

3.33 DFAT assesses that the Mashashiya face a high level of societal discrimination and violence, particularly by Zintan militias, due to their perceived association with the Gaddafi regime. This may include being illegally detained, beaten or tortured; having death threats made against themselves or their families; or being killed. While this treatment can occur throughout Libya, it is particularly likely to occur in areas where the Zintan militias have a strong presence. DFAT assesses that Mashashiya face a high level of official discrimination due to the ongoing failure of Libyan authorities to provide them with protection from violent attacks and to enable them to return to their homes.

Religion

3.34 The US State Department's 2014 International Religious Freedom Report for Libya (the most recent available) estimated that 97 per cent of Libya's population was Sunni Muslim. While many members of the Amazigh ethnic minority were Ibadi Muslims (see 'Amazigh (Berbers)' in Race/Nationality), nearly all other non-Sunni Muslims were foreign residents.

Legal Policy Framework and Protection against Discrimination

3.35 Although Article 6 of the Constitutional Declaration prohibits discrimination on the basis of religion, some laws and policies restrict religious freedom in Libya. In 2012, the TNC adopted a declaration formally recommending the popularly elected parliament establish Islam as the main source of legislation without recourse to a public referendum. In December 2013, the GNC voted to make Islamic law (*sharia*) the basis of all legislation and for all state institutions. It is unclear to what extent this decision has been implemented across Libya. The US State Department reported in 2014 that some Gaddafi-era laws that restricted religious freedom remained in place, but were not regularly enforced.

3.36 The Ministry for Endowments and Islamic Affairs is responsible for the administration of mosques and the supervision of clerics, and has primary responsibility for ensuring all religious practices within the country conform to state-approved Islamic norms. It is unclear to what extent the Ministry has been able to carry out its duties across the country since the HoR-GNC split and the resumption of conflict. The NTC created the office of Grand Mufti in 2012, with Salafist cleric Sheikh Sadeq al-Ghariani appointed as the leading religious scholar in the country. While highly influential in public discourse and private arbitration, *fatwas* issued by the Grand Mufti's office carry no legal weight.

Personal Status Laws

3.37 Personal status laws dealing with family-related matters such as inheritance, divorce, and the right to own property are governed by Islamic *sharia* law for Muslims. Under this body of law, a non-Muslim woman who marries a Muslim man is not required to convert to Islam (although many do so), but a non-Muslim man must convert to Islam to marry a Muslim woman. The Ministry of Endowments and Islamic Affairs administers non-Muslim family law issues, although without a parallel legal framework. The Ministry draws upon neighbouring countries' family law precedents for non-Muslims.

Blasphemy / Defamation of Religion

3.38 DFAT is not aware of any specific law providing for an individual's right to choose or change his or her religion, or to study, discuss or promulgate one's religious beliefs.

Proselytisation

3.39 Reports differ as to whether Libya has any specific law prohibiting proselytising, but there have been recent cases where those accused of it have been dealt with harshly by Libyan officials and militia groups. In late 2012, a group of Pakistani Ahmadi Muslims was detained by an armed group on suspicion of proselytising before being released in May 2013. In February 2013, Libyan officials reportedly detained four foreign Christians and jailed them for two months on suspicion of proselytising in Benghazi. In March 2013, up to 100 Egyptian Copts were detained and subsequently deported after being accused of proselytising in Benghazi. In September 2013, a militia affiliated with the Ministry of Interior detained a US citizen working as a teacher at an international school in Tripoli on suspicion of proselytising in the classroom. The individual was detained for more than six weeks without charge, before being released on the condition that he depart the country.

Political Opinion (Actual or Imputed)

3.40 Article 15 of the Constitutional Declaration guarantees the freedom to form 'political parties, societies and other civil societies'.

3.41 The Gaddafi regime outlawed political parties in 1972, with power instead theoretically held by 'people's committees' in a system of direct democracy. In practice, this system enabled Colonel Gaddafi to exercise absolute power. During the 2011 conflict, the anti-Gaddafi NTC made the introduction of multi-party democracy a cornerstone of its agenda. Both the July 2012 and March 2014 parliamentary elections featured participation by a large number of newly established political parties. However, the conflict which broke out after the disputed 2014 elections has stymied the development of these parties. Politics in Libya has tended to be highly parochial/tribal, rather than ideological in nature.

3.42 Several hundred politically-motivated assassinations have taken place across Libya since the fall of the Gaddafi regime in 2011. Victims have included journalists, activists, judges, prominent clerics, prosecutors, human rights defenders and members of the security forces (see also 'Media', 'Human Rights Defenders', and 'Extra-Judicial Killings'). While no groups have claimed responsibility for the killings and there have been no arrests, the killings are believed to have been carried out by armed militias. According to a September 2014 report by Human Rights Watch, the failure of Libyan authorities to conduct investigations or prosecute the perpetrators of the killings has fostered a culture of impunity that has fuelled further abuses.

3.43 DFAT assesses that those involved in political activities in Libya face a high risk of societal discrimination and violence, particularly from armed militias outside of the control of either Libyan administration. This is due to a general intolerance for diversity of opinion amongst these militias, and because they view political activities and free expression as a challenge to their authority. This treatment may include being illegally detained, beaten or tortured; having death threats made against themselves or their families; or being killed. The risk is particularly high for specific groups of interest such as journalists and human rights defenders (see sections following).

Groups of Interest

Human Rights Defenders

3.44 The breakdown of law and order in Libya since 2011 has severely limited the work of civil society organisations. A joint report by the United Nations Support Mission in Libya (UNSMIL) and UNHCR issued in March 2015 noted that human rights defenders and other members of civil society across Libya had been subjected to killings; unlawful deprivation of liberty; abductions; torture and other ill-treatment; physical and

verbal assaults; death threats; and other forms of intimidation, by armed groups and unknown perpetrators. In some instances, armed groups and unknown perpetrators had also unlawfully detained, attacked or threatened relatives of human rights defenders with the aim of silencing those who remained in Libya or who had fled.

3.45 The offices of many human rights NGOs in Libya (most of which were established after the fall of the Gaddafi regime) have been forcibly closed and raided, with sensitive documents and equipment damaged or stolen. In some instances, homes of human rights defenders have been broken into and looted. In September 2014, militia forces in Tripoli reportedly raided the offices of the National Commission for Human Rights and removed its archive of individual complaints, raising concerns of reprisals against victims of abuses.

3.46 While human rights defenders have suffered violence in a climate of impunity nationwide since 2011, there has been a notable rise in attacks specifically targeting them (and other groups of interest) in the east of Libya since May 2014, when fighting intensified in and around Benghazi; and in the west of the country since July 2014, when armed clashes erupted in Tripoli and spread to other parts of western Libya.

3.47 Benghazi experienced a spate of civil society killings in mid-2014. Newspaper editor Muftah Abu Zeid was murdered on 26 May, and human rights defender and lawyer Salwa Burghaigis on 26 June. On 19 September, in what is known in Libya as 'Black Friday', 10 people were murdered, including two prominent young members of civil society, Tawfik Bensaud (aged 18) and Sami al-Kawafi (aged 17). No group claimed responsibility for these murders, and investigations have been hampered by the security situation and the lack of a functional judicial system in Benghazi.

3.48 Human rights defenders in Derna, a stronghold of extremist armed groups (including ISIL), have been operating in a particularly difficult and dangerous environment. Derna has witnessed a string of politically-motivated killings, including of judges, civil society activists, and media workers. An explosion reportedly damaged the headquarters of the network of civil society organisations in late 2013, following demonstrations in the city calling for the withdrawal of armed groups.

3.49 Human rights defenders in Tripoli and western Libya have faced a series of attacks since August 2014. In February 2015, Entissar al-Hassaeri, an active civil society member, was found shot in her car, along with her aunt. On 13 and 14 February 2015, two prominent members of the National Commission for Human Rights – Libya, Dr Ali Osta (board member) and Dr Hadi Ben Taleb (Director) were separately abducted in Tripoli by an armed militia. Their NGO had been publishing press releases condemning human rights violations and abuses taking place in the context of the ongoing armed conflict. The two were subsequently released. However, DFAT is aware that another (unidentified) Tripoli-based human rights defender abducted in late July 2014 remains missing. It is believed that he was abducted due to his questioning of the legitimacy of the GNC, and his vocal opposition to armed groups, including participating in demonstrations against them.

3.50 A joint UNSMIL/UNHCR report issued in March 2015 reported that a leading Tawergha human rights defender, Ali Harous, has been subjected to repeated physical assaults, short-term detentions and threats. Following two separate incidents in August 2014, in which Harous was detained for several hours by hostile Misratan militias, threats against his family prompted him to flee Libya in September 2014.

3.51 Given the increasing risks, the killing of prominent human rights defenders and the total impunity for such acts, many human rights defenders have fled the country, gone into hiding, fallen silent, or been forced to work in secret at great risk to themselves and their families.

3.52 Despite the considerable risks to their safety, some civil society organisations have remained active in Libya. On 19 May 2015, the Coalition of Libyan Human Rights Organisations, consisting of seven civil society organisations - Lawyers for Justice in Libya; *Al Nissa Qadmiat* (the Women are Coming) Movement; Mercy Association for Charitable and Humanitarian Aid (*Al Rahma*); Cairo Institute for Human Rights Studies; National Libyan Organisation for the Development of People with Disabilities; Libyan Association for Tebu Culture; and Libyan Center for Freedom of Press - jointly signed a letter welcoming the UN Human Rights Council's adoption of the report of the Universal Periodic Review (UPR) of the human rights situation in Libya, and calling on Libya to accept and implement the report's recommendations. On 1 October 2015, the Coalition issued a press release calling on Libya to adopt an implementation plan for the UPR's recommendations.

3.53 DFAT assesses that human rights defenders in Libya face a high risk of societal and official discrimination and violence, particularly from armed militias. This may include being illegally detained, beaten or tortured; having death threats made against themselves or their families; being forcibly prevented from undertaking their work; or being killed.

Media

3.54 Article 14 of the Constitutional Declaration guarantees freedom of opinion for individuals and groups, freedom of scientific research, freedom of communication, liberty of the press, printing, publication and mass media, freedom of movement, freedom of assembly, freedom of demonstration and freedom of peaceful strike, in accordance with the law. DFAT assesses that most, if not all of these rights have in practice been severely curtailed or nullified.

3.55 The media has been affected by restrictions on freedoms of expression, association and assembly in Libya in recent years. For example, *Decree 5 (2014)*, adopted by the GNC in January 2014, banned satellite television stations from broadcasting views deemed 'hostile to the 17 February Revolution', while *Law 5 (2014)* amended Article 195 of the *Penal Code* to criminalise insults to officials, the state's emblem and flag, and any act perceived as 'an attack against the 17 February Revolution'.

3.56 In November 2014, newspaper editor Amara al-Khattabi was sentenced to five years in prison in Tripoli for insulting public officials, barred from practicing journalism and stripped of his civil rights for the duration of the sentence, and ordered to pay heavy fines.

3.57 The US State Department's 2014 Human Rights report on Libya (the latest available) reported that press freedoms were limited in practice due to many journalists self-censoring to avoid increased threats from militias and violent extremists. Indirect restrictions on press freedom further polarised the media environment. A number of newspapers stopped publishing for fear of attacks by armed groups, including *al-Mayadeen* in Tripoli and *al-Ahwal* in Benghazi. Reporters Without Borders reported that several radio stations stopped broadcasting certain political programs, while others completely ceased broadcasting. The staff of the ostensibly state-controlled *al-Wataniya* television station were reportedly prevented by a GNC-aligned militia from telecasting the 4 August 2014 inaugural ceremony of the HoR. On 10 August 2014, 23 television journalists resigned from *Libya al-Rasmiyah* in response to its board's perceived anti-HoR bias.

3.58 Amnesty International's 2014-15 report on Libya stated that militias had increased their attacks on the media, abducting scores of journalists and subjecting others to physical assaults or other ill-treatment, arbitrary detention, threats and assassination attempts. A number of prominent journalists were unlawfully killed in 2014, including Muftah Abu Zeid, editor-in-chief of *Burniq* newspaper, who was shot dead by unidentified armed men in Benghazi on 26 May 2014; al-Tayeb Issa, one of the founders of a privately-owned satellite television station, *Tuareg Tumsat*, who was killed by unknown assailants in Libya's south-west on 5 October; and Motassem al-Warfalli, a radio presenter who was killed by unknown assailants on 8 October. In August 2014, GNC-aligned militias in Tripoli destroyed and burned the premises of two TV stations, al-Assema and Libya International. Scores of journalists have reportedly fled Libya due to the threat posed to them by militias.

3.59 In October 2014, Reporters Without Borders launched a campaign to highlight the dangers being faced by journalists in Libya. The 2015 Reporters Without Borders Press Freedom Index ranked Libya 154th out of 180 countries.

3.60 Despite limited internet penetration outside urban centres and frequent electricity outages, social media, including YouTube, Facebook and Twitter, has played a critical role in official and unofficial communications in Libya. However, a large number of bloggers, online journalists and citizens have reported practicing self-censorship due to instability, militia intimidation, and the uncertain political situation. Some activists have reported finding apparent 'kill lists' targeting civilian dissenters on social media websites affiliated with certain Islamist militias. In November 2014, GNC authorities in Tripoli requested that the state-owned Libya Telecom and Technology telecom company turn over data to assist them in tracking 'criminals' and restricting access to pornographic, atheist, and Christian sites.

3.61 DFAT assesses that journalists in Libya face a high risk of societal and official discrimination and violence, particularly from armed militias. This may include being illegally detained, beaten or tortured;

having death threats made against themselves or their families; being forcibly prevented from undertaking their work; or being killed.

Actual or Perceived Gaddafi Regime Loyalists

3.62 Hatred and resentment against Gaddafi, and those perceived to be associated with his regime, is widespread throughout Libya (see also 'Black Libyans'). This animosity is based in particular on the conduct of the regime following the outbreak of conflict in 2011. Between February and August 2011, when Tripoli fell, pro-Gaddafi forces committed serious violations of human rights law and the laws of war. Gaddafi's forces repeatedly launched indiscriminate attacks using mortars, artillery and rockets into civilian areas, and laid tens of thousands of anti-personnel and anti-vehicle mines. Thousands of Libyans perceived to be against the regime were detained without charge, and were often subjected to torture and mistreatment in detention.

3.63 After the fall of the Gaddafi regime, the Ministry of Interior (under the control of the NTC) issued *Decree 388 (2011)* which granted local Supreme Security Committees the right to arrest, detain and interrogate suspects. This decree provided a legal basis for the arrest and detention of suspects by committees created by civilian or military councils and militias at the local level. The 2012 report of the UN Commission of Inquiry on Libya concluded militias executed and tortured to death perceived Gaddafi loyalists, and were liable for charges of the war crime of murder or arbitrary deprivation of life. As of the date of publication, there were no known prosecutions related to killings by militias.

3.64 In addition to taking captive individual suspects, armed militias targeted entire communities and ethnic minority groups accused of having supported Gaddafi forces and committed crimes during the conflict (see also 'Black Libyans', 'Tawerghans' and 'Mashashiyas').

3.65 Although *Law 29 on Transitional Justice (2013)* required authorities to charge or release all detainees 'affiliated with the previous regime' by 2 March 2014, Amnesty International reported on 3 March 2014 that this deadline had not been fully met and thousands of conflict detainees remained in detention centres across the country. Amnesty International also reported that Libyan courts had faced difficulties in processing cases of conflict detainees due to public and militia pressure, with prosecutors, judges and lawyers defending perceived pro-Gaddafi loyalists facing intimidation, threats and violence.

3.66 In an April 2013 report on the Libyan justice system, the International Crisis Group reported that in many cases, presumed ties to the Gaddafi regime appeared to have been little more than pretexts to retaliate against people against whom the armed brigades held personal or professional grudges, or as means of extorting a ransom.

3.67 On 29 July 2015, a mass trial of 28 former senior regime figures resulted in 24 being convicted of crimes relating to the Gaddafi regime's conduct during the 2011 conflict. Nine of the defendants, including Gaddafi's son Saif al-Islam Gaddafi, were sentenced to death in a trial widely criticised by international observers (see 'Death Penalty'). In the aftermath of the verdict, it was reported that there had been a number of small-scale pro-Gaddafi rallies in several Libyan cities, including Benghazi.

3.68 DFAT assesses that those who were, or are perceived to have been, high-ranking officials in the Gaddafi regime (such as ministers, senior bureaucrats, military personnel or diplomats), or who had close associations with the Gaddafi family, or those who were associated with the Libyan security forces during the 2011 conflict, face a high risk of both societal and official discrimination throughout Libya. This may include being illegally detained, beaten or tortured; having death threats made against themselves or their families; or being killed. However, DFAT assesses that it is unlikely that a Libyan who was employed by the government at a low level unrelated to the security establishment would face discrimination as a result.

3.69 The Gaddafi regime was in power in Libya for 42 years, from 1969 to 2011. Over such a long period of time, the majority of the population would have either worked for, had some association with, or had a member of the family who worked for, or had an association with, the regime. DFAT assesses that it is unlikely that a Libyan with a low-level association with the regime (other than the occupations listed in 3.68) would face discrimination as a result of this association.

Former Recipients of Study Abroad Scholarships

3.70 For several decades, Libya has utilised its oil wealth to provide scholarships to enable Libyan graduate students to study abroad. The scholarships program, run by the Ministry of Higher Education, has sent around 5,700 predominantly graduate students abroad annually to study in foreign universities. After Gaddafi's fall, the program was extended to include former rebel fighters through the Warriors Affairs Commission, established at the end of the 2011 conflict to transition former rebel fighters into civilian life. As of July 2015, a combined total of approximately 20,000 Libyan students were studying around the world on the scholarships, including in the United Kingdom, United States, Canada and Australia.

3.71 The scholarships program has experienced considerable difficulties in recent years. The United Nations froze Libyan assets during the 2011 conflict, precluding the payment of monthly allowances, health insurance, and tuition fees. While payments resumed at the conclusion of the conflict, growing instability in late 2013 again caused payments to become sporadic, with the problem exacerbated considerably following the renewed outbreak of conflict in July 2014. The scholarships program was also criticised for declining standards in the selection of participants, with some overseas institutions reporting that students had arrived without the necessary English language abilities or skills to successfully undertake their study.

3.72 In June 2014, the Canadian Bureau for International Education (CBIE), a non-profit organisation that administered the scholarships for nearly 3,000 Libyan students in Canada and the United States, announced that it was unable to guarantee funding for any new students due to financial constraints caused by the sporadic nature of payments from Libya. Ongoing payment delays caused the termination of funding for health insurance for students in US universities in March 2015, and funding for coverage in Canada ceased in May. CBIE announced in May 2015 that it would cease to oversee the program as of the beginning of October 2015.

3.73 In February 2014, Amnesty International expressed concerns about *Decree 13 (2014)*, issued by the parliament the previous month, which aimed to punish Libyan students and state employees abroad who had engaged in 'activities hostile to the 17 February Revolution' by withdrawing their scholarships, salaries and bonuses. The decree also instructed embassies and relevant authorities to submit names to the General Prosecution for interrogation. Amnesty International expressed fears that the broad and vague provision included in the decree may be used to prosecute Libyan individuals who publicly expressed their opposition to the uprising and participated in protests and demonstrations supporting Gaddafi's rule during their time abroad.

3.74 DFAT is aware of one case where a former scholarship holder has been arrested on return to Libya. Moad al-Hnesh, a 34 year old studying mechanical engineering in the United Kingdom, was arrested by a militia on his return to Libya in 2012. Al-Hnesh was reportedly detained after a group of Libyan students whom he had met in the UK filed a complaint against him with the military council, accusing him of participating in demonstrations and publishing false information on the situation in Libya during the 2011 conflict. Amnesty International reported in September 2013 that al-Hnesh had been charged under Article 178 of the *Penal Code*, which criminalised any activities of a Libyan abroad perceived to be against the interests of the state, and which carried a life sentence.

3.75 A representative of a leading international organisation told DFAT in September 2015 that they believed it was unlikely that the recipient of a Study Abroad Scholarship would be targeted solely on this basis if they were to return to Libya, regardless of whether they had received the scholarship during the Gaddafi regime or afterwards. The source noted the very large numbers of recipients who had received scholarships over the decades, and that the benefits that previous scholarship holders had provided the country on their return as a result of their studies abroad were widely acknowledged. DFAT assesses this advice to be credible.

3.76 DFAT assesses that an ordinary recipient of a Study Abroad Scholarship faces a low risk of societal or official discrimination or violence upon return to Libya. Students who participated in pro-Gaddafi protests and demonstrations during the 2011 conflict, however, may be at risk of arrest, including by armed militias.

Women

3.77 Under Gaddafi, Libya acceded to the *Convention on the Elimination of All Forms of Discrimination Against Women* (1989), and became a signatory to the optional protocol of the convention (2004). However, Libya has consistently made reservations on certain provisions of the Convention which it views as conflicting with the principles of *sharia*. These provisions are Article 2, the obligation of states to integrate the principle of gender equality in their constitutions and national legislation, and guaranteeing actual realisation of this principle; and Article 16/1, which commits states to take proper measures to eliminate discrimination against women in marriage and family affairs.

3.78 The Constitutional Declaration does not specifically mention women's rights or gender equality. However, Article 5 states that: the family is the basis of society and shall be entitled to protection by the State; and the State shall protect and encourage marriage; guarantee the protection of motherhood, childhood and the elderly; and take care of children, youth and the handicapped.

3.79 *Election Law 10* (2014) put special measures in place to ensure representation of women within the House of Representatives, reserving 32 of the House's 200 seats for women. There was one woman in the original 12 person Cabinet (appointed following the June 2014 parliamentary elections), and one woman in the HoR cabinet appointed in September 2014. The National Election Commission included one woman among its seven members.

3.80 In practice, women in Libya face numerous forms of social discrimination, which affects their ability to access employment, their presence in the workplace, and their mobility and personal freedom. There is no mechanism under Libyan law to monitor violence and intimidation against women, which largely goes unreported. Rape within marriage is not a crime. Domestic violence, rape and other forms of gender-based violence both inside and outside the home are considered private matters that carry a great deal of shame and are rarely discussed publicly. A victim of rape risks prosecution for extramarital relations if she presses charges and may instead have to marry the perpetrator to save her and her family's honour.

3.81 During the 2011 conflict, the International Criminal Court (ICC) reported that it had collected evidence that Gaddafi had ordered the rape of women as a weapon against rebel forces. While it is unclear how many women were raped during the conflict, the number is believed to be in the hundreds. In February 2014, Libya's then-Cabinet issued a decree that would put women raped during the 2011 conflict on the same level as wounded ex-fighters, entitling them to compensation including financial assistance and physical and psychological health care. It is unclear whether the decree has been implemented.

3.82 There were no known reports by international organisations of female genital mutilation (FGM) taking place in Libya in 2014, and FGM is not believed to be a widely conducted cultural practice in Libya.

3.83 The UN Security Council reported that attacks on women activists increased between September 2014 and February 2015. UNSMIL and the UNHCR jointly reported in March 2015 that female human rights defenders and their families had faced threats and intimidation from armed groups on the basis of their gender.

3.84 DFAT assesses that the majority of women in Libya face persistent societal discrimination and the threat of gender-based violence. Longstanding traditional values and gender roles also continue to restrict the participation of women in the work force. Women of sub-Saharan ethnicity, those who have been the victim of sexual violence, and those accused or suspected of sexual 'misdemeanours' or offences against 'family honour' are particularly vulnerable.

Sexual Orientation and Gender Identity

3.85 Section 4, Article 410 of the *Penal Code* (1953, amended 1956) specifically prohibits 'sexual connections' or 'indecent acts' between persons of the same sex. When consensual, such acts are punishable by a term of imprisonment of up to five years for both parties.

3.86 Homosexuality is a strict social taboo in Libya. In February 2012, Libya's representative told a planning meeting of the UN Human Rights Council that LGBTI (lesbian, gay, bisexual, trans- and intersex) topics 'affect religion and the continuation and reproduction of the human race'. There have been numerous reports of physical violence, harassment, and blackmail against LGBTI individuals, based on their sexual orientation

and gender identity. Militias often police communities to enforce compliance with militia commanders' understanding of 'Islamic' behaviour, and harass and threaten with impunity individuals believed to be LGBTI and their families. Although information is limited, DFAT assesses that it is highly unlikely that there are any legal or judicial mechanisms to aid in prosecuting crimes against members of the LGBTI community.

3.87 In November 2012, members of the government-affiliated Nawasi Brigade arrested and detained 12 allegedly gay men at a private party, releasing them a week later with bruises on their backs and legs, as well as shaved heads. Pictures of the men were later posted on Facebook, with the post receiving a large number of likes, shares, and violent comments from Libyans. There have been reports that religious police in Islamist-controlled areas have posed online as gay in order to lure gay men out of hiding, after which the men have been arrested and allegedly executed. DFAT is unable to verify the veracity of these reports.

3.88 There have been consistent reports of social stigmatisation of persons with HIV/AIDS due to an association of the disease with drug use, sex outside marriage, and homosexuality. There have been reports that detainees suspected of having HIV/AIDS have been segregated from the rest of the detainee population, often in overcrowded spaces, and that they have received medical treatment last.

3.89 DFAT assesses that LGBTI individuals face a high risk of official discrimination and violence in Libya due to the likelihood of arrest by police or militias in both government and non-government controlled areas because of their actual or perceived sexual orientation or gender identity. This may include being illegally detained, beaten or tortured; having death threats made against themselves or their families; or being killed. They also have a high risk of societal discrimination because widespread traditional views about sexuality and gender continue to restrict the participation of LGBTI people in the community and workforce.

4. Complementary Protection Claims

Arbitrary Deprivation of Life

Extra-Judicial Killings

4.1 As noted in 'Political Opinion', Amnesty International reported that hundreds of individuals, including security officials, state employees, religious leaders, activists, journalists, judges and prosecutors, were killed in politically motivated assassinations in various Libyan cities in 2014-15, allegedly by Islamist armed groups. None of those responsible were held to account.

Enforced or Involuntary Disappearances

4.2 As noted in 'Legal Protections Against Discrimination', on 30 April 2013 the Libyan National Congress approved *Law No. 10 Concerning the Criminalisation of Torture, Forced Abduction, and Discrimination* (2013). Article 1 of the Law states that restricting the personal liberty of a person by force, threat, or treachery is punishable by three to fifteen years imprisonment. Article 5 of the Law assigns the same punishments to political, administrative, executive, or military leaders who failed to take necessary measures to prevent or discover crimes specified in previous articles when those acts were committed by persons under their command and control.

4.3 Security forces aligned with both Libyan administrations, and armed groups acting outside the control of both, have committed an unknown number of forced disappearances. Few official attempts have been made to prevent, investigate or penalise forced disappearances. Many disappearances that occurred under the Gaddafi regime, and many related to the 2011 conflict, remain unresolved. Kidnappings are common in Libya, and there have been numerous reports of civil society activists kidnapped for political or ideological reasons.

Deaths in Custody

4.4 A joint report released by UNSMIL and OHCHR in October 2013 recorded 27 cases of deaths in custody since late 2011, where-in significant information suggested that torture was the cause of death. The report also detailed eleven deaths in custody which reportedly took place in 2013 in detention centres under the nominal authority of the (then-unified) government, but run in effect by armed brigades (see also 'Torture').

Death Penalty

4.5 Libya retains the death penalty for a wide range of crimes, and has continued to pass death penalty sentences since the overthrow of the Gaddafi regime. Executions in Libya are carried out by shooting. According to Amnesty International, Libya passed at least five death sentences in 2012 (no confirmed executions); at least 18 sentences in 2013 (no confirmed executions); and at least one sentence in 2014 (one possible execution).

4.6 On 29 July 2015, Saif al-Islam Gaddafi, the son of Muammar Gaddafi, was sentenced to death along with eight others by a court in Tripoli in a mass trial of former Gaddafi regime figures, including the country's former intelligence chief and Gaddafi's last prime minister. Saif and his co-defendants were convicted for

crimes which included recruiting mercenaries; attacking civilian targets from the air; forming armed groups; shooting into crowds of demonstrators during the 2011 conflict; and inciting murder and rape. Saif is currently being held by an anti-government militia in the town of Zintan, and was convicted *in absentia* (although some early stages of the trial were conducted via video link).

4.7 The trial, which was held in Tripoli with the ICC's permission, was strongly criticised for failing to meet international standards by a range of international bodies, including Amnesty International, Human Rights Watch and the International Bar Association. Lawyers for the nine condemned have been permitted to appeal the sentences. As of the date of publication, the timing for carrying out the executions had not been announced.

Torture

4.8 The use of torture was a key tool of the Gaddafi regime. As noted in 'Legal Protections Against Discrimination', on 30 April 2013 the Libyan National Congress approved *Law No. 10 Concerning the Criminalisation of Torture, Forced Abduction, and Discrimination (2013)*. Article 2 of the Law provides for prison terms of five to fifteen years for the physical or mental torture of a person under the control of another, and the same punishment for persons who order the commission of the torture and to persons who did not act to prevent it while they were in a position to do so. *Article 5* of the Law also assigns the same punishments to political, administrative, executive, or military leaders who failed to take necessary measures to prevent or discover crimes specified in previous articles when those acts were committed by persons under their command and control.

4.9 As noted in 'Deaths in Custody', a joint report released by UNSMIL and OHCHR in October 2013 stated that since late 2011 there had been 27 cases of deaths in custody where-in torture was the probable cause of death. Eleven of the deaths detailed in the report took place in 2013 in detention centres under the nominal authority of the (then-unified) government, but run in effect by armed brigades. The report stated that, in some cases, members of the armed brigades freely admitted, and even tried to justify, the physical abuse of detainees. The report noted that torture was most frequent immediately after arrest and during the first days of interrogation with the aim of extracting confessions and other information. Sexual violence was also used as an element of torture in detention, perpetrated largely against men in detention facilities operated by armed brigades.

Cruel, Inhuman or Degrading Treatment or Punishment

Arbitrary Arrest and Detention

4.10 The Gaddafi-era criminal code remains in force in Libya. It establishes procedures for pre-trial detention and prohibits arbitrary arrest and detention, but both government and non-state forces have often disregarded these provisions. Gaps in existing legislation and an unclear separation of powers among the executive, judicial, and legislative branches have contributed to a weak judicial system. Few detainees have had access to legal counsel, faced formal charges, or had the opportunity to challenge their detention before a judicial authority.

4.11 Human Rights Watch reported in June and December 2015 that both the GNC and HoR governments and their allied militia forces had arbitrarily detained and held persons in authorised and unauthorised facilities, including unknown locations, for extended periods without legal charges or legal authority. The number of detainees is unknown, but is estimated to be in the range of several thousand. Both rival governments have had little control over police and regional militias providing internal security, allowing armed groups to carry out illegal and arbitrary detentions unimpeded.

Corporal Punishment

4.12 In October 2013, UNSMIL reported that corporal punishment was widespread in Libyan detention centres nationwide, particularly those under the control of militias and armed brigades. Reported abuses included beatings with belts, sticks, hoses and rifles, with one militia (the Islamic Youth Shura Council in Derna) advertising public canings. The full extent of such abuse is unclear.

4.13 Although evidence of the actual judicial use of corporal punishment in Libya is limited, Libya's Penal Code provides for corporal punishment to be used in relation to a number of offences.

4.14 Article 2 of *Law 70 on Adultery (1973)* says that any person who engages in intercourse outside of a legal marriage shall be sentenced to a hundred lashes. The accused may also be sentenced to incarceration with lashing. Article 3 of the law stipulates punishment for extramarital intercourse for minors under the age of 18, including 'beatings'.

4.15 Article 1 of *Law 52 on Slander (1974)* states that any person who wrongfully accuses another of committing adultery is to be punished with 80 lashes and his wrongful testimony will not be accepted. Article 7 of the Law states that if the accused is over 14 and under 18 years old, he can be 'beaten as suitable for his age'. Article 14 of the Law stipulates that if a woman is pregnant at the time of sentencing, the punishment of flogging shall be carried out two months after she delivers.

4.16 *Law 13 (1425) on Punishment for Crimes of Haraba and Theft* stipulates that any person found guilty of *haraba* shall be sentenced to the amputation of his right hand and left leg. The legal definition of *haraba* is when any person robs another for money by force, at gunpoint or with any other weapon, in a place where help is not available. The punishment for the broader category of theft, which includes goods as well as money, is amputation of the right hand.

5. Other Considerations

State Protection

State-affiliated Security Bodies

Military

5.1 The Libyan military, which remains loyal to the HoR, comprises a ground army, air force and navy under the Ministry of Defence. The national armed forces were re-established after the fall of the Gaddafi regime, with their predecessor forces disbanded. Accurate statistics on the national armed forces' manpower are difficult to obtain. Libya's military lacks experienced soldiers, with many of those who served in the Gaddafi-era armed forces choosing not to re-join the new entity. However, the national armed forces have been training new recruits and are reportedly slowly beginning to emerge as a viable, if not yet effective, force. While the Libyan military's primary mission is the defence of the country from external threats, in practice it has focused on supporting Interior Ministry forces in internal security matters.

5.2 The HoR government swore-in formerly retired General Khalifa Haftar as army chief in March 2015. Haftar was once a close ally of Gaddafi, serving alongside him in the 1969 coup that brought him to power, and serving as his army chief. However, Gaddafi disowned Haftar in 1987 after Haftar was captured during Libya's war with Chad. Haftar subsequently fled Libya and resided for 20 years in the United States, before returning to Libya to fight against Gaddafi in 2011. He rose to prominence in May 2014 when he launched 'Operation Dignity', a self-declared war against Islamists in Benghazi carried out by his own militia, the Libyan National Army, which subsequently integrated with the national armed forces. The GNC government, backed by Libya's courts, considers Haftar a war criminal.

5.3 The al-Saiqa Force is reportedly Libya's elite army unit, made up of paratroopers and commandos. It initially came to prominence after it was deployed in Benghazi to control the spiralling lawlessness there. The force has had popular support in Benghazi both because of its stance against the Islamist Ansar al-Sharia group, and because it has been seen as a symbol of the reborn Libyan armed forces.

5.4 The al-Qaqa Brigade is officially under the command of the Defence Ministry, and is tasked with protecting senior officials and government ministers. Its commander defected from the Gaddafi regime at the start of the 2011 uprising.

Police

5.5 Law enforcement services in Libya are officially regulated by the Libyan National Police Force (NPF), part of the Ministry of Interior. The NPF's headquarters are in Tripoli, with regional security directorate branches located throughout the country. The functioning level of the police varies considerably throughout the country, including in Tripoli itself. UNSMIL has provided assistance to the Ministry of Interior in order to strengthen the NPF.

5.6 Since the overthrow of the Gaddafi regime, civilian authorities have had nominal but limited control of the police and security apparatus. During the 2011 fighting, many police stations were burned and looted and many Libyan police officers did not return to work after the uprising, resulting in an under-equipped and understaffed police structure. Since mid-2013, the police have suffered from an increase in deadly attacks on their personnel, including the shooting by unknown gunmen of the commander of the Tripoli police in

August 2014. The attacks on police are believed to have been carried out by revolutionary militias who view the police as corrupt and tainted by the legacy of the Gaddafi regime.

5.7 The National Security Directorate, which reports to the Ministry of Interior, is Libya's conventional police force. It is tasked with investigating crime and traffic offences and protecting public property.

5.8 The Anti-Crime Unit, which also reports to the Ministry of Interior, functions as a *de-facto* police investigations unit and carries out arrest warrants, mainly for drug offences. Another unit under the Ministry of Interior, the Special Deterrence Force, also combats drug trafficking.

5.9 The Petroleum Facilities Guard (PFG) was set up in 2012 specifically to protect Libya's vital oil installations. The oil plants survived the war largely intact, mainly because both sides recognised that Libya's economic future was dependent on strong hydrocarbon exports. However, in July 2013, the PFG's leader ordered his militia to close two of the main oil export terminals, demanding that the central government grant eastern Libya more autonomy. The shutdown caused daily national production levels to drop to 50 per cent of their post-2011 average. Guards assigned to protect Libya's oil facilities in western Libya immediately launched a copycat shutdown, demanding more revenue for their region. In September 2013, a tribal federation in an important oil producing region in Libya's south also demanded more revenue, forcing the (then-unified) government to divert oil revenue to their region.

5.10 DFAT is not aware of any effective mechanisms to investigate and punish abuses of authority, abuses of human rights, and corruption by post-Gaddafi police and security forces. In a security environment dominated by militias, a blurred chain of command has led to confusion about responsibility for the actions of armed groups, including those nominally under government control. In these circumstances, police and other security forces have usually been ineffective in preventing or responding to violence frequently incited by militias. Amid the confusion over chain of command and absent effective legal institutions, a culture of impunity has prevailed.

Militias

5.11 Security-related police work has largely fallen to self-constituted, disparate militias exercising police power without training or supervision, and with varying degrees of accountability. A number of armed groups emerged in the aftermath of the 2011 conflict. While many groups have melted away as their members re-entered civilian life, some still survive in the form of official and non-official military units. Some of these units are loosely affiliated with either of the two administrations, while others operate independently. As noted in 'Economic Overview', the huge amounts of money involved in Libya's black economy have led to a number of anti-Gaddafi rebel groups becoming criminals to earn money.

5.12 Since the fall of the Gaddafi regime, some of the more prominent militias have included:

- The Libya Revolutionaries Operations Room (LROR), which was officially tasked with protecting Tripoli, but was stripped off this power by the (then-unified) government after its members briefly kidnapped the then-Prime Minister in October 2013. A branch of the LROR was also established in Benghazi to deal with deteriorating security.
- The Libyan Shield Force, which has four brigades across the country, was set up in 2012 as a temporary vehicle for integrating former rebel fighters into a cohesive national force.
- The al-Zintan Revolutionaries' Military Council is an umbrella organisation for 23 militias for Zintan and the Nafusa Mountains in western Libya. The military council has five brigades and a satellite channel, *Libya al-Watan*. It is best known for detaining Saif al-Islam Gaddafi after his capture in November 2011 (see 'Death Penalty').
- The Misrata Brigades consist of more than 200 affiliated militias (or 'revolutionary brigades'), comprising around 40,000 members, who have operated in the central city of Misrata since Gaddafi's overthrow. They are reportedly in control of more than 800 tanks and at least 2,000 vehicles mounted with machine guns and anti-aircraft weapons.
- The 17 February Martyrs Brigade is based in Benghazi, and is reportedly the biggest and best armed militia in eastern Libya. Although Islamist in outlook, it has been funded by the HoR government, and

is thought to consist of about 12 battalions equipped with light and heavy weapons. The Brigade has carried out various security and law and order tasks in eastern Libya, and in the southern city of Kufra.

- The Ansar al-Sharia Brigade is a Salafi militia which came to prominence in June 2012, when it paraded armed vehicles in central Benghazi to demand the imposition of *sharia* law. Although the group has helped provide security in public places, it has also been accused of human rights abuses, and of participating in the destruction of Sufi shrines. The Brigade was accused by the United States of being involved in the events that led to the attack on the US Consulate in Benghazi in September 2012 which killed the US Ambassador and three other Americans (see 'Security Situation').

Traditional Mediation Systems and Customary Law

5.13 Libyan tribal mechanisms have long been the most common structures for protection and justice. Traditional dispute resolution and conflict mitigation mechanisms have their own dynamics in Libya, and operate almost independently from the official judicial system. They address conflicts both within and between tribes, which are often settled by councils of elders (*shuras*, or consultative councils). During the 2011 conflict, and in the course of the transitional period afterwards, the role of the tribes and the reliance on clans and families were largely reinstated.

5.14 To a large extent, Libyans view tribal leaders as more trustworthy with regard to violence and crime prevention than official institutions such as the police and army. Official judicial institutions have not made serious attempts to integrate traditional mechanisms into the formal judicial structures, due mainly to the weakness of the formal structures and the huge demands made of the justice system in the post-Gaddafi period. The dysfunctional nature of formal judicial structures has meant that tribal leaders have often been pushed beyond their traditional role as mediators in tribal and family matters, and have dealt with issues normally dealt with by state authorities, including murder cases.

Judiciary

5.15 Libya has a four-stage court system. The Supreme Court, based in Tripoli, is Libya's highest court, and considers the constitutionality of laws and regulations. It has the task of ensuring that laws are applied equally across the country, and it has appellate jurisdiction over all lower courts. Courts of Appeal are the second highest court level, and are courts of first instance for matters concerning high crime and felony. Their decisions can be challenged through the Supreme Court. Primary Courts are the courts of first instance for civil and commercial disputes which are valued at 1,000 Libyan dinars (AUD1,000) or higher. They also deal with personal and religious cases, where they apply sharia law. Primary Courts do not hear criminal cases. Summary/ District Courts have jurisdiction over small civil, commercial, administrative disputes valued up to 1,000 Libyan dinars (AUD1,000), and low level criminal cases (misdemeanours).

5.16 The Constitutional Declaration provides for an independent judiciary and free passage to a court of law. In practice, however, the rule of law in Libya is almost absent, and many Libyans lack options for protection or a just judicial process if they have been subjected to threats or violence. The criminal justice system has proven itself unable to handle most of the ordinary criminal cases in the years following the removal of Gaddafi. Access to justice in general has become difficult for Libyans, with many Libyan judicial systems either collapsing or not fully functioning. Many courts have closed in recent times due to instability, forcing people seeking justice to revert to still-functioning courts in other regions. The last Primary Court in Benghazi, for example, closed in May 2014. Courts in Tripoli effectively stopped working in mid-July 2014, due to violent attacks and heavy shelling of courts and judicial offices. It is unclear to what extent courts in Tripoli have been able to function properly since that time.

5.17 Protection and access to justice in Libya are closely linked to personal identity and connection to societal structures such as tribes and communities, as well as to regional background and/or political affiliation. Libyans living outside protection spheres, such as minorities and internally displaced persons, are therefore often blocked from seeking justice and left unprotected by security systems. In areas where tribe-related militias are dominant, such as Misrata, these groups are sometimes discriminated against or targeted, particularly groups who have been forcibly displaced.

Detention and Prison

5.18 As of September 2013 (most recent statistic available), there were 37 existing detention centres officially under the authority of the Ministry of Justice, and a number of other buildings were being renovated by the Ministry to be used as new prisons. In its 2014-15 Annual Report on Libya, Amnesty International reported that thousands of conflict detainees remained in detention centres across Libya with varying levels of government control, with the majority held without charge or trial, judicial review or access to lawyers. The US State Department reported that the number of those incarcerated unrelated to the conflict was also estimated to be in the thousands, primarily irregular migrants.

5.19 Prison and detention centre conditions in Libya are generally harsh. Overcrowding, lack of adequate nutrition, poor medical care, lengthy pre-trial incarceration, torture, sexual violence, incommunicado detention and deaths in custody occur in both government and militia-run detention facilities. Recurrent prison breaks, including at least four in 2013, underscore the incapacity of the Ministry of Justice to administer detention facilities adequately.

National Human Rights Institution

5.20 Libya's national human rights institution is the National Council for Human Rights and Civil Liberties, based in Tripoli. Its offices were forcibly closed in November 2014, amid intimidation of its members. There is no indication as to when it will be able to recommence its activities.

Internal Relocation

5.21 In November 2014, UNHCR issued a paper on returns to Libya (an updated paper was subsequently issued in October 2015) (see also 'Conditions for Returnees'). The UNHCR papers urged all States to suspend forcible returns to Libya, including Tripoli, until the security and human rights situation had improved considerably. Given the volatility of the situation in Libya, the fragmentation of control and the plethora of armed groups, UNHCR considered that, in the current circumstances, the relevance and reasonableness criteria for an internal flight or relocation alternative were unlikely to be met. DFAT agrees with the UNCHR's assessment that the current political and security situation in Libya is both uncertain and highly fluid, and that this should be taken into account when considering internal relocation options.

5.22 The UK Home Office reported in February 2015 that the following categories of people were unlikely to be able to safely internally relocate in Libya:

- Former high-ranking officials of the Gaddafi regime, including those within the intelligence services;
- Persons belonging to the Tawargha, Tuareg, and Mashashiya ethnic groups, who are perceived to have been supporters of Gaddafi;
- Women of sub-Saharan African ethnicity, victims of sexual violence, and those accused or suspected of 'sexual misdemeanours or offenses against family honour'.

5.23 The UK Home Office assessed that persons who had established a real risk of proscribed ill-treatment in their home area for reasons other than those stated above, such as because of a family or tribal feud, or because of hostility from a particular militia, would be able to travel safely from one part of Libya to another. However, this may be dependent on whether the reason for the risk is one that would give to further risk for that same reason, on encountering a checkpoint.

5.24 The UK Home Office assessed that there was a different risk profile for males and females, with males more easily able to internally relocate. A male seeking to avoid a local risk of harm would be able in practical terms to relocate to another area of Libya, such as Tripoli or Benghazi, particularly if he had 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. However, such a person may not be able to avoid a risk of harm in a new area where the person had no connections in terms of tribal or family links, but the person or group feared did have such links.

5.25 The UK Home Office assessed it would be unreasonable and unduly harsh to expect a single woman to relocate internally in Libya, unless the woman had a close family or significant other connection, other than merely a tribal connection. This judgement took into account the social position of women 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.

5.26 DFAT agrees with the assessments of the UK Home Office in relation to internal relocations in Libya.

Treatment of Returnees

Exit and Entry Procedures

5.27 Despite intermittent closures due to the uncertain security situation, six Libyan airports continued to offer international commercial services as of March 2016. These airports were: Tripoli International Airport, Tripoli Mitiga International Airport, Beida al-Abraq International Airport (eastern Libya); Misrata International Airport, Tobruk Airport, and Benghazi Benina International Airport.

5.28 In February 2013, Libyan authorities announced that a National Identity Database (NID) project, based on a National Identity Number (NIN), had been completed (see 'Documentation'). Libya's then-Deputy Prime Minister stated that the NID had been linked to all of Libya's border control points. In addition to more efficiently processing Libyan systems, the NID system was also intended to provide for the registration and photographing of all foreigners arriving in Libya, with the information stored in a central database. All Libyan Embassies abroad were to be linked to the system. However, anecdotal evidence suggests that this has not yet occurred and that passport control for foreigners is still being done manually.

5.29 Despite intermittent closures due to the uncertain security situation, as of late 2015 it was reportedly possible to enter Libya by road from Egypt at the Al Burdi/Burdiyah border crossing, and from Tunisia at the Ras Ajdir and Dehiba/Waziin border crossings. Libya's land borders with Algeria, Niger, Sudan and Chad were formally closed to non-Africans. In practice, the breakdown of central governance has made Libya's southern borders extremely porous, with huge numbers of sub-Saharan Africans entering Libya daily without border checks.

Conditions for Returnees

5.30 The November 2014 and October 2015 UNHCR papers on returns to Libya (see 'Internal Relocation') noted that the situation in Libya remained fluid and uncertain and called on all countries to allow civilians fleeing Libya access to their territories. The UNHCR papers commended measures taken by States to suspend forcible returns of nationals or habitual residents of Libya, including those who had had their asylum claims rejected. UNHCR urged all States to suspend forcible returns to Libya until the security and human rights situation had improved considerably. Any proposed returns in the context of the application of an internal flight or relocation alternative would need to be assessed carefully, taking into account the individual circumstances of the case; but UNHCR considered that in the current circumstances, in most cases the relevance and reasonableness criteria were unlikely to be met.

5.31 The UNHCR papers added that suspension of forcible returns of nationals and habitual residents to Libya served 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. The advice issued by UNHCR was to remain valid until such time as the security and human rights situation in Libya had improved sufficiently to permit a safe and dignified return.

5.32 As noted in 'Internal Relocation', DFAT agrees with the UNHCR's assessment that the political and security situation in Libya is both uncertain and highly fluid, and that this should be taken into account when considering the possibility of returns to Libya.

Documentation

Family Book

5.33 The Family Book is the most important documentation and the main proof of citizenship for Libyans. This document contains all information on birth, death, marriage and divorce of the members of a household. Civil Registration Offices (based in Libyan municipalities) handle applications and issuance of family books. These offices sit under the Ministry of Interior. In November 2014, the Civil Registry Authority announced a plan to introduce a 'Family Smart Card' (FSC), which would store information electronically, as a future replacement for the current family book. It is unclear when the FSC will be rolled out.

5.34 Libyans often use their family book instead of separate birth or marriage certificates since all of these details are registered within the family book. The family book is considered a valid civil document, and the main document to be submitted when applying for a passport. Libyan authorities use the family book to determine eligibility for allowances and benefits, including subsidised food. Members of minority communities who have not been able to register as Libyans are not entitled to a family book, which precludes them from accessing state services such as medical care, subsidised food, higher education, housing and health care. These communities therefore suffer more than others when food prices go up. Non-Libyans and Libyan women married to foreigners are also not entitled to a family book.

5.35 Libyans are listed in the family book of their parents until they are married. When a couple marries, both spouses must officially cancel registration in their respective parents' family books at the civil registration office of their municipality, upon which they can obtain their own family book. Divorces are also registered in the family book, after which the former wife will receive her own new family book rather than being re-registered with her parents. The children of a divorced family are usually registered with the father, but it is also possible for them to be registered with the mother if mutually agreed upon by both parents. It is unknown whether the children can be registered in both family books.

National Identity Cards

5.36 The Identity Card Department, which sits under the Passport Directorate within the Ministry of Interior, is responsible for issuing identity cards. The identity card is issued to Libyans from the age of 16, from which age it is compulsory for Libyans to be able to identify themselves at all times. There are no specific rules for women, who can apply for an identity card independently without needing permission from their husband or male relatives. Applications must be submitted in person, and Libyan citizens cannot currently apply for an identity card abroad.

National Identity Number (NIN)

5.37 Libya introduced a National Identity Number (NIN) project after the fall of the Gaddafi regime. The government announced in February 2013 that the project had been completed, and that over six million Libyans would be provided with their NINs later that year. In May 2013, the (then-unified) government claimed that 80 per cent of Libyans had been issued with their NINs. The stated intention is that Libyans will be issued with an NIN card, which will differ from the National Identity Card (above) in that it will be issued to citizens of all ages and will serve as a 'breeder card' to be submitted when applying for other official documents and state services. It is unclear when the NIN cards will be rolled out.

5.38 The NIN is a unique reference number that is used in a national database which contains relevant data on citizens, including criminal records, passport and identity card applications, as well as applications for public health and education. The numbers are associated with personal files based on data already registered by the civil registry offices. Libyan authorities used an official website and a Facebook page to communicate with Libyan citizens about the project. According to the website (in Arabic), the objectives of introducing the NIN were to build a national information infrastructure, improve the quality of civil service provided to citizens by state institutions, and decrease the very high levels of state salary fraud. Many Libyans have reportedly used the ongoing chaos in Libya to claim duplicate state salaries or grants, including 'militia salaries', the revolutionaries' grant program, medical treatments for war wounded abroad, and subsidised food.

5.39 Children born in 2013 or afterwards are automatically issued a NIN upon birth registration. When the NIN was first introduced in 2013, citizens were able to obtain it through several methods, including online at the project website, by SMS or phone, or through the civil registry office. Libyans abroad needed to be registered with Libyan authorities in their country of birth to obtain their NIN.

Passports

5.40 Libya issues three types of passports: Citizen, Diplomatic, and Special. Special passports are issued to groups such as family members of diplomats and non-diplomatic embassy staff members. Passports are issued by the Authority for Passports and Nationality, a department of the Ministry of Interior. The central database for passports is in Tripoli, and was disconnected for several months after the July 2014 outbreak of fighting. It is unclear to what extent the passport office is currently functional.

5.41 Libya began issuing biometric passports on 1 January 2014, based on the NIN, containing information about the bearer such as iris scans and fingerprints. Since issuing of the new passports commenced, Libyans were only able to apply for new passports in Libya as the proper equipment for handling passport applications had not yet been distributed to Embassies (as of the date of publication). Embassies were therefore only able to extend the validity of old passports. DFAT does not have any information as to how many Libyans have the new biometric passports.

5.42 Libyans can apply for a new biometric passport once the validity of their old-type passport has expired. Applicants need to apply at the passport office of the immigration service with their NIN only, with no other documentation required. There are no specific rules for women, who can apply for an identity card independently without needing permission from their husband or male relatives.

5.43 The old-type passports had no biometric or machine-readable features and few, if any, security features. Information about the bearer was handwritten, and personal information was reportedly frequently erroneous. Before 2009, it was reportedly common to use a father or grandfather's name as a last name in passports.

Falsification of Official Documents

5.44 During the Gaddafi era, Libya had major problems with identity fraud, nepotism and corruption. Documents issued at the time had few, if any, security features, and were usually handwritten. Family books were often reportedly forged during the Gaddafi era. Shortly before the fall of the Gaddafi regime in 2011, thousands of Libyan identity cards and passports were reportedly distributed by the regime to non-Libyans in an attempt to gain numerical and military support. The massive increase in illegal migration to Europe from Libya since the fall of the Gaddafi regime has led to a market for false Libyan documentation, including identity cards, driving licenses and both old and new passports.

5.45 There have been several media reports of people being arrested with forged Libyan passports and/or forged Libyan visas. As a result of forged Libyan documents detected in Morocco, the Moroccan authorities introduced visa requirements for Libyans in 2014, stating that they considered the passport situation in Libya a danger to the security of North African countries.