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**Department of Foreign Affairs and Trade**



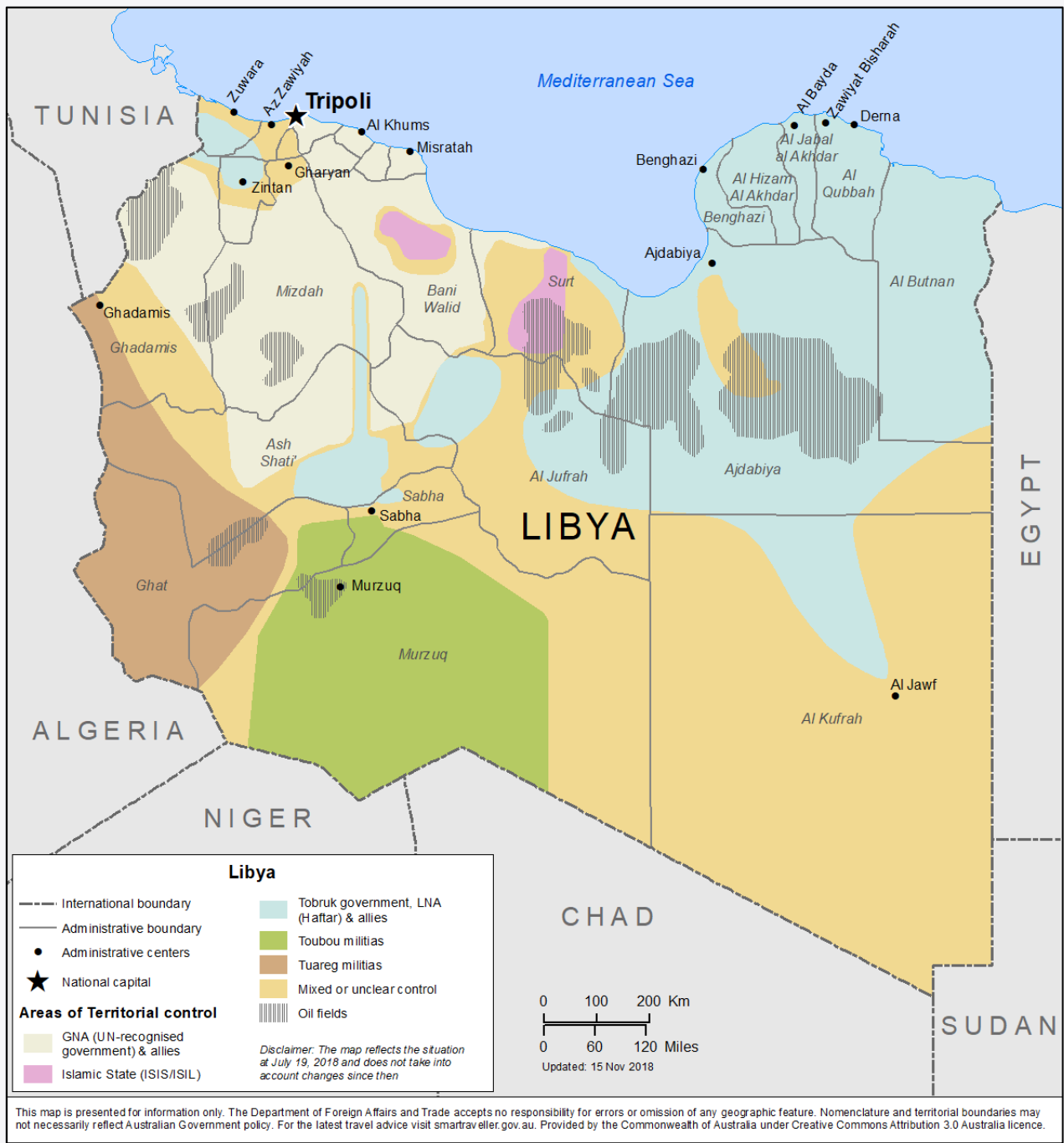
# **DFAT COUNTRY INFORMATION REPORT LIBYA**

14 December 2018

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## ACRONYMS

CSO	Civil Society Organisation
DCIM	General Directorate for Combating Illegal Migration
FSC	Family Smart Card
GNA	Government of National Accord
GNC	General National Congress
HoR	House of Representatives
HRD	UNSMIL's Human Rights, Transitional Justice, and Rule of Law Division
IDP	Internally displaced person
IOM	International Organization for Migration (a UN body)
ISIL	Islamic State in Iraq and the Levant (also known as Daesh)
LNA	Libyan National Army
LPA	Libyan Political Agreement
NID	National Identity Database
NIN	National Identity Number
NCCLHR	National Council of Civil Liberties and Human Rights
OHCHR	Office of the United Nations High Commissioner for Human Rights
PFG	Petroleum Facilities Guard
RSF	Reporters Without Borders
SARA	Service Availability and Readiness Assessment
TNC	Transitional National Council
UNHCR	Office of the United Nations High Commissioner for Refugees, the UN Refugee Agency
UNSMIL	United Nations Support Mission in Libya
WHO	World Health Organization

## GLOSSARY

Fatwa	a legal ruling from an Islamic religious leader
Ibadism	a form of Islam that is neither Sunni nor Shi'a, practised in the Libyan Amazigh community in the Nafusa mountains
Sharia	Islamic law
Thurwar	anti-Gaddafi forces

### Terms used in this report

high risk	DFAT is aware of a strong pattern of incidents
moderate risk	DFAT is aware of sufficient incidents to suggest a pattern of behaviour
low risk	DFAT is aware of incidents but has insufficient evidence to conclude they form a pattern

#### official discrimination

1. legal or regulatory measures applying to a particular group that impede access to state protection or services that are available to other sections of the population (examples might include but are not limited to difficulties in obtaining personal registrations or identity papers, difficulties in having papers recognised, arbitrary arrest and detention)
2. behaviour by state employees towards a particular group that impedes access to state protection or services otherwise available, including by failure to implement legislative or administrative measures

#### societal discrimination

1. behaviour by members of society (including family members, employers or service providers) that impedes access by a particular group to goods or services normally available to other sections of society (examples could include but are not limited to refusal to rent property, refusal to sell goods or services, or employment discrimination)
2. ostracism or exclusion by members of society (including family, acquaintances, employers, colleagues or service providers)

## Libyan conflict: major blocs

<b>Government of National Accord (GNA)</b>	GNA	A partially implemented, UN-backed unity government
	Misrata	A city-state that ascended in 2011 and led the GNA's counter-ISIS fight
	Al Bunyan al Marsous (BAM)	An officially GNA-led force of mainly Misratan militias that recaptured Sirte from ISIS
	Pro-GNA militias	A militia syndicate controlling Tripoli that nominally supports the GNA
	High State Council	A GNA advisory body that has absorbed some GNC Islamists
<b>Libyan National Army (LNA)</b>	LNA	A coalition of anti-Islamist military units, tribal forces, and Salafi fighters that controls eastern Libya
	House of Representatives (HoR)	A formerly internationally recognised legislature whose leadership supports the LNA
<b>Zintan</b>		A north-western Libyan city-state formerly aligned with aligned with the LNA, that recently made a deal with the GNA
<b>General National Congress (GNC)</b>	GNC	A rump Islamist parliament that is attempting to regain power in Tripoli
	Pro-GNC militias	Islamist militias that support the GNC (see also High State Council)
<b>Non-Arab Tribes</b>	Tuareg	Ethnic groups in south-western Libya, Algeria, and the western Sahel
	Tebu	An ethnic group in southern Libya, Niger and Chad
	Amazigh(Berber)	A Maghreb ethnic group based in north-western Libya's Nafusa mountains
<b>Salafia-Jihadi Base</b>	ISIS and al-Qaeda affiliates and associates	Groups that seek to establish an Islamic polity by force, either in Libya or internationally
<b>Other</b>	Gaddafi loyalists	Regime officials and supporters who retain influence but who have not reclaimed power

This table is indicative only, and is derived from AEI's Critical Threats Project:

<https://www.criticalthreats.org/wp-content/uploads/2017/11/A-Strategy-for-Success-in-Libya.pdf>

# 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 judgement 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 informed by DFAT's on-the-ground knowledge and discussions with a range of sources. It takes into account relevant information from government and non-government sources, including but not limited to those produced by Amnesty International, Human Rights Watch, International Organization for Migration, Reporters Without Borders, Transparency International, Office of the United Nations High Commissioner on Refugees (UNHCR), United Nations Children's Fund (UNICEF), US Department of State and UK Home Office, the World Bank 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.

1.5 This updated Country Information Report replaces the previous DFAT report released on Libya published on 4 April 2016.



## 2. BACKGROUND INFORMATION

### RECENT HISTORY

2.1 In 1911, Italy supplanted the Ottoman Turks as colonial rulers in Libya's Gaddafi region and maintained its hold until its Second World War defeat by the Allies in 1943. Libya then passed to international administration before the UN recognised its independence as a monarchy in 1951. In 1969, during the king's absence overseas, a group of 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, 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 (over Scotland), 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 an effective internal intelligence network to detect even minor dissent. However, in early 2011, unchecked protests in the eastern city of Benghazi held 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. 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.

2.4 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' allied with the Libyan Dawn coalition, refused to recognise the results, occupied much of Tripoli, and large scale fighting broke out between the rival administrations. The Libyan Dawn forces ousted the 'nationalists' (House of Representatives) from Tripoli and reinstated the 'Islamists' (General National Congress). The House of Representatives (HoR) based themselves in the eastern city of Tobruk. It was recognised by the international community prior to the creation of the Presidency Council.

2.5 Libya Dawn militia (now defunct) was a grouping of pro-Islamist militias that in summer 2014 attacked Tripoli International Airport in 'Operation Libyan Dawn' and went on to seize large parts of the capital. The militia alliance was viewed as the 'armed forces' of the General National Congress. Whilst Operation Libya Dawn originally referred to the militias' operation to seize Tripoli, it soon came to refer to the armed group coming under its umbrella.

2.6 In May 2014, backlash against the rise of Islamist politicians and militias came to a head when former Libyan Army general Khalifa Haftar began Operation Dignity to fight Islamists in Benghazi. Haftar's forces declared victory in 2017. The conflict drew in additional tribal factions and militias. The breakdown of security across the country enabled extremist groups, particularly Islamic State in Iraq and the Levant (ISIL), to consolidate their presence in Libya.

2.7 An evacuation status was implemented in July 2014 in response to the escalation of fighting between rivals in Tripoli, and surge of conflict across the country. UN staff were evacuated by road to Tunisia, embassies were closed and foreigners evacuated. In February 2018 the evacuation status was lifted. Since then, UN and embassies have been slowly scaling up their presence of international staff in Tripoli.

2.8 In December 2015, the UN-backed Presidential Council announced the creation of a third entity; the Government of National Accord (GNA) which was aimed at ending the political division between the Tobruk HoR and the Tripoli based GNC. This was in accordance with the Libyan Political Agreement, signed on 17 December 2015 in Skhirat (Morocco), which was not implemented nor endorsed by the House of Representatives. On 31 March 2016, seven senior GNA members arrived in Tripoli, including its prime minister-designate. While the GNA has secured strong international backing, neither administration has committed to cooperating with or supporting it.

2.9 As of October 2018, Libya has three governments competing for control and legitimacy. Two governments based in the capital, Tripoli: the Government of National Accord (backed by the United Nations and International Community), and the less influential, General National Congress (GNC), and in the eastern city of Tobruk, the third government that grew out of the House of Representatives (splitting from the GNC 2014). In 2017, elections were agreed to by the leaders of the GNA and HoR for 2018.

## DEMOGRAPHY

2.10 The Libyan population is estimated at 6.4 million with a population growth rate of approximately 1.6 per cent. The last population census was conducted in 2006. Over 90 per cent of the population lives along the Mediterranean coast in and between Tripoli to the west and Al Bayda to the east. Libya's interior is underpopulated due to the Sahara and lack of water. The population is mostly Berber and Arab (97 per cent), with the remaining three per cent consisting of minority Sahara tribes and Greeks, Maltese, Italians, Egyptians, Pakistanis, Turks, Indians, and Tunisians. Libya's official language is Arabic. English and Italian are widely used in major cities, in addition to a number of Berber languages. Islam is the official religion, professed by 96.6 per cent of the population, with virtually all Muslims following the Sunni doctrine. Non-Sunni Muslims include native Ibadhi Muslims (see [Religion](#)). The remaining population is mainly Christian (2.7 per cent).

2.11 Libya is the fourth largest country in Africa. Its territory covers over 1.8 million square kilometres and borders Algeria, Chad, Egypt, Niger, Sudan and Tunisia. Libya has a 1,700 kilometre coast line along the Mediterranean Sea.

2.12 In 2017, the United Nations Department of Economic and Social Affairs population division reported that immigrants made up just over 12 per cent of the total population. This figure has likely decreased over recent years due to continuing unrest as large numbers of foreign workers re-located to their home countries, notably Egyptians, Filipinos, and South Asians. Egypt continues to ban its citizens from travelling to Libya after the beheading of 21 Egyptian Copts on a Libyan Mediterranean beach in February 2015. In 2011, due to the unrest, the Philippines government also stopped overseas foreign workers travelling to Libya. The government lifted the ban in 2012, then reinstated it two years later, repatriating 14,000 workers. In December 2017, the Philippines government rejected an appeal by the Libyan authorities to lift the ban.

## Migrants, Refugees and Asylum-seekers

2.13 Libya is not party to the 1951 Convention Relating to the Status of Refugees or its Protocol. It has ratified the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, but has not enacted national legislation or the administrative procedures necessary for a functioning asylum and protection system. Amnesty International claims Libya is in violation of its obligation under the OAU convention for failing to recognise the right to asylum and to provide protection to those fleeing persecution. Although the right to asylum is set out in Article 10 of Libya's Constitutional Declaration of 2011, this is not reflected in national legislation. In February 2018, Libya hosted 46,730 people registered with UNHCR as refugees or asylum-seekers. Up to 90 per cent of people crossing the Mediterranean Sea to Europe depart from Libya.

2.14 Libya has become one of the most commonly used migratory routes into Europe. As of June 2018, an estimated 680,000 migrants were in Libya, predominantly adult males. Between July and November 2017 a total of 33,288 refugees and migrants arrived in Italy, having departed from Libya; 67 per cent fewer than in the same period of 2016, when 102,786 arrived. The lower number of departures correlates with a lower number of deaths at sea. Amnesty International reports that the sealing of the central Mediterranean route has led to the containment of migrants, refugees and asylum-seekers in Libya, thus exposing them to gross human rights violations.

2.15 Libya has 24 migrant detention centres. Detention centres are run by the General Directorate for Combating Illegal Migration (DCIM) and hold approximately 5,200 migrants, refugees and asylum seekers, down from approximately 19,000 in October 2017. IOM has access to some centres, including in Tripoli and Zawiya. UNSMIL has access to four facilities in Tripoli in which they have heard reports of violence at the hand of guards including beating of women and children, lack of hygiene, overcrowding and forced labour. IOM was responsible for the voluntary return of 20,000 migrants in 2017.

## ECONOMIC OVERVIEW

2.16 In 2014, Libya ranked 55th out of 187 countries on the UNDP Human Development Index, and rated as a high human development country. In 2017, Libya ranked 108th out of 188 countries. Before 2011, income from the sale of crude oil and natural gas, coupled with a small population, had given Libyans one of the highest standards of living in Africa, despite economic development gaps. The formal economy is almost entirely dependent on the energy sector, with oil and natural gas sales accounting for up to 97 per cent of government revenue. Libya's sale of oil and natural gas collapsed during the 2011 conflict, and again in late 2013, to 220,000 barrels a day. Between July 2017 and May 2018, the Libyan National Oil Corporation increased Libya's oil production to about one million barrels a day, in part by reducing blockades by local militia on oil infrastructure.

2.17 After three years of economic contraction following the 2014 conflict, economic indicators reflect an improvement in the Libyan economy. Libyan GDP grew an estimated 55.1 per cent in 2017, largely due to a significant increase in oil production and international oil prices. Outside the energy sector, structural issues remain: the *de facto* removal of a subsidy on food items fuelled inflation, which reached 32.8 per cent annually in 2017. The price of wheat and flour increased 500 per cent and 350 per cent respectively, compared to pre-crisis levels.

2.18 The World Bank and International Monetary Fund estimate Libya's foreign exchange reserves have fallen from USD 124 billion in 2012, to an estimated USD 45 billion at the end of 2017. Currency depreciation on the black market reached 9.8 Libyan dinars to 1 United States dollar at the end of 2017, compared to an estimates rate of 2 Libyan dinars to 1 United States dollar in 2015. In 2017, GDP per capita was USD 5,166.20, and per capita income fell to less than USD 4,500 in 2015 compared to almost USD 13,000 in 2012. Libya has a large public sector and spending on wages and subsidies creates budgetary pressure. Spending on wages in 2017 accounted for 33.3 per cent of GDP and subsidies 8.9 per cent of GDP. Government payments to civilians and militia members have continued since the outbreak of conflict in 2014, and central bank authorities have simultaneously paid salaries for military and militia forces aligned with opposing sides in the internal conflicts.

2.19 Libya ranked 171st out of 180 countries on Transparency International's 2017 Corruption Perceptions Index. Although Libya has ratified the United Nations Convention against Corruption, corruption is an obstacle for companies and permeates the Libyan economy, particularly public procurement and the oil industry. The World Bank ranked Libya 185th out of 190 countries in their 2018 'Ease of Doing Business Report'. The Gaddafi regime left a legacy of administrative corruption through nepotism, tribal and political patronage, financial irregularities, and circumventing of regulations within institutions. Government institutions have had little success in reducing corruption, with exception of the country's audit bureau, which has continuously monitored the work of government institutions and published audit reports regarding annual budgets of the government's financial institutions. The Libyan Audit Bureau's 2017 report accused state institutions, including the Presidential Council, of spending billions of dinars over the past years in an unjustifiable manner. Several NGOs have dedicated their work to promoting transparency, but attempts to curb corruption have been limited. Many property rights are neither clearly defined nor protected under Libyan law.

## Health

2.20 Libyans have poor access to health care. Libya's weak health system has further deteriorated due to poor governance, limited financial resources, lack of health care workers including birthing attendants, and shortages of lifesaving medicines and basic equipment. The World Health Organization (WHO) reports 1.3 million people have no access to basic health care. The Service Availability and Readiness Assessment (SARA) carried out in 2017 by WHO and the Ministry of Health, found 17.5 per cent of hospitals, 20 per cent of primary health care facilities and eight per cent of other health facilities were not operational due to damage, lack of maintenance, inaccessibility or occupation by people and entities. In 2017, the European Commission reported the Libyan health system had 'practically collapsed', with less than 20 per cent of public health facilities functioning in districts affected by conflict.

2.21 Many foreign workers, especially in the health sector, have left Libya due to continuing instability and security concerns, including the evacuation of 3,000 health workers from the Philippines and India - accounting for 80 per cent of Libya's hospital staff in 2014 - exacerbating pressure on the medical system.

'Ghost health personnel', or health workers receiving salaries but not working, further weakened the health sector. Eight out of 22 districts failed to meet WHO standards of 10 beds per 10,000 pregnant women.

2.22 Hospitals and other health care facilities are bombed, shelled and hit by stray bullets during armed violence, and access to health services is limited by insecurity with delays at checkpoints and road closures. The United Nations Assistance Mission in Libya (UNSMIL) reported on 18 February 2018 that a woman in labour and her unborn child died on their way to hospital in Derna, after armed men affiliated with the Libyan National Army (LNA) delayed their passage at a checkpoint. UNSMIL/OHCHR recorded 36 attacks on medical facilities, personnel or patients in the period between 1 May 2017 and 1 May 2018, but the actual number may be much higher. Regular reports exist of armed groups stealing medical equipment and supplies, further draining an under resourced health care system.

2.23 Prior to 2011, water supply coverage was 100 per cent in urban communities and 95 per cent in rural populations and sanitation coverage was 60 per cent in urban areas and 40 per cent in rural areas. Life expectancy in 2015 for males was 70 years and for females 76 years. Assessments in 2017 showed that 64 per cent of the population affected by conflict had access to adequate drinking water sources. Electricity cuts of 4 to 5 hours –and up to 14 hours in some areas – occur regularly, which further affects water quality and sanitation facilities. In October 2017, armed groups attacking Tripoli sabotaged the water system, cutting supply to the city for over 10 days in a bid to release a leader imprisoned by a rival group.

2.24 In January 2018, UNSMIL reported an increase in maternal deaths in the south of Libya. In 2015, the maternal mortality ratio was 9 per 100,000 live births, although this figure disguises regional disparities. In the south of Libya, 12.1 per cent of health facilities provide antenatal care and 8.5 per cent of the health facilities provide delivery services. Over 74 per cent of births in Libya take place in public hospitals and 16 per cent in private clinics. Access to hospitals can involve travelling long distances in insecure conditions. Fifty-two public hospitals and 1,099 primary health centres currently function in Libya.

2.25 In November 2017, the Ministry of Health, with the support of WHO, UNICEF and the International Organization for Migration (IOM), conducted a national immunisation campaign, vaccinating 1.4 million children against polio, and 720,000 children against measles, mumps and rubella. The vaccination was uncontroversial, and the vaccination rate was over 100 per cent (more children were vaccinated than were listed on the last census).

## Education

2.26 The lack of security throughout Libya has affected the delivery of education services. Conflict, damage to schools, lack of space in local schools and resource constraints limit education. The 2014 World Economic Forum's Annual Global Competitiveness Report ranked Libya 128th out of 144 countries for the quality of primary education (the most recent available data). In 2018, an estimated 300,000 conflict affected children were without education, and, in 2016, 550 schools were classified as non-functional due to conflict or being used as shelters.

2.27 The UN estimates two out of five registered teachers are inactive and many of those who are working as teachers lack education and classroom management skills. Sources report that an estimated 125,000 Tunisian teachers in Libya prior to 2014 had reduced to 25,000 in 2017. Local sources consider likely that thousands of teachers on the payroll are no longer teaching.

2.28 Primary and secondary education for Libyan nationals is free and compulsory starting at 6 years of age. The first nine grades are considered basic school. Secondary school consists of grades 10 to 12 and is named intermediate education. A 2017 needs assessment report found the majority of children not enrolled in school to be from internally displaced person (IDP) households. Before the resumption of conflict in 2014, Libyans had near universal access to education services. Libya's literacy rate was one of the highest in the region: 91 per cent for those aged fifteen and above, or 96.7 per cent for males and 85.6 per cent for females.

2.29 The GNC passed Law No. 18 on the rights of cultural and linguistic minorities and recognised the languages of the Amazigh, Tebu (Toubou/Tubu) and Tuareg as an important part of the linguistic and cultural heritage of the country, guaranteeing teaching of these languages in the national education system. The extent to which this is applied is unclear. Most immigrants do not have access to Libya's education system.

## Employment

2.30 The state sector dominates employment in Libya. In 2004, 17 per cent of Libya's labour force worked in agriculture, 23 per cent in industry and 59 per cent in the service sector. In 2017, the Multi-Sector Needs Assessment, by the Libya Inter-Sector Coordination Group, indicated that 57.1 per cent of households derive part of their income from government salary. The public payroll has nearly doubled since the revolution with an estimated 1.6 million to 1.8 million people on the public payroll. As in the health sector, many of these employees draw salaries without actually attending work. In 2016, public sector wages represented 60 per cent of GDP. Libya's unemployment rate in 2017 was 17.7 per cent, and youth unemployment in 2016 was almost 50 per cent.

## POLITICAL SYSTEM

2.31 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 governorates. A series of short-lived re-divisions took place between 1983 and 2007, at which time Libya adopted its present arrangement of 22 districts.

2.32 Libya's current political division corresponds roughly to the former Ottoman boundaries. The GNA in Tripoli loosely controls parts of Tripolitania, while the HoR and LNA in Tobruk loosely control the former Cyrenaica and small areas in western Libya. The area south-west of Tripoli, comprising the former Fezzan province, is controlled by neither administration and is the subject of competition by rival tribal militias and jihadists groups.

2.33 Following the fall of Gaddafi in 2011, the Transitional National Council (TNC) formed, and issued a Constitutional Declaration that provides for the legislative, executive and judiciary powers. The Constitutional Declaration remains in force pending the adoption of a new constitution.

## HUMAN RIGHTS FRAMEWORK

2.34 Libya is a party to the following international covenants and conventions: International Covenant on Civil and Political Rights (ICCPR) and its First Optional Protocol, which establishes an individual complaints

mechanism; International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Elimination of all Forms of Racial Discrimination (CERD); Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and its Optional Protocol; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Rights of the Child (CRC); Optional Protocol to the CRC on the sale of children and the exploitation of children in prostitution and pornographic materials (OP-CRC); International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) and Convention on the Rights of Persons with Disabilities.

2.35 Libya has also acceded to the eight International Labor Organization (ILO) conventions on human rights: Conventions 87 and 98 on Freedom of Association and Collective Bargaining; Conventions 29 and 105 on Forced or Compulsory Labour; Conventions 100 and 111 concerning the Elimination of Discrimination in Respect of Employment and Occupation; Conventions 138 and 182 pertaining to Forbidding the Employment of Children and Minors; Libya is also a party to the African Charter on Human and Peoples' Rights and ratified the Protocol establishing the African Court for Human and Peoples' rights and the Arab Charter on Human Rights.

## National Human Rights Institution

2.36 The National Council of Civil Liberties and Human Rights (NCCLHR) was established in 2013 (Law No.5 – 2011). It is recognised by the UN and has a mandate to promote the protection of civil liberties and human rights; to entrench the values, promote awareness of, contribute to ensuring the practice of, and monitor and deter violations of civil liberties and human rights; and to encourage and support civil society organisations in protecting these values. While article 26 (6) of the Libyan Political Agreement (LPA), signed in 2015, commits parties to support the functioning of the NCCLHR, it has remained non-operational since armed conflict broke out in mid-2014. The term of the council elapsed in late 2014 and had not been renewed by the House of Representatives, as required by the law establishing the council.

## SECURITY SITUATION

2.37 While security conditions vary across Libya, the overall security environment remains poor. A lack of political stability since the outbreak of conflict in 2011, compounded by the resumption of conflict in 2014, has contributed to a situation where the rule of law provided by a national government does not exist for the majority of Libyans. Hundreds of armed groups operate throughout Libya with many nominally affiliated with the ministries of defence, the interior and justice and, in the east, the HoR-affiliated Libyan National Army. While receiving salaries from central state funds, they are not under its effective command and control. A number of policing functions are also outsourced to armed groups. From 1 January to 31 December 2017, UNSMIL reported 371 civilian casualties from conflict. Explosive hazards, including landmines, airstrikes, shelling, improvised explosive devices, unexploded ordnance and other remnants of war remain throughout the country. Libya has an estimated 20 million small arms in circulation.

2.38 UNSMIL reports the situation in western Libya remains volatile, with continuing clashes between rival armed groups. In October 2017, GNA supporters and opposing forces clashed in south Tripoli, resulting in the arrest of leaders who supported the former regime. In retaliation, opposing forces seized control of the water network and cut its supply to Tripoli for one week. In December 2017, unknown gunmen abducted and assassinated Mohammed Eshtewi, the elected Mayor of Misrata. Misrata is the third largest city in Libya and is considered one of the country's safe cities. In early 2018, Mitiga airport in Tripoli was closed as a result of fighting, in which at least 23 fatalities and more than 60 injuries were reported. The

attackers aimed to release terrorists of ISIL and Al-Qaeda and other organisations from the detention centre, which is supervised by the interior ministry's special deterrence force. In August 2018 violence broke out in Tripoli between rival militias from Tripoli and Tarhouna leading to the deadliest period of violence in Tripoli since 2014 with over 115 fatalities and 5,000 families displaced. A state of emergency was declared by the Presidency Council in early September and a fragile ceasefire reached in late September. The violence led to the withdrawal of many personnel, including the Ambassador, from the Italian Embassy in Tripoli.

2.39 UNSMIL reports the situation in eastern Libya remains precarious. In November 2017, the interior ministry building in Benghazi was hit by four mortars and the deputy minister was held incommunicado, leading to allegations he had been tortured. In January 2018, a double vehicle-borne improvised explosive device attack killed 30 people, including children, and injured dozens, including senior figures affiliated with the LNA. In retaliation, LNA commander Al Werfalli carried out 10 summary executions. In the days following, more than 25 bodies with gunshot wounds and hands tied were found in various places in Benghazi. In an unrelated incident, in February 2018, a bombing inside a mosque killed two people and injured 75.

2.40 The security situation in southern Libya remains volatile. Criminal acts such as robbery, carjacking and kidnapping provide the only means of income for many and thus occur constantly. In November 2017, unidentified armed men kidnapped four international aid workers at Awbari airport.

2.41 Local and international non-governmental organisations (INGO) operate at high risk throughout Libya. In 2017, sources reported NGOs being increasingly targeted and required to obtain security clearances to comply with unusual regulations imposed by a civil society committee, situated within the Ministry of Culture. The committee allegedly has links to Libya's intelligence services, although DFAT cannot verify this. INGOs are required to register with the government before operating, and must submit all finances for review.

2.42 Islamic State in Iraq and the Levant (ISIL) remains active in Libya and Egypt. Whilst no longer in control of land, they continue to train, and reportedly use Libya as a base to support terrorist attacks in Libya and Europe, including the operation of desert units in south and central Libya. In October 2017, ISIL claimed responsibility for an attack on the Misrata court complex that killed four and injured 41 people. In March 2018, ISIL claimed responsibility for two separate vehicle-borne explosive devices that resulted in the deaths of LNA personnel and civilians.

2.43 Attacks on hospitals and other health care facilities occur. The Sabha Medical Centre - reportedly the largest and best equipped hospital in the region - was shelled and hit by stray bullets on at least 15 occasions between 6 February 2018 and 1 May 2018 during armed clashes between Awlad Sleiman and Tabu tribal armed groups and their allies. UNSMIL has reported incidents of armed groups engaging in gunfights inside hospital grounds. Violence against medical facilities and health care providers has contributed to the departure of international medical staff.

2.44 The struggle for political ascendancy has included a number of battles for control over Libya's vital oil and gas infrastructure in the oil crescent. In June 2018, a coalition of armed groups, including foreign mercenaries, seized control of oil facilities causing casualties and damage to infrastructure. The LNA re-took the area one week later. Although international observers expected it to return the management to the internationally recognised National Oil Corporation (NOC – which functions under the GNA), it instead transferred control to an unrecognised oil corporation in the east under parallel authority. The NOC suspended its contractual obligations for loading at oil ports on selected oil terminals, due to the port



blockages imposed by the LNA, blocking 850,000 barrels per day of crude oil at a cost of over USD 900 million.

2.45 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, militants attacked two US diplomatic compounds in Benghazi, killing the ambassador and three other Americans. Between November 2014 and April 2015, armed groups carried out 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, most diplomatic missions, international agencies and NGOs relocated their offices to Tunis. 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. In February 2018, the UN Department of Safety and Security lifted the evacuation status in Libya. A small number of embassies and UN organisations have since returned.

2.46 The security situation throughout the country has particularly affected Libya's minority groups. The absence of the rule of law, the presence of extremist movements, 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

3.1 The Gaddafi regime's policy of Arabisation had a detrimental effect on all non-Arab minorities in Libya. The 1969 Constitution and a later 1977 Declaration on the Establishment of the Authority of the People defined Libya as an Arab nation with Arabic as 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. The government, the General National Congress, officially recognised the Amazigh, Tuareg and Tebu languages in 2013, and allowed them to be taught in schools. The extent to which official recognition is implemented in practice is unclear.

3.2 In August 2011, the TNC introduced a *Draft Constitutional Charter for the Transitional Stage* (the 'Constitutional Declaration'). The 2011 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.

3.4 Libya is a highly diverse nation and with an estimated 140 tribes. In 2017, Human Rights Watch reported that attacks against religious minorities in Libya had gone unpunished since the end of 2011. Gaddafi governed with divide and rule tactics, pitting local tribes against each other. Today, the United Nations continues to work with various communities to resolve grievances peacefully through local reconciliation. At the local level, reconciliation committees mediate conflicts that erupted during the transition between Tebu and Zwiya in Kufra; Tebu, Tuareg and Arabs in Sabha, Murzuq and Ghadames; Zawiya and the Warshafana tribe on the western coast; and Mashashiya and Zintan in the Nafusa mountains and Bani Walid.

## Amazigh (Berbers)

3.5 The Amazigh (also known as Berbers) are Libya's largest indigenous minority. The Amazigh are native inhabitants of North Africa, with a population extending from Morocco to Egypt. Within Libya, the population mainly resides in the western Libya, near the borders with Tunisia and Algeria. The largest community is found in the Djebel Nafusa region, and towns including Zuwara, Ghadames, Sokna, Awgila Al-Foqaha and Jalu have significant populations. Minority Rights Group International estimates the population numbers between 236,000 and 590,000 (between 4 and 10 per cent of the total population). Most Amazigh adhere to a form of Sunni Islam. Some Amazigh are Ibadi Muslims (see [Religion](#)).

3.6 Under the Gaddafi regime, the Amazigh faced discrimination and harassment due to Gaddafi's regime of Arabisation. Gaddafi denied the Amazigh identity: Tamazight, the Amazigh language was outlawed, as was the use of non-Arab Amazigh names on official documents. The state attempted to force Amazigh to marry non-Amazigh to erode their sense of identity. The government prohibited publication of literature in Tamazight, and prohibited Amazigh from forming cultural associations. Minority Rights Group International reports that the state deemed Amazigh New Year celebrations to be un-Arab, and often persecuted Amazigh who expressed their culture and heritage. Amazigh were among the first to protest against the Gaddafi regime in February 2011. Fighting in the region during this period forced nearly 55,000 Amazigh to flee into neighboring Tunisia and Gaddafi loyalist forces abducted many Amazigh, mostly young men, in the Nafusa mountains area.

3.7 The removal of the Gaddafi regime led to a rise in Amazigh political and cultural consciousness. The Amazigh advocated for Tamazight to be adopted as one of Libya's official languages. The interim constitution issued in August 2011 only vaguely alluded to Amazigh culture and rights, and Tamazight was not recognised as an official language. The current draft constitution considers Arabic, Amazigh and Tebu as 'a cultural and linguistic heritage as well as a common asset for all Libyans', but Arabic remains the official language of the state.

3.8 DFAT assesses the Amazigh population faces a low risk of ethnic discrimination (however, see [Religion on Ibadi Muslims](#)). Politically active and high profile Amazigh may face a higher risk of societal violence from those opposed to the extension of political and cultural minority rights. Although DFAT is not aware of any specific attacks or societal violence, DFAT assesses that Amazigh may face societal discrimination, as they are viewed by some as being anti-Islamic.

## Black Libyans

3.9 A 'Black Libyan' is a Libyan of sub-Saharan African appearance, who may or may not hold Libyan citizenship. Black Libyans include Tawergha and Saharan peoples such as Tuareg and Tebu, foreign workers and undocumented migrants present in Libya prior to the 2011 conflict.

3.10 During the Gaddafi era, reports existed of social discrimination, such as verbal abuse and denial of housing and jobs, and occasional violent attacks against dark-skinned residents of Libya. 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. In 2014, interim government authorities removed dark-skinned citizens from their homes in Tripoli and held them in detention centres and prisons. The US State Department reported in 2017 that government officials and journalists distinguished between 'loyal' and 'foreign' populations of Tuareg 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.

3.11 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

3.12 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 to May 2011, Gaddafi loyalists used Tawergha as a base while besieging the city of Misrata, 40km to the north-west. Misrata was 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. Allegations were made of rape and sexual abuse committed by Gaddafi forces, including by Tawergha. Many Misratans regard the Tawergha as perpetrators of human rights violations against their people.

3.13 In mid-August 2011, at the height of the conflict, anti-Gaddafi forces drove out the entire population of Tawergha, around 40,000 people, as collective punishment for their perceived support of the Gaddafi regime. The forced displacement was followed by the looting and destruction of homes, arbitrary arrests of Tawergha, torture and extra-judicial killings. Militia from Misrata allegedly dragged women into the street and raped them. People from Tawergha, who were reportedly put in camps, alleged that male prisoners were forced to rape other prisoners.

3.14 In early 2018, armed groups and civilian authorities in Misrata continued to block thousands of people from Tawergha from returning home after seven years of forced displacement, in which they were dispersed around the country in makeshift camps and private housing. On 3 June 2018, Misrata and Tawergha officials signed a reconciliation treaty ending the seven-year conflict, in which they agreed to the return of displaced Tawergha residents. Although Misratan officials confirmed that displaced families could start returning, the timeframe is not clear. Contact has reported that Tawergha have been allowed to return to their homes, but no services are available, nor is there certainty on the numbers. DFAT is unable to verify this information.

3.15 DFAT assesses that Tawergha face a high level of societal discrimination, 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 continuing failure of officials to provide protection, or safe return to their homes.

## Tuareg

3.16 The Tuareg are a nomadic, pastoralist tribe who reside in Libya, Algeria, Mali and Niger. Estimates on the size of the Libyan Tuareg population vary widely from 10,000 to 100,000, mostly in the desert oases of Ghat, Ghadames and Murzuq in the south west. Many Tuareg have no official documentation attesting to their citizenship.

3.17 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.

3.18 Although some Tuareg opposed Gaddafi, many Libyans identify all Tuareg as supporters of the Gaddafi regime. Following the removal of the regime, reports circulated 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, and often lack national identity number (and thus access to employment). Minority Rights Group International reports an estimated 14,000 Tuareg do not hold official papers.

3.19 During the 2011 revolution, despite fighting on opposing sides, the Tuareg and Tebu did not fight each other. Beginning in 2014, clashes between militias from the two communities commenced, resulting in the initial displacement of 18,500 people. Subsequently, repeated armed clashes have occurred in Ubari (Awbari), a desert region located at the southern borders of Libya, at the intersection of Algeria, Niger and Chad. Clashes are driven by disputes over oil and water resources and control of the lucrative smuggling trade in arms, drugs and migrants. UNSMIL is supporting national reconciliation processes, through discussion with displaced Tuareg communities in Awal.

3.20 DFAT assesses that Tuareg face a high risk of societal discrimination and violence, similar to that faced by other '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. 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/Tubu)**

3.21 The Tebu are a traditionally nomadic tribe that has inhabited an area of present day south-eastern Libya, the Tibisti Mountains of northern Chad and parts of Niger and Sudan. An estimated 50,000 Tebu live in Libya. Historically the Tebu were a clan-based society of camel herders, speaking a language of Nilo-Saharan origin. Tebu have historically lacked citizenship and faced discrimination from Arab Libyans.

3.22 In the 1970s, Libya invaded the mineral-rich Aouzou strip belonging to Chad, and registered its inhabitants as Libyan citizens and issued documentation accordingly. 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. 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. This policy applied regardless of whether individuals had 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. No evidence suggests that Libyan authorities made any assessment of Chadian nationality law or the citizenship of any of the affected individuals. The 1996 and 2007 policies have had the combined effect of leaving many Tebu stateless. During the final months of the Gaddafi regime, Gaddafi reportedly annulled the 1996 decree. DFAT is unable to establish the extent to which this policy reversal was communicated to local and civil authorities at the time.

3.23 The scale and rate of statelessness among the Tebu today is unknown. They frequently clash with Arab tribes for control of key southern hubs such as Sebha and Kufra. The Tebu and the Tuareg control the southern Libyan border and parts of the smuggling economy. Post-revolutionary jockeying for control of lucrative illicit networks led to the breakdown of a century-old peace agreement between the Tuareg and the Tebu in 2014. As of December 2017, violence between the two tribes de-escalated, with the Tebu and allied forces in the LNA bloc now dominating in much of the south. At the national level, Tebu representatives have two seats on the constitutional drafting committee, along with the Amazigh and the Tuareg, out of a total of 60 seats, but have intermittently boycotted the process as the leaders saw this as insufficiently representative. The Tebu patrol Libya's southern border and have increased their control over smuggling routes and illicit military transfers since 2011, particularly through Niger and Sudan. In September 2017, the Tebu allied with the LNA to control oil sites. Indicative of the constantly shifting alliances and persisting tensions, the LNA had previously supported the Arab Zway tribe against the Tebu. In February 2018 representatives from Tebu and Zway tribes of Kufra district signed a reconciliation agreement. The Kufra district, in the south-east, has experienced years of political, economic and development marginalization, as well as repeated conflict between the Zway and Tebu tribes, with many casualties on both sides. In Kufra, members of the Tebu community have inadequate access to essential medical services, as the main public hospital and major clinics in the city are located in areas under the control of the rival Zway tribe. According to local activists and medical sources, Tebu men in particular refrain from seeking medical assistance in Zway neighborhoods, due to fear of attacks.

3.24 DFAT assesses that Tebu face a high risk of societal discrimination and violence, similar to other 'Black Libyans', due to their perceived association with the Gaddafi regime, and being viewed by some as foreigners. 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. 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)

3.25 The Mashashiya (Mashashya) were originally nomadic tribespeople. The Gaddafi government reportedly resettled a large number of Mashashiya in the western mountains and they now reside in the region around the Nafusa mountains, Zintan and other towns in the area. Limited land and water fueled regional tensions, and the Gaddafi government exacerbated them by manipulating ethnic and tribal tensions, and encouraging competition for resources and official favours at the expense of the development of national identity. The Mashashiya are generally perceived to have been a group favoured by the regime. Reliable population figures for the Mashashiya are unavailable.

3.26 In 2011 anti-Gaddafi rebels targeted the Mashashiya for their alleged support of the regime, forcibly displacing around 10,000 Mashashiya from the region of Zintan, and looting and burning their homes. The

displaced Mashashiya continue to risk retaliatory attacks, including abduction, and face serious restriction to their freedom of movement. Actual or perceived former Gaddafi loyalists, and displaced persons in general, have been subjected to retaliatory attacks, harassment, intimidation, discrimination and other abuses as reported in 2018 by the UN Special Rapporteur on the human rights of internally displaced persons.

3.27 In January 2016, elders of Zintan, Asabaa and Mashashiya announced their agreement to the return of displaced persons, and the formation of a committee to oversee the operation. In May 2017, the International Peace Institute reported that Mashashiya and Zintan communities reached agreement on the return of displaced persons in the region, compensation and missing persons. In July 2018 reported that most of the Mashashiya have returned to their homes. Contrary to this, a DFAT source reports that the reconciliation attempts have not been successful. DFAT has been unable to verify these claims. UNSMIL reports that many IDPs have returned to their homes, however concerns remain regarding the condition to which they are returning, such as lack of safety and security, lack of access to services, discrimination and local standard of living.

3.28 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. Mashashiya may be unable to go back to their places of origin out of fear of retaliation and a lack of physical safety for them and their families.

## RELIGION

3.29 The US State Department's 2017 International Religious Freedom Report for Libya (the most recent available) estimated that 97 per cent of the population was Sunni Muslim. The remaining 3 per cent of the population includes Ibadi Muslims, Christians, Hindus, Bahais, Ahmadi Muslims, Buddhists, and Jews. Many members of the Amazigh ethnic minority are Ibadi Muslims - an early denomination of Islam with several views contrary to Sunni and Shia; nearly all other non-Sunni Muslims are foreign residents.

3.30 The 2011 Constitutional Declaration declares Islam is the religion of the state and *sharia* is the principal source of legislation, but accords non-Muslims the freedom to practice their religion. In addition, the interim constitution states 'there shall be no discrimination among Libyans on the basis of religion or sect' in relation to political, legal and civil rights. The laws governing religious practice predate the internal conflict and provide a national legal framework for religious freedom. No law explicitly protects individuals' rights to choose or change their religion or to study, discuss, or promulgate their religious beliefs, nor does any law prohibit conversion from Islam to another religion or prohibit proselytizing. The law prohibits 'instigating division' and insulting Islam or the Prophet, with a maximum sentence of death. Religious instruction in Islam is compulsory in public and private schools and attendance is mandatory for all students.

3.31 In practice, religious freedom is often violated. US State Department International Religious Freedom Report 2017 reports on armed groups restricting religious practices, enforcing compliance with *sharia* according to their interpretations, and targeting those viewed as violating their standards. The GNA delegated control of groups including revolutionary brigades, tribal militia, and local strongman to the Ministry of Interior, but authority remained limited, and their response to instances of violence against members of minority religious groups was limited to verbal condemnations.

3.32 According to the Libyan Tmazight Congress, an organization that advocates on behalf of the Amazigh community, Ibadi Muslims number between 300,000 and 400,000. Neighboring Tunisia and Algeria also have Ibadi Muslim populations. Some Salafists in Libya have condemned Ibadi Islam. In July 2017, the Supreme Fatwa Committee under the General Authority for Endowments and Islamic Affairs, the religious authority of the interim government (GNA), issued a religious edict or *fatwa* on the suitability of an Ibadi preacher leading prayers in a mosque in the Nafusa mountains. In the edict, the committee said that the minority sect was ‘a misguided and aberrant group. They are *Kharijites* with secret beliefs and infidels without dignity.’ *Kharijites* is a term used to describe Muslims who rebelled against the Caliphate in the early ages of Islam. Sources reported the edicts received little traction with the general Muslim population.

3.33 Armed groups have targeted Christian and other religious minority communities. In 2015, an armed group that pledged allegiance to the extremist group ISIL (ISIS) beheaded 21 mostly Egyptian Coptic Christians in the vicinity of the town of Sirte. Salafi Muslim militants have destroyed or vandalized Sufi Muslim shrines. In October 2017, among 36 bodies found bound and shot outside Benghazi was 71-year-old Sufi Sheikh Muftah al-Bakoosh el-Werfalli, allegedly executed because he was Sufi. The United Nations Secretary General’s Special Representative for Libya reported the bodies showed signs that the victims had been tortured before they were executed.

## Personal Status Laws

3.34 *Sharia* governs family matters for Muslims, including inheritance, divorce, and the right to own property. Under *sharia*, a non-Muslim woman who marries a Muslim man is not required to convert to Islam, but a non-Muslim man must convert to Islam to marry a Muslim woman. The Ministry of Endowments and Islamic Affairs (MEIA) ensures all religious practices confirm to state-approved Islamic norms. MEIA administers non-Muslim family law issues, although no separate legal framework governs non-Muslim family law. Religious tension between extremist interpretations of Islam and more mainstream ones is greater than that between secular and religious norms.

## POLITICAL OPINION (ACTUAL OR IMPUTED)

### Political Groups

3.35 Article 15 of the Constitutional Declaration guarantees the freedom to form political parties, societies and other civil societies. 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 National Transitional Council (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 and tribal, rather than ideological in nature.

3.36 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](#), [Civil Society and](#)



[Human Rights Organisations](#), and [Extra-Judicial Killings](#)). While no groups have claimed responsibility for the killings and no arrests have resulted, armed militias are believed to have carried out the killings. The failure of Libyan authorities to conduct investigations or prosecute has created an environment of impunity that has fueled further abuses. UNSMIL reported that, on 17 December 2017, unidentified armed men abducted the Mayor of Misrata, Mohamed Eshtewi, near Misrata airport, possibly because of an internal feud. Mr Eshtewi's body, bearing multiple gunshot wounds and a blow to the head, was later found in front of a local hospital. On 11 November 2018, the LNA arrested the deputy minister of interior and has since held him incommunicado, and allegedly tortured him. In September 2017, local media reported that General Haftar, commander of the LNA, banned all officials of the GNA, and Presidential Council from entering the east of Libya. Local sources advised that political seminars and public statements can be made within Libya, however requests to undertake peaceful marches have been denied.

3.37 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 [Groups of Interest](#)).

## GROUPS OF INTEREST

### Civil Society and Human Rights Organisations

3.38 Prior to 2011, civil society was almost non-existent in Libya. Civil society flourished in the post-revolution period, but many organisations remain weak. Local sources estimate around 100 civil society groups, with a focus on human rights, are active in Libya, but only a few dozen are effective. Armed groups often target civil society activists. The 2018 Human Rights Watch World Report stated armed groups intimidated, threatened, and physically attacked activists, journalists, bloggers and media professionals.

3.39 Members of civil society operate in a constrained environment. In November 2015, the Ministry of Culture and Civil Society announced that all individuals working for civil society organisations (CSOs) must provide notice and seek approval from the authorities prior to attending meetings, workshops and conferences outside Libya. In 2016, the Civil Society Commission issued further regulatory procedures for national CSOs, around reporting requirements and for foreign CSOs concerning access to inspect premises and financial and administrative documents. The US State Department 2017 Human Rights Report noted that, while the government did not stop human rights organisations from operating, it was unable to protect organisations from violence that often specifically targeted activists.

3.40 Members of CSOs and human rights activists have been targeted for their work. Hamza Ahmed Abdel-Hakim, the rapporteur of the CSO National Commission for Human Rights, was kidnapped in Tripoli in December 2015. In March 2016, civil society activist Abdul Basit Abu-Dahab (Abdel Basset Abu al-Dhahab) was killed in a car bomb in Derna; he had reportedly received numerous death threats and survived a previous assassination attempt. In September 2016, human rights activist Jabi Zain was abducted leaving a seminar on women's rights. In August 2017, armed men apprehended a human rights defender in Tripoli after they discovered his field of work; he was forced to unlock his computer and was questioned on his activities before being released hours later. Amnesty International documented several cases of women

human rights defenders who faced various forms of gender-based violence, including abductions and attempted assassinations, torture and other ill treatment, as well as a pattern of death threats, harassment and smear campaigns on social media.

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

## Media

3.42 Article 14 of the Constitutional Declaration guarantees freedom of opinion for individuals and groups, freedom of research, freedom of communication, liberty of 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.

3.43 The media has been affected by restrictions on freedoms of expression, association and assembly. *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'.

3.44 Libya ranks 162nd out of 180 countries in the 2018 Reporters Without Borders World Press Freedom Index. The US State Department Human Rights Report 2017 reported that press freedoms were limited in all forms of media. Armed groups have targeted media institutions. During Gaddafi's rule, most media were state-controlled and used as propaganda tools. Following the revolution, media outlets proliferated, but many were forced to shut down when violence again escalated in 2014. Most media outlets are highly partisan, producing content that favors one of the country's political and military factions. Most television stations are controlled by foreigners. Libyan radio and television, controlled by the GNA, runs the three main public radio stations and local councils fund various other radio stations. Over a dozen private stations exist, such as Libya FM, based in Egypt. Many news outlets, including television and radio and online publications now operate from outside Libya. Radio is considered a more trusted medium. Overall, media outlets are highly fragmented and localised, and many are not rigorous in checking their information for accuracy.

3.45 Media professionals, writers and activists face restrictions to their rights to freedom of expression and association, and risk abduction, arbitrary detention, intimidation and threats. The increased threats by various assailants have led to self-censorship. In February 2018, Reporters Without Borders (RSF) reported at least 18 journalists have been killed since the revolution in 2011, and violence has led to journalists steadily leaving Libya. RSF reports 67 journalists have left and eight Libyan media outlets are now operating from bases in other Middle Eastern countries. Between October 2015 and January 2017 the Coalition of Libyan Human Rights Organisations documented 89 attacks against media personnel by armed groups. The majority of attacks occurred in Tripoli, Sirte, Benghazi, and Sebha. Attacks took the form of enforced disappearances, torture and ill treatment, arbitrary detention, threats and insults.

3.46 In 2017, security forces aligned with LNA in Benghazi arrested Agence France Presse (AFP) photojournalist Abdullah Douma twice within one week due to his coverage of Earth Hour, a global event to raise awareness of climate change. Security forces also arrested four of the organisers of the event, citing it

as 'offensive to Islam' for allowing men and women to mix. Armed groups closed a Comic Con convention in Tripoli, alleging it breached the country's 'morals and modesty' and holding the organisers without charge for almost two months. Annabaa TV stopped broadcasting in March 2017 when a militia group set fire to its Tripoli headquarters and posted online the names and selected personal details of its employees. Thirteen affected journalists moved abroad fearing for their safety. On 27 February 2017, armed groups raided, seized and closed Al Wassat radio station in Benghazi. In November 2017, fighters affiliated with the LNA raided offices of the Libyan Roh Al-Watan television station in Benghazi and confiscated equipment. Two journalists were briefly detained and subjected to ill treatment.

3.47 International journalists have reported difficulty obtaining visas for Libya. Between March and December 2017, the foreign media department reportedly approved very few visas. International journalists cannot go to eastern Libya without approval from the army, and some cities are avoided due to risk of being killed. In August 2018, the foreign media department announced 13 new conditions for international journalists and the Libyan correspondents of foreign media outlets to obtain accreditation to work in Libya, in addition to existing delays in obtaining and renewing visas and other forms of administrative harassment. All existing accreditations were cancelled at the end of 2017.

3.48 DFAT assesses that journalists face a high risk of 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 work; or being killed. Reports of media outlets and cultural events being shut down are common.

## Online and Social Media

3.49 After an opening of the online media landscape after the fall of Gaddafi, self-censorship, verbal harassment, and a lack of quality reporting now characterise the online sphere. The 2011 revolution brought a notable increase in the number of bloggers writing within Libya, particularly on issues related to political activism, hope for the future, and criticism of the government. Many bloggers, online journalists, and ordinary citizens practise some degree of self-censorship due to continued instability and increasing threats and violence against journalists over the past years. Social taboos such as allegations of sexual abuse by soldiers or conflicts between warring tribes and rival cities are considered off limits. Freedom House reports online commentators avoid expressing religious opinions for fear of being marked as an atheist or a Shi'a sympathizer - both of which can be life-threatening - and also avoid criticising the 2011 revolution, General Haftar, and various heads of local militias for fear of retribution from armed groups and non-state actors. Internet penetration has traditionally been very low in Libya. According to the International Telecommunication Union 20 per cent of Libyans had internet access in 2016.

3.50 The breakdown of the rule of law and the growing influence of militias has led to an increase in politically motivated threats and violence. While no bloggers or activists were reportedly killed due to online activism in late 2016 and early 2017, politically motivated killings from previous years limit online expression. The National Commission for Human Rights reports an escalation in intimidation, hate speech, and incitement to violence on social media and other online platforms. The commission reported no new arrests of bloggers for their online activities over the coverage period. Local media reported that, in July 2016, security forces released blogger Ali Asbali after 120 days at Gernada prison in Benghazi. Unidentified men in military uniforms had detained and interrogated him in March 2016 after his online posts had highlighted a rise in kidnappings and extra-judicial killings, and criticised LNA General Haftar.

## Actual or Perceived Gaddafi Regime Loyalists

3.51 A generalised attitude of resentment towards Gaddafi supporters and fighters is widespread throughout Libya (see [Black Libyans](#)). This animosity derives from the conduct of the regime following the outbreak of conflict in 2011. Between February 2011 and the fall of Tripoli in August 2011, pro-Gaddafi forces committed murder, enforced disappearance and torture. Gaddafi forces launched indiscriminate attacks into civilian areas using mortars, artillery and rockets and laid anti-personnel and anti-vehicle mines.

3.52 In June 2017, unidentified armed groups killed 12 detainees upon their conditional release from prison in Tripoli. All 12 were members of the former Gaddafi government and were accused of taking part in violence against anti-government protesters in 2011. On 29 July 2015, a mass trial of 28 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 al Gaddafi, were sentenced to death in a trial widely criticised by international observers (see [Death Penalty](#)). In the aftermath of the verdict, small scale pro-Gaddafi rallies took place in several Libyan cities, including Benghazi. Gaddafi loyalists retain influence but do not hold official positions in Libya, and tend to align with the LNA bloc. A Zintani militia released Saif al-Islam from house arrest in June 2017. Saif al-Islam's house arrest had shielded him from both the death sentence handed down by an interim government in Tripoli and extradition to the International Criminal Court on war crime charges. In a televised interview, Ghassan Salame, head of UNSMIL said that the political reconstruction process 'may include' Saif al-Islam. While some, limited, re-grouping of support for Gaddafi has emerged, a generalised attitude of resentment continues toward perceived Gaddafi supporters and fighters.

3.53 DFAT assesses that those who were, or are perceived to have been, high-ranking officials in the Gaddafi regime (including ministers, senior bureaucrats, military personnel or diplomats), or who had close associations with the Gaddafi family, or those 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. 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 it is unlikely that a Libyan with a low-level association with the regime would face discrimination as a result of this association.

## Former Recipients of Study Abroad Scholarships

3.54 For several decades, Libya has utilised its oil wealth to provide scholarships to enable graduate students to study abroad. The scholarships program, run by the Ministry of Higher Education (MoE), 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, to help transition former rebel fighters into civilian life. While detailed statistics are not available, international observers estimated that as many as 20,000 Libyans were studying on government scholarships in 2015 in the United Kingdom, the United States, Canada, Egypt, Malaysia and Australia. Government payments occur erratically due to the challenging political situation in Libya.

3.55 The Libyan North American Scholarships, administered through GNA and MoE, signed a contract renewal in July 2017. Sources estimated about 650 students were in Canada and 150 in the United States,

mostly from the elite, and that each student had around three accompanying dependents. Other estimates are much higher, with over 1,000 in Canada and up to 2,000 Libyan students on scholarship in the United States.

3.56 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 instructed embassies and relevant authorities to submit names to the general prosecution for interrogation. Amnesty International argued the broad and vague provision included in the decree could 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.

3.57 DFAT is aware of one case where a former scholarship holder was 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.

3.58 Local and international sources consider it unlikely that a 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. 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.

## Women

3.59 Under Gaddafi, Libya acceded to the *Convention on the Elimination of All Forms of Discrimination Against Women* (1989), and its optional protocol (2004). 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 realisation of this principle; and Article 16 (c) and (d) which commits states to take proper measures to eliminate discrimination against women in marriage and family affairs.

3.60 The Constitutional Declaration does not specifically mention women's rights or gender equality. Article 5 states that the family is the basis of society and shall be entitled to protection by the state; that 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.

3.61 Domestic violence is not specifically criminalised under domestic law. The Constitutional Declaration prohibits domestic violence but it does not refer to penalties. The penal code allows for a reduced sentence for a man who kills or injures his wife or another female relative because he suspects her of extramarital sexual relations. Spousal rape is not addressed in law, however rape is a criminal offence. According to Article 375 of the Penal Code, sexual violence is classified as a crime against a 'woman's honour', rather than against her person. Under Article 424, a convicted rapist can avoid a 25 year prison sentence by marrying the survivor - regardless of her wishes - provided her family consents. DFAT is not aware of any reports of a

woman accusing her husband of rape during 2017. Women and girls accused of engaging in sexual relations outside of marriage, which is a criminal offence, have been subjected to invasive 'virginity tests' pursuant to judicial orders. A draft law presented in September 2017 would criminalise all forms of violence against women.

3.62 The extent of sexual violence in Libya is unknown. Threats and harassment against women, especially female activists, are common. According to UNSMIL, women's rights defenders, in Libya and in exile, have received threats of sexual and other violence. A video showing the gang rape of a woman by militia operating in Tripoli known as the Awashir Brigade, was widely circulated and provoked public outrage. The suspected perpetrator was detained. The failure to prevent such acts of sexual violence was among the reasons cited by the former Deputy Prime Minister, Musa al-Koni, for his resignation in early 2017. Violence against women is too sensitive an issue to be openly discussed, but a low level of awareness exists. Civil society organisations report widespread harassment and intimidation of women by militias and extremists, including accusations of 'un-Islamic' behavior. Groups pledging allegiance to ISIL have been involved in the abduction and sexual abuse of women and children. Testimony from women released from ISIL captivity, following military operations, reveal a pattern of sexual assault and slavery, particularly against migrants.

3.63 The Global Integrity Report 2015, estimated female participation in the labour market at 30 per cent, of whom, 73 per cent were in education or medicine, compared with 76 per cent for males. In April 2018, the GNA had three women in decision-making roles, including the State Minister of Women's Affairs and Community Development, the Minister of Social Affairs and the Minister of Institutional Reform (accounting for 16 per cent of ministerial positions). Three ministries have dedicated units to support women's empowerment. The nine members of the Presidency Council are all men. In the lead up to the proposed 2018 elections, women accounted for 45 per cent of newly registered voters. A nationwide survey found 55 per cent of women were likely to take part in the next elections, compared to 80 per cent of men.

3.64 Personal status laws discriminate against women, in marriage, divorce, and inheritance. Law 14 of 2015, issued by the GNC to amend Article 14 of Law 10 of 1984, annuls the ability of a woman to witness a marriage contract. Article 18 stipulates a number of responsibilities of the wife towards her husband, which are not required to be reciprocated by the husband, and Article 28 grants unilateral power to the husband to initiate divorce. During Gaddafi's rule, polygamy was not completely banned, but was made difficult due to the legal channels required to obtain it. In 2013, these channels were abolished and polygamy became legal based on claims that a prohibition would go against *sharia* law.

3.65 Personal status laws do not restrict women from travelling on their own, but few women travel on their own as it is perceived as unacceptable and contradictory to *sharia*. In early 2017, the military in eastern Libya issued Decree No. 6 of 2017, restricting women under the age of 60 from travelling abroad without a legal male guardian. Following public outcry, the decree was replaced on 23 February 2017 with Decree No. 7, stipulating that no Libyan male or female between the ages of 18 and 45 could travel abroad without prior 'security approval'. The decree does not specify the procedure required to obtain such approval nor the criteria to grant or deny it.

3.66 DFAT assesses that multiple restrictions constrain the rights and freedoms of women in Libya. Most women face persistent societal discrimination and the threat of gender-based violence. Traditional values and gender roles and laws restrict the participation of women in the work force. Women of sub-Saharan ethnicity, those who have survived sexual violence, and those accused or suspected of sexual 'misdemeanors' or offences against family honour are particularly vulnerable.

## LGBTI

3.67 The Penal Code prohibits all sexual acts outside of marriage, which can include sex between unmarried individuals, adultery and same-sex relations. Under the Penal Code of 1953, (as amended by Law 70 of 1976), Article 407 (4) provides 'If anyone has sexual intercourse with a person with that person's consent, both he and his partner shall be punished by imprisonment for a period not exceeding five years', and Article 408 (4) of 1953 mandates that anyone who commits an 'indecent act' with that person's consent will be punished with his partner with imprisonment of an unspecified term. In addition, Article 421 of 1953 punishes 'indecent acts' in public space with detention of up to one year and a fine of up to LYD 50, and the same penalty for distribution or sale of 'indecent letters, pictures, or other articles'. The US State Department found in 2017 that the punishment for consensual same-sex sexual activity under the Penal Code was 'three to five years' in prison. The International Gay, Lesbian, Bisexual Trans and Intersex Association (ILGA) reported that laws regulating non-governmental organisations caused difficulties for organisations working on issues of sexual orientation and gender identity.

3.68 Homosexuality is a strict taboo in Libya, both officially and societally. Sources reported LGBTI rights were 'not on the table', that Libyans were not ready to admit the existence of LGBTI communities, and that citizens held negative views of LGBTI persons and stigmatised homosexuality. US Department of State reported militias often enforced compliance with their commanders' understanding of 'Islamic behaviours', and harassed and threatened with impunity individuals believe to be LGBTI and their families. LGBTI activists and citizens are targeted for violence with relative impunity and reports are widespread of physical violence, harassment, and blackmail based on sexual orientation and gender identity. Human Rights Watch reported that militia with quasi-official status, linked to the GNA, arrested, beat and detained men suspected of being gay. By June 2016, ISIL had reportedly executed at least three people for alleged sodomy.

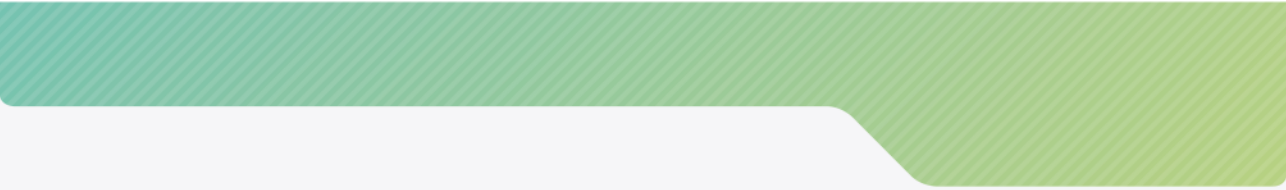
3.69 DFAT is aware of reports of social stigmatisation of persons with HIV/AIDS due to an association with drug use, sex outside marriage, and homosexuality. Detainees suspected of having HIV/AIDS have reportedly been segregated from other detainees, often in overcrowded spaces, and have reportedly been accorded the lowest priority for medical treatment.

3.70 DFAT assesses that LGBTI individuals face a high level of official discrimination and violence due to their actual or perceived sexual orientation and gender identity, by police or militia. They are at high risk of societal discrimination and risk of violence in the form of detention, assault and torture, or threats made against themselves or their families.

## Children

3.71 Libya ratified the Convention of the Rights of the Child on 15 April 1993, but some legislation has not been aligned with the convention. A 2017 study reported that violence against children was prevalent throughout Libya. In the previous 12 months, 73 per cent of children had experienced physical violence, including being kicked, pinched, or hit with an object, 67 per cent reported having experienced violence at school from their teacher, and 10 per cent of children reported experiencing violence at the hands of an armed person.

3.72 The recruitment and use of children by armed groups is well documented. Groups pledging allegiance to ISIL reportedly ran a training camp for children and adolescents south of Sirte, teaching suicide attacks, firing of weapons, and making improvised explosive devices. Children associated with armed groups may be exposed to sexual violence. On 4 January 2016, a 15 year old boy from Tripoli was reportedly used



by ISIL to conduct a suicide attack in Sidra. The US Department of State reported in 2017 incidents of minors joining GNA-aligned forces, although the GNA official police required proof recruits were at least 18 years old. Reports exist that militias have enlisted underage recruits, but DFAT is unable to verify any age-related requirements for joining. Reliable data on recruitment and use of children in hostilities are difficult to obtain. The government did not report any efforts to investigate or punish government-aligned militias for recruitment or use of child soldiers. Between September 2017 and January 2018, UNICEF provided community re-integration packages to 125 children and adolescents released from armed groups in Zintan.

3.73 Armed groups abduct men, women and children to extort money from their relatives. In some cases, victims are killed before payments are made: on 20 October 2016, the body of a four-year old girl was found two weeks after her abduction from her home in the area of Warshafana. Armed groups are known to detain children on the basis of their alleged or actual association with other parties to the conflict. In contravention of international standards, children are held in detention together with adults.

3.74 The minimum age for marriage is 18 years old for both men and women, although judges can provide permission for those under 18 to marry. No statistics are available on the rate of early and forced child marriage during 2017.



## 4. COMPLEMENTARY PROTECTION CLAIMS

### ARBITRARY DEPRIVATION OF LIFE

#### Extra-Judicial Killings

4.1 International human rights groups have accused armed groups and some forces affiliated with the rival Libyan governments' security forces of carrying out extra-judicial killings. Armed conflict since 2014 resulted in the collapse of central authority, and institutions including the judiciary are largely dysfunctional. This has led to an environment of impunity, with perpetrators rarely held to account.

4.2 Numerous reports claim that pro-GNA militias, anti-GNA militias, LNA units, ISIS fighters, and other extremist groups have committed arbitrary or unlawful killings. Human Rights Watch reported that, in May 2017, forces aligned with the UN-backed GNA attacked an airbase controlled by the LNA, summarily executing 51 individuals, mostly captured fighters. On 15 August 2017, the International Criminal Court (ICC) prosecutor issued an arrest warrant - the ICC's first for crimes committed since the 2011 uprising - against LNA Special Forces commander Mahmoud Mustafa Busayf al-Werfalli for allegedly directly participating in seven incidents in which 33 individuals were killed. On 26 October 2017, local police forces discovered the bodies of 36 men, all of them executed, close to a main road south east of al-Abyar, 50 kilometres east of Benghazi. Relatives reportedly told Human Rights Watch that armed groups loyal to the LNA had arrested the men on various dates in Benghazi or in other areas controlled by the LNA.

4.3 In November 2017, 28 bodies with gunshot wounds and also showing signs of abuse were found in the west, believed to be Wirshafana military officers, after being detained by the joint forces under the command of the Zintan military council in cooperation with the Presidential Council's western military zone. On 4 January 2018, unidentified assailants shot dead the director of the department of education at his home in Abyar. He had reportedly received death threats after announcing his candidacy for parliamentary elections. In retaliation for a bombing inside a mosque in Benghazi, the Darhnaah Mujahadin Shura carried out three extra-judicial executions against members of a LNA cell suspected of planning targeted assassinations.

#### Deaths in Custody

4.4 Between December 2015 and April 2018, UNSMIL's Human Rights, Transitional Justice and Rule of Law Division (HRD) consistently received allegations of deaths in custody due to alleged torture or summary executions. Due to security conditions and restrictions on monitoring, the exact number of deaths in custody is unknown.

4.5 A 2013 UN report *'Torture and Deaths in Custody'*, highlighted deaths in detention centres under the nominal authority of the state, but effectively under armed groups' control. In response, the government made a commitment to investigate the allegations and bring those responsible to justice. As of April 2018, UNSMIL was not aware of any member of an armed group brought to trial for committing or ordering torture, including when resulting in death. Reports of violations continue.

4.6 On 10 June 2016, the bodies of 12 detainees from Ain Zara prison - nominally under the oversight of the Ministry of Justice, but at the time under the de facto control of an armed group - were found at three different locations in Tripoli bearing signs of torture and gunshot wounds. A day earlier the detainees had been acquitted of murder charges relating to the 2011 conflict. On 1 January 2018, a prisoner reportedly died from torture following prison guards' attempts to end a hunger strike. Other detainees were reportedly beaten. Detainees are frequently held in conditions that fall short of international minimum standards for the treatment of prisoners, and in some cases poor detention conditions, coupled with medical neglect, lead to deaths, including from otherwise treatable conditions.

## ENFORCED OR INVOLUNTARY DISAPPEARANCES

4.7 In April 2013, the Libyan National Congress approved *Law No. 10 (2013), Concerning the Criminalisation of Torture, Forced Abduction, and Discrimination*. 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 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.

4.8 Kidnappings are common in Libya and numerous reports claim militias linked with various government authorities in the east and west of the country, criminal gangs, anti-government militias and some tribes have kidnapped and forcibly disappeared an unknown number of people for political gain, ransom, and extortion. Civilians are targeted for ransom, or on the basis of their family or tribal identity, political affiliations and opinions. The bodies of hundreds of individuals taken by armed groups have been uncovered in streets, hospitals, and rubbish dumps, many with bound limbs, marks of torture and gunshot wounds.

4.9 Human Rights Watch reported a Tripoli-based activist, Jabir Zain, remained missing at the end of 2017 after an armed group linked to the GNA abducted him in Tripoli on 25 September 2016. Unidentified groups abducted civil society activist Abdelmoez Banoon and Benghazi prosecutor Abdel-Nasser Al-Jeroushi in 2014. Both were still missing in December 2017. In August 2017, an armed group affiliated with the GNA kidnapped former Prime Minister Ali Zeidan during a visit to Tripoli and released him nine days later. The government has made few efforts to prevent, investigate or penalise forced disappearances. Many disappearances that occurred under the Gaddafi regime remain unresolved due to the continuing conflict, weak judicial system and legal ambiguity regarding amnesty for revolutionary fighters.

4.10 Health care workers have been subjected to arbitrary detention, hostage taking and other unlawful deprivation of liberty. In May 2017, a group of armed men in civilian clothing, belonging to an armed group affiliated with the MoI, apprehended a medical professional in front of a Tripoli clinic, reportedly due to complaint by a former patient who was related to a man affiliated with the group. The surgeon was held hostage for five days and beaten. He was released after his family paid a ransom. The World Health Organization condemned the kidnapping of a surgeon by an unknown group at the Sabha Medical Centre in November 2017. In protest at the lack of security provided to healthcare workers, staff suspended all

non-essential health services at the Sabha Medical Centre for 10 days in November. On 7 January 2018, a surgeon from Wehda Hospital was unlawfully deprived of liberty by an armed group, allegedly for accepting an appointment from the 'rival' government in the east. The doctor was freed days later without any judicial process.

4.11 UNSMIL reports those abducted include political activists, lawyers, human rights activists and other civilians. Militias carried out abductions with the aim of extracting ransoms from families, to negotiate an exchange of detainees, or to silence criticism. In April 2017 a militia abducted a university professor in Sayyad on the outskirts of Tripoli. He was held for 47 days in an undisclosed location with little access to food, water and medication. In August, unidentified militiamen abducted former Prime Minister Ali Zeidan from a hotel in Tripoli. He was released after eight days. In the east, militias operating as security forces associated with the LNA abducted people and imprisoned them without charge or trial. In June 2017, an armed group in Bayda abducted cameraman Musa Khamees Ardia and transferred him to Grenada prison in the east. He was released without charge on 3 November 2017.

## DEATH PENALTY

4.12 Over 30 articles in Libya's penal code permit the death penalty, including for acts of speech and association that are protected under international human rights law. Executions in Libya are carried out by shooting. Both civil and military courts impose the death penalty. Human Rights Watch reports no death sentences have been carried out since 2010. While the number of people sentenced to death is unclear, one estimate suggests at least 28 individuals received a capital sentence between October 2011 and January 2017. On 15 August 2018, a Libyan criminal court issued 45 death sentences for crimes committed during the 2011 revolution. In October 2013, the Supreme Court suspended the death sentence of a former Gaddafi official and a pro-Gaddafi fighter, because of concerns they had not received a fair trial. Both had been sentenced to death by firing squad for crimes committed during the 2011 uprising, including murder and kidnapping.

## TORTURE

4.13 Libya is a state party to several treaties related to the prevention of torture, including, among others, the United Nations Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), and the International Covenant on Civil and Political Rights (and its Optional Protocol on Individual Complaints). The Constitutional Declaration and post-revolutionary legislation prohibit torture of prisoners. This includes 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. The Gaddafi regime commonly used torture in law enforcement.

4.14 As reported in 'Abuse Behind Bars', a joint report released by UNSMIL and OHCHR in April 2018, testimonies, forensic and medical reports as well as photographs indicate the systematic use of torture and ill-treatment in detention facilities across Libya. Cases of torture have been frequently reported by detainees

at the time of apprehension or questioning, during interrogations, and in detention in facilities operated by the state and armed groups, as well as in makeshift facilities. Torture has resulted in death of detainees in various facilities. The most commonly reported torture methods include: beatings on the head and body with various objects, including metal bars, water pipes and rifle butts; whipping on the soles of the feet; kicking and punching; suspension in stress positions for prolonged periods of time; electrocution; burning with cigarettes or hot rods; and pulling of beards.

4.15 UNSMIL and OHCHR reported that ‘2011 conflict-related’ detainees released since December 2015 have recounted torture and ill-treatment during their prolonged detention. A 49 year old government employee arrested in August 2011, released in November 2016 without charge or trial, reported being tortured at the Tomina prison in Misrata. Conditions in this prison have reportedly improved since late 2015. He alleged prison guards raped him, flogged him until he lost consciousness, hung him upside down for hours and burnt him with a hot iron including on his back and genitals. He described being forced to strip naked and engage in sexual acts with a dog. He was held in solitary confinement for two years, in a cell where he was not able to stretch out his legs. During his detention he reported witnessing 10 detainees’ deaths in custody because of alleged torture, or summary execution. He reported a lack of food and water and denial of medical assistance. UNSMIL reported that several months after his release, he could not walk unassisted, stuttered, had a hand tremor, and that detainees held with him corroborated his account.

## CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

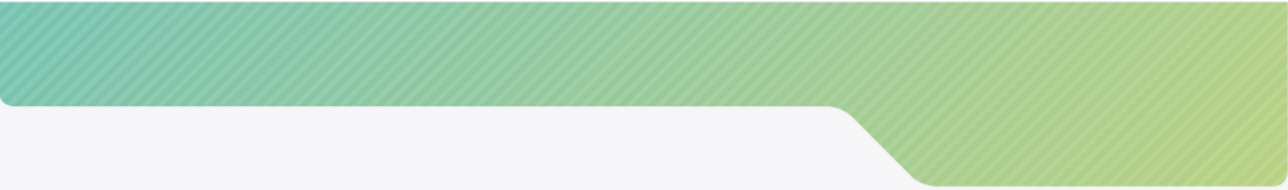
### Arbitrary Arrest and Detention

4.16 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 actors have often disregarded these provisions. The LPA (see [National Human Rights Institution](#)) requires armed groups to release persons held in their custody without legal basis or hand them over to the judicial authorities within 30 days; and judicial authorities to bring detainees before courts or release them within another 60 days and provide effective protection and safeguards against abuse. UNSMIL reports limited progress has been made on the implementation and thousands of people remain detained without protection and redress. Human Rights Watch reports that, according to the judicial police, 25 per cent of the 6,400 persons held in justice ministry facilities have been sentenced, while the remainder are in pre-charge or pre-trial detention.

4.17 Militias, armed groups and security forces affiliated to rival governments continue to abduct, arrest and indefinitely detain thousands of people, because of their opinions, origin, perceived political affiliations or perceived wealth (see [Enforced or Involuntary Disappearances](#)). Both rival governments have weak control over police and regional militia providing internal security, allowing armed groups to carry out illegal and arbitrary detentions unimpeded.

### Corporal Punishment

4.18 The United Nations Support Mission in Libya reported that the courts in areas controlled by the GNA continue to sentence defendants to corporal punishment in accordance with its interpretation of *sharia*,



including flogging for adultery and *qassas* (amputation of one or more limbs) for theft. Human Rights Watch reports that, in the first half of 2016 in ISIS-controlled areas, a rigid interpretation of *sharia* law applied that included public floggings, amputation of limbs, and public lynchings. Amputations and floggings were also reported in Misrata.

4.19 While evidence of the extent of actual judicial use of corporal punishment in Libya is limited, the penal code provides for corporal punishment to be used in relation to a number of offences. 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 extra-marital intercourse for minors under the age of 18, including ‘beatings’.

4.20 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.

## 5. OTHER CONSIDERATIONS

### STATE PROTECTION

5.1 Within Libya, no clear delineation distinguishes state security forces and opposition forces. Instead, Libya hosts a complex set of armed actors, with varying alliances, degrees of association with the state and with each other. The current security environment and, consequently, protection offered by the state, is best understood against the background of the security apparatus in Libya from previous years. During 2011, a loose coalition of brigades rose up against Gaddafi's forces, strengthened by defecting members of the Gaddafi forces. Following the uprising, militias refusing to lay down their weapons were integrated into the state security structures. Groups that had been operating under militia command found themselves in paid positions with the legitimacy of affiliation to state institutions. In 2017, in Tripoli alone, an estimated 40 different militia groups operated, with the GNA securing the loyalty of certain groups through payment.

#### Military – Libyan Armed Forces

5.2 Prior to 2011, Libya had been called 'the world's largest military parking lot'. It had a formidable military in relation to population size, yet a large proportion of its equipment was in storage or poorly maintained. The Libyan army had 50,000 personnel, half of whom were poorly trained conscripts. The navy comprised 8,000 personnel and was considered to have moderate capacity, having participated in NATO-led maritime exercises. The air force fleet included 374 combat-capable aircrafts and 18,000 personnel, but had a record of poor pilot training and poor maintenance. Gaddafi had set up elite military units, but the rest of the armed forces, and supporting governmental structures, collapsed during the nine-month conflict in 2011. By May 2011, more than eight generals and an entire brigade had either left the country or joined opposition forces.

5.3 The head of the internationally-recognised GNA's Presidential Council is Commander in Chief of the army, air force and navy (including the coast guard). In effect, it has very limited military control. Accurate data on the armed forces' capacity are difficult to obtain. Due to a lack of operational capability on the part of the defence and police forces, the GNA relies on militia to maintain its nominal control over the capital.

#### Armed Groups

5.4 The Libyan National Army (LNA) in the east, is a loose coalition of military, anti-Islamist, tribal and federalist forces that control a significant proportion of Libya. The LNA and its allies comprise Libya's largest fighting force, totaling between 35,000 and 50,000 fighters. It includes former army and air force units and tribal or regionally-based armed groups, most of whom are not professional. Capabilities include tanks, heavy weapons, and limited air assets. The LNA's military power relies on foreign backing from Egypt and United Arab Emirates, Jordan and Russia. It rejects the internationally-recognised GNA and is aligned with the HoR in the east. The LNA commander, Field Marshal Khalifa Haftar, nominally answers to the HoR and

was recognised as commander of the LNA in March 2015, but in practice operates independently. Haftar was once a close ally of Gaddafi, serving alongside him in the 1969 coup that brought Gaddafi to power, and serving as his army chief. Gaddafi disowned Haftar in 1987 after Haftar's capture during Libya's war with Chad. Haftar subsequently fled Libya and resided for 20 years in the United States, before returning to Libya in 2011 to fight against Gaddafi.

5.5 The Petroleum Facilities Guard (PFG) was set up in 2012 specifically to protect Libya's oil installations. Once present in several regions of Libya, the PFG no longer operates as a national entity. The oil plants survived the war largely intact, mainly because both sides recognised that Libya's economic future depended on strong hydrocarbon exports. Until 2016 the term PFG generally referred to forces in eastern Libya under the command of Ibrahim Jathran, a former revolutionary fighter. The PFG remains ostensibly under the Ministry of Defence, though in reality various local units – whether east, west or south – operate under their own laws, and have had strained relations with the national oil cooperation for several years.

5.6 Islamic State Group in Libya (ISIL/ISIS) controlled Libya's central Mediterranean coast around the city of Sirte until a Misratan-led operation to uproot it began in May 2016. ISIL has carried out attacks in all major Libyan cities, including Tripoli. ISIL has also had a presence in other parts of Libya, including Benghazi, where it was largely defeated by Haftar's LNA. Anti-Haftar forces have mostly driven its affiliates out of the towns of Derna and Sabratha.

5.7 The former Libyan Dawn was a coalition of Islamist, Misratan, and other west Libyan forces. Amazigh fighters participated in the Libyan Dawn coalition. It seized Tripoli in the 2014 civil war, ousted the HoR and pro-Dignity forces (see [recent history](#)), and reinstated the GNC parliament. It later fractured due to internal tension.

## Regional Forces

### Tripoli

5.8 The four main armed groups function as a police force, intelligence gathering units and at times, fighting forces. Tripoli's armed groups can broadly be divided according to their support for the GNA. Most are supportive or ambivalent.

- Abdel Rauf Kara leads the Rada Special Deterrence Force (SDF), a *madkhali Salafi group* - is a type of 'quietist' Salafism led by a Saudi cleric that promotes obedience to a legitimate ruler and opposes political Islam group. SDF is Tripoli's most influential and powerful militia, with an estimated force size of 1,500. It is a primary counter-ISIS force in Tripoli and self-declared moral police. Officially it is part of the GNA's Ministry of Interior, but in practice operates with a large amount of autonomy.
- Haithem Tajouri heads the Tripoli Revolutionaries Brigade (TRB), one of the largest militias in Tripoli in terms of personnel and military capabilities. TRB is nominally aligned to the Ministry of Interior. The TRB has threatened and intimidated officials since 2012 and opposed Misratan forces and the Muslim Brotherhood, and associated armed Islamist groups.
- The Nawasi Brigade is an Islamist group that previously supported the GNC. It protects the naval base where Prime Minister Fayez al-Sarraj resides but has previously clashed with other GNA forces and taken positions contrary to SDF. In November 2017, the Nawasi Brigade gave permission for a comic convention that the SDF then shut down.

- Abu Salim Brigade (Central Security Abu Salim), is led by Abdul Ghani al Kikkli, sometimes known as 'Ghneiwa', and is nominally aligned with the GNA. It conducts drug and alcohol raids.
- The *Bugra and Kani Brigade* and *Mobile National Forces* that operate on the outskirts of Tripoli are nominally aligned to the GNC.

## Misrata

5.9 Misrata is home to some of Libya's largest and most powerful militias. Two of the largest groups include Halbous and the Mahjoub brigades. Misratan forces comprised the largest component of the Bunyan al Marsous (BAM), the coalition formed in 2016 to take on ISIS in Sirte. It declared victory in December 2016. BAM forces include the 604 Battalion, which mostly comprises *madkhali Salafists* from western Libya.

## Zintan

5.10 The city state of Zintan was the LNA's primary area of support in north-western Libya until its leaders reached an agreement with Misratan forces in 2018. Zintani militia include brigades that absorbed former Gaddafi-regime forces and rely primarily on the UAE for support. They played a key role in the 2011 revolution and participated in Operation Dignity in 2014, before losing Tripoli to Libyan Dawn forces in 2014. Zintani militias exert influence by disrupting oil production and controlling access to resources.

## Benghazi

5.11 Ansar al Sharia is a Salafi militia that came to prominence in June 2012 when it paraded armed vehicles in central Benghazi to demand the imposition of *sharia* law. The United States accused it of attacking the US consulate in Benghazi in September 2012, killing the US Ambassador and three other Americans. It is part of the Benghazi Revolutionaries Shura Council (BRSC), which fought alongside ISIL against Haftar's forces. Ansar al Sharia Benghazi officially dissolved in May 2017, although the BRSC remains active. The Benghazi Defence Brigade initially comprised anti-Haftar army and police personnel as well as militiamen. It has been implicated in the killing of LNA fighters at the Brak al-Shati military base.

## Police

5.12 According to the most recent available figures, the number of police personnel was approximately 130,000 in September 2015. Comprising over half of officials or civil servants, approximately 5,000 were commissioned officers and 51,000 non-commissioned officers. Following the uprising many officers did not return to work. The state consequently attempted to strengthen the police force by employing '*Thuwars*' (members of armed militias). The approximate current ratio is 30 per cent experienced officers and 70 per cent *thuwards*. The Libyan National Police force (LNP) is considered understaffed, underequipped and dysfunctional. As a consequence, external armed groups with no accountability to central authorities fill the void. The public perceives the police as unable to exercise its mandate. Militias see the police as corrupt and tainted by the legacy of the Gaddafi regime. Police operational capacity varies across the country. Businesses face a high corruption risk when dealing with police. No mechanisms exist to investigate corruption.

5.13 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. The



Judicial Police are responsible for managing prisons under the GNA Justice Ministry, an estimated 6,400 detainees were held in its prisons in the east, west and south of the country. The General Directorate for Central Security (GDCS), previously known as Police Operations, also reports to the MoI, and provides crowd control, mobile and special surveillance. The Criminal Investigations Unit, also within the Ministry of Interior, focuses on combatting organised crime including human smuggling, drug trafficking, weapons smuggling, abductions and murder. It has limited capacity and armed groups hinder its work.

5.14 DFAT is not aware of any mechanisms to investigate and punish abuses of human rights or corruption by police and security forces. In a security environment largely 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. Police and other security forces have usually been ineffective in preventing or responding to violence incited by militias. In the absence of effective legal institutions a culture of impunity prevails.

## 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 has appellate jurisdiction over all lower courts. A five-judge panel hears cases. Courts of Appeal are the second highest level, and are courts of first instance for matters concerning major criminal cases, administrative cases or felonies. Their decisions can be challenged in the Supreme Court. Primary Courts are courts of first instance for civil and personal matters, and commercial disputes. They function as an appeal court for low level criminal cases dealt with by the District Court. Summary or District Courts have limited jurisdiction over small civil, commercial and administrative disputes, and low level criminal cases (misdemeanors). There are two Ministries of Justice (MoJ): the officially recognised one in Tripoli and its parallel institution in the east. The judiciary answers to the supreme judicial council which has not yet split.

5.16 The Constitutional Declaration provides for an independent judiciary and free access 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. While the judicial system in Libya is functioning, it is weak. Courts have been unable to hear thousands of untried cases of detainees, some dating from 2011. Judges and lawyers have been threatened and harassed, leading many to flee the country and leaving a void in the state prosecutorial and judicial systems, though some consider the situation may be improving. In September 2017, senior prosecutor Sadik Essour announced that 800 arrest warrants had been issued and 250 people had been referred to court for their involvement in political violence. In October 2017, before one of these trials was due to start, a gun and suicide bomb attack on a court in GNA-controlled Misrata killed four people - two civilians and two security personnel - and injured at least 40. ISIL claimed responsibility for the attack.

5.17 The judiciary is polarised and its members remain at risk of being influenced by armed groups. Courts and judges in the east are considered less free than those in the west. Trials of former regime figures have occurred but they fell well short of international standards, featuring procedural violations such as arrest without warrant, prolonged detention without lawyers, threats and torture while in detention, and a failure of the prosecution to present evidence. Judgements are weakly enforced, especially where the state is ordered to provide compensation in civil matters. None of the parties to the conflict has implemented any of the human rights provisions in the UN-brokered Libya Political Agreement of December 2015, including those obliging them to release detainees held without legal basis.

5.18 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 political affiliation. Libyans living outside protection spheres, such as minorities and internally displaced persons, are therefore often prevented from seeking justice and left unprotected by state systems. In areas where tribe-related militias are dominant, such as Misrata, minorities are sometimes discriminated against or targeted, particularly groups who have been forcibly displaced.

## Trafficking in Persons

5.19 Libya is a destination and transit country for men and women from sub-Saharan Africa and Asia subjected to forced labor and sex trafficking. Libyan children have been subjected to recruitment and use by armed groups within the country (see [Children](#)). Migrants are extremely vulnerable to trafficking including those seeking employment in Libya. Libya is the departure point for refugees and migrants trying to reach Europe by sea. The Libyan coast guard has increased efforts to disrupt boats smuggling refugees and migrants to Europe. The United Nations has imposed sanctions on six of the most prolific smugglers who moved hundreds of thousands of migrants by sea to Europe: the first time the UN Security Council has directly targeted smugglers. Sources suggest that lack of employment opportunities can lead to youth reverting to trafficking.

5.20 Libyan law criminalises some forms of sex trafficking but not labour trafficking. The government appointed an anti-trafficking focal point but lacks the structures, institutional capacity and resources to identify and protect trafficking victims. Vulnerable groups include foreign migrants, street children, women in prostitution, child victims of sexual abuse, and those recruited and used by armed groups. The US Department of State reported that the government regularly arrested, detained, and otherwise punished victims for unlawful acts committed as a direct result of being subjected to human trafficking, including offences relating to immigration and prostitution. Armed groups and criminal gangs operating without affiliation to the MOI's Department to Combat Irregular Migration (DCIM) or other state institutions have over the past three years increasingly detained refugees and migrants as a means of generating cash by extorting ransom payments. These groups hold detainees in houses, farms or warehouses. The government continues to operate rehabilitation centres for women in prostitution and victims of sex-trafficking and other forms of sexual abuse. The centres have been described as de facto prisons. Female victims of crimes, including trafficking, often face ridicule, harassment and humiliation from predominantly male law enforcement and judicial officials.

5.21 The DCIM does not have full control over its 24 to 33 migrant detention centers, with detention facilities run by traffickers and militias, including a prison in Sabratha in the west which reportedly contains 14,000 detainees en route to being trafficked. Estimates range between 400,000 to almost one million detainees in over-crowded detention centres, with conditions described as 'horrific'. Detained migrants are vulnerable to being sold as labourers in slave auctions. In November 2017, an independent media agency published a video of the sale of African migrants in Libya. The GNA initiated an investigation, and in March 2018 the Office of the Attorney General publicly announced it had issued arrest warrants for 205 people for human trafficking and other crimes related to the case. The case was still continuing in April 2018.

## Detention and Prison

5.22 Prisons are nominally under the control of the Ministry of Justice and the judicial police, but many are controlled by armed groups. In October 2017, an estimated 6,500 men, women and children were in

detention in 26 official prisons overseen by the judicial police, with thousands more held in numerous other facilities nominally under the interior or defence ministries, or run directly by armed groups. Seventy-five per cent of detainees were in pre-trial detention, and only a small percentage had been convicted. Prisoners included conflict-related detainees, those arrested for their tribal, political or ethnic identity, or for speaking out publicly. Conditions in prisons varied, but most reported severe underfunding, with poor administration, mixed-gender populations and ill treatment, particularly by judicial police or groups controlling prisons in the east. UNSMIL reported in April 2018 that the facilities were notorious for endemic torture and other human rights violations.

5.23 The centres hold women, men and children, sick or elderly and sometimes all together. Women are often detained because of family affiliations, or for moral crimes such as engaging in sexual relations outside of marriage. UNSMIL reported women were often held in facilities without female guards, strip searched and subjected to intrusive cavity searches by, or in the presence of, male guards. Recurrent prison breaks further underscore the incapacity of the Ministry of Justice to administer detention facilities adequately. In September 2018, some 400 prisoners from a prison near Tripoli staged a mass break-out, leading the UN-backed government to declare a state of emergency.

## Internal Relocation

5.24 The Constitutional Declaration recognises freedom of movement, including foreign travel, emigration, and repatriation, but the government may restrict freedom of movement if it views a person as a ‘threat against the state or against public security’ or an ‘offence against social or moral conditions’ based on the person’s ‘previous actions or affiliation with an official or unofficial apparatus or tool of the former regime’.

5.25 As conflict subsides in some areas, some IDPs are returning to their former areas of residence, although the degree of destruction in many places, notably Benghazi, is a major obstacle to safe return. Returnees in transit continue to face threats posed by landmines and unexploded ordnance, conflict zones, and the risk of being detained at checkpoints. The competing governments do not exercise control over internal movement, although government-aligned groups have set up checkpoints in some parts of western Libya. The LNA operates checkpoints targeting extremist movements around Benghazi and Derna. Militias effectively control regional movements through armed checkpoints, impeding internal re-location, and preventing women from moving freely without a male escort. In 2017, militia prevented some women departing Libya from western airports because they did not have male guardians, which is not a legal requirement (see [Women](#)).

5.26 DFAT assesses that a male would not be able to settle in a new area if the group he was fleeing had tribal or family connections in that area. A single woman would not be able to relocate internally in Libya, unless she had a close family or significant other connection beyond a tribal connection. This reflects the social position of women in Libya, the difficulty faced by unaccompanied women in obtaining accommodation, and the rarity of a woman arriving in a community without knowing any person there.

## TREATMENT OF RETURNEES

### Exit and Entry Procedures

5.27 As of July 2018, five Libyan airports operated international commercial services: Benghazi Benina International Airport, Misrata International Airport, Tobruk Airport, Tripoli Mitiga International Airport and Tripoli International Airport. Different actors control different airports and intermittent outbreaks of violence severely limits access to air travel. Mitiga airport in Tripoli, controlled by Special Deterrence Force - a militia aligned with the GNA Presidency Council - was temporarily closed after clashes in January 2018 resulted in 20 fatalities and 60 wounded. Benghazi airport closed between May 2014 and July 2017 due to damage from attacks. Since 2014, all Libyan carriers have been banned from operating in European airspace due to concerns about the effectiveness of the Libyan Civil Aviation Authority's ability to meet international requirements. The EU Integrated Borders Assistance Mission in Libya (EUBAM) is recognised as a central hub of expertise and coordination on all civilian security sector related concerns in Libya.

5.28 Libyan law criminalizes undocumented entry, exit, and stay in Libya, punishable by imprisonment, in some cases with forced labour or a fine. Libyan immigration law does not distinguish between migrants, refugees, asylum seekers, victims of trafficking, or other vulnerable groups.

5.29 Libyan border control is weak and fragmented and allows markets in arms, people and trafficking of illicit goods. The Libyan land border guard under the Ministry of Defence (MoD) is responsible for the safety and security of Libya's land crossings and borders. Its estimated 18,000 soldiers are divided into six border sections. Local sources say that up to 80 per cent of land border guards are not under the complete control of MoD due to shifting alliances. In practice, the land border guards control only a few border regions, including the Tunisian, Algerian and Egyptian borders. Border crossing procedures vary, and while an ID system is in place, this is not always used. Libya's land borders with Egypt and Tunisia are subject to periodic closures. Short-term closure of other land borders can occur with little notice. In June 2018, the Government of National Accord signed agreements with southern neighbours Niger, Chad and Sudan to help secure the joint borders against human trafficking and weapons. The breakdown in central governance has made Libya's southern borders extremely porous, with large numbers of sub-Saharan Africans entering Libya.

### Conditions for Returnees

5.30 IOM reports that between 2016 and mid-2018, some 370,000 internally displaced people had returned to their homes in Libya, with 92 per cent returning to their previous home. Returnees' primary needs are access to health services, access to education and access to security. The main reasons driving internal displacement were: the threat or fear of general conflict and armed group presence (reported by 84 per cent of IDPs); other security related issues (14 per cent); and economic displacement (two per cent). In 2018, UNHCR reported that the most vulnerable IDP groups were unable to return to their communities due to resistance from neighboring communities, military groups and local authorities. These groups include IDPs from Tawergha, Benghazi, Mashashya, Sirte, Warshafana, Tripoli and Kikkla. In June 2018, IOM reported 192,513 internally displaced persons in Libya.

5.31 An increasing number of Libyans are joining a mixed migratory movement to Europe. In 2017, 1,234 Libyan nationals arrived in Italy by sea. This number included unaccompanied and separated children.

Despite a 34 per cent decrease in overall sea arrivals in Italy in 2017, Libyan arrivals increased by 39 per cent compared to 2016. DFAT considers the political and security situation in Libya unstable and highly fluid.

## DOCUMENTATION

### Family Book

5.32 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, but DFAT understands that this has not yet been rolled out.

5.33 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 access to public 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 not entitled to a family book.

5.34 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, although it is possible for them to be registered with the mother if agreed by both parents. It is not clear whether the children can be registered in both family books.

5.35 In April 2017, the head of the Tripoli Civil Registry Authority was released after being kidnapped for two days. The Tripoli militia accused of the kidnapping allegedly sought access to the civil registry database, allowing them to steal national identity numbers and make salary claims.

### Birth and Death Certificates

5.36 The Libyan National Family Health Survey in 2014 found that 99 per cent of births were registered. Unregistered births are likely to include children born in detention, children born to single or divorced mothers, and children born to migrant families.

## National Identity Cards

5.37 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. Women 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 apply for an identity card abroad. Sources reported minimal occurrences of falsification of Libyan documents.

## National Identity Number (NIN)

5.38 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.

5.39 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, and medical treatments for war wounded abroad.

5.40 Local media reports that the national ID number database is used by all state authorities, including banking institutions, to conduct transactions such as issuing family books, passports, debit cards, distributing state allowances and salaries, and updating the electoral roll. Local sources report that this system is not always used.

5.41 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

5.42 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.

5.43 Libya began issuing biometric passports on 1 January 2014, based on the NIN, containing information about the bearer such as iris scans and fingerprints. Libyans can apply for new passports only in Libya, as the proper equipment for handling passport applications had not yet been distributed to embassies by mid-2018. Embassies can therefore only extend the validity of old passports. DFAT does not have any information on how many Libyans carry biometric passports, but is aware of reports of significant delays in the issuing of new passports.

5.44 Libyans can apply for a new biometric passport once the validity of their old-type passport has expired. Applicants apply at the passport office of the immigration service with their NIN only, with no other documentation required. Women can apply for an identity card independently without needing permission from their husband or male relatives. The old 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.

5.45 In December 2017, the Department of Passports, Nationality and Foreign Affairs signed a contract with an Austrian company for printing and supplying Libya with basic passport materials in accordance with international standards.

## PREVALENCE OF FRAUD

5.46 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 licences and both old and new passports.

5.47 DFAT has received conflicting reports on the prevalence of fraudulent documents in Libya. A source stated that cases of fraudulent documentation were low. Several media reports contradict this advice. In January 2017, the Civil Registry Authority (CRA) in eastern Libya revealed it had discovered more than 4,000 forgeries in its branch's paper archives in 2016. This could indicate thousands of documents, including family books, ID cards and passports may have been fraudulently issued. DFAT cannot verify these reports. In July 2018, the media reported claims against the CRA of fraud in the national identity card system, where widespread tampering with national identity cards led to fraudulent allowance payments.