

LIBYA ARCHIVE MONITORING REPORT 2018/2019

DECEMBER 2019

محامون من أجل العدالة في ليبيا



LAWYERS FOR JUSTICE IN LIBYA

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ABBREVIATIONS AND ACRONYMS

API	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts
APII	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts
BRSC	Benghazi Revolutionaries Shura Council
CSO	Civil Society Organisations
DPF	Derna Protection Force
GNA	UN-recognised Government of National Accord
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IED	Improvised Explosive Device
IHL	International Humanitarian Law
IHRL	International Human Rights Law
IS	Islamic State affiliated armed groups
LFJL	Lawyers for Justice in Libya
LAAF	Libyan Armed Arab Forces
UN	United Nations
SDF	Special Deterrence Force
SHIRA	The Network for Monitoring and Archiving for Justice
SSF	Second Special Support Forces
VBIED	Vehicle-Borne Improvised Explosive Device
UNSMIL	UN Support Mission in Libya

INTRODUCTION

In 2016, Lawyers for Justice in Libya (LFJL)¹ created a centralised digital platform (the **Archive**) to store information and evidence of human rights violations in Libya. The Archive seeks to mitigate the serious risk that information may be lost, stolen or damaged by ensuring that a digital backup of information is available. It is also utilised to support future transitional justice processes in Libya, as well as for accountability and advocacy purposes.

The Monitoring Report for 2018/2019 (this **Report**) discusses and analyses a total of 327 files uploaded to the Archive from 1 January 2018 to 11 December 2019 (the **Reporting Period**). The documents uploaded to the Archive during this period not only include incidents that happened in 2018 and 2019, but also cover some incidents that happened prior to this period.

Although a large number of violations encompassing various international standards have reportedly occurred in Libya since 2011, this Report focuses on the primary thematic areas of alleged violations covered by and contained in the files and cases uploaded to the Archive during the Reporting Period. These thematic areas are (I) civilian casualties and attacks on civilian infrastructure; (II) extrajudicial, summary and arbitrary executions; (III) torture and ill-treatment; (IV) abductions and disappearances; (V) arbitrary arrest and detention; and (VI) violations against migrants. Before discussing these thematic areas, the Report provides a general overview of the applicable international legal framework to the situation in Libya.

While the Archive contains information on many extremely concerning incidents, violations of international law, particularly international humanitarian law (IHL), are often extremely difficult to prove and LFJL is not in a position to ascertain with a high degree of certainty whether each incident would constitute a violation of international law. Furthermore, in some cases, responsibility for a potential violation was not be assigned as the perpetrator of the violation was unknown. Accordingly, this Report identifies and provides examples of some of the main provisions of IHL and international human rights law (IHRL) that may have been violated, but does not draw definitive conclusions. Additionally, this Report does not claim to identify all issues and incidents that have occurred in Libya, but rather seeks to summarize information gathered and uploaded to the Archive to provide a representative sample of potential violations of IHL and IHRL and to identify patterns and trends from this information.

¹ LFJL is a Libyan and international independent non-governmental organisation and UK-registered charity that is dedicated to strengthening the rule of law and human rights in Libya. LFJL employs a victim-centred, human rights-based approach, and strives to integrate considerations of gender, diversity, and the voices of marginalised communities and ethnic minorities across all projects. LFJL was established in 2011 and has maintained an uninterrupted presence in Libya ever since. LFJL is a leading member of Libyan civil society and a recognized international actor with Libyan expertise. LFJL is aided by a growing network of talented Libyan activists, in excess of 70 individuals and organisations, who work across the three Libyan regions. Our consistent on-the-ground activity and presence means that we have unusual insight, influence, and trust in a country that is difficult for international organisations to penetrate.

APPLICABLE INTERNATIONAL LEGAL STANDARDS

Libya is a state party to the following IHL agreements related to the Geneva Conventions of 1949:

- Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (22 May 1956);
- Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (22 May 1956);
- Geneva Convention (III) relative to the Treatment of Prisoners of War (22 May 1956);
- Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (22 May 1956);
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (API) (7 June 1978);
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (APII) (7 June 1978).

Libya is a state party to the following United Nations (UN) IHRL treaties:²

- International Convention on the Elimination of All Forms of Racial Discrimination (acceded 3 July 1968);
- International Covenant on Civil and Political Rights (acceded 15 May 1970);
- International Covenant on Economic, Social and Cultural Rights (acceded 15 May 1970);
- Convention on the Prevention and Punishment of the Crime of Genocide (acceded 16 May 1989);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (acceded 16 May 1989);
- Convention on the Elimination of All Forms of Racial Discrimination (acceded 16 May 1989);
- Convention on the Rights of the Child (acceded 15 April 1993);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (acceded 18 June 2004);
- Optional Protocol to the Convention of the Rights of the Child on the Sale of Children Child Prostitution and Child Pornography (acceded 18 June 2004);
- Optional Protocol to the Convention of the Rights of the Child on the Involvement of Children in Armed Conflict (acceded 29 October 2004);
- Convention on the Rights of Persons with Disabilities (ratified 13 February 2018).

² In addition to United Nations (UN) IHRL treaties, Libya is also a party to regional IHRL treaties, such as the African Charter on Human and People's Rights and the Arab Charter on Human Rights.

Although Libya has not signed the Rome Statute (the **Statute**) of the International Criminal Court (**ICC**), this Statute is relevant to Libya's international legal obligations since the UN Security Council granted the ICC jurisdiction over the situation in Libya since 15 February 2011.³

Notably, IHL is only applicable to situations of armed conflict. Since 2014, Libya has experienced fighting involving Libya's government in Tripoli,⁴ the self-styled Libyan Arab Armed Forces (**LAAF**) in the east, Islamic State (**IS**) affiliated groups and various armed groups.⁵ The nature of the conflict is further complicated by the involvement of foreign states who have chosen to support either General Khalifa Haftar of the LAAF or the UN-recognised Government of National Accord (**GNA**). However, foreign intervention is beyond the scope of this Report.

According to the Geneva Academy of International Humanitarian Law and Human Rights' Rule of Law in Armed Conflict Project, "multiple and overlapping non-international armed conflicts" have existed in Libya since 2014.⁶ These have included, *but are not limited to*, the following: (1) the GNA is in an armed conflict with the LAAF and its affiliated armed groups, (2) the GNA is in an armed conflict with groups pledging allegiance to IS, and (3) the LAAF and affiliated armed groups are in an armed conflict with IS and was in separate armed conflicts with the Derna Protection Force (**DPF**) and the Benghazi Revolutionaries Shura Council (**BRSC**).⁷ At a minimum, Article 3 common to the Geneva Conventions of 12 August 1949 (**Common Article 3**),⁸ customary IHL and APII are applicable to non-international armed conflicts.⁹

IHRL continues to apply in times of armed conflict as IHRL and IHL are complementary, not mutually exclusive.¹⁰ Some provisions of International Covenant on Civil and Political Rights (the **ICCPR**), however, may be derogated from during public emergencies, but only when the state has notified the UN Secretary-General and other state

3 United Nations Security Council Resolution 1970, 26 February 2011, [https://www.undocs.org/S/RES/1970%20\(2011\)](https://www.undocs.org/S/RES/1970%20(2011)).

4 The current UN-recognized Government of National Accord (GNA) has only existed since 2016. In 2014, the House of Representatives (HOR) was forced out of Tripoli and relocated to Tobruk in east Libya marking the start of the ongoing political division and the existence of parallel government institutions in the east and the west. The HoR supports Haftar's Libyan Arab Armed Forces (LAAF). Between 2014 to 2016, the Government of National Salvation was established in Tripoli and was subsequently replaced by the UN-recognized GNA in 2016.

5 See Geneva Academy of International Humanitarian Law and Human Rights' Rule of Law in Armed Conflict project, *Non-International Armed Conflicts in Libya*, last updated 30 Sep 2019, <http://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-libya>

6 Since July 2014, the conflict in Libya reached the level of intensity to be deemed a non-international armed conflict. Geneva Academy of International Humanitarian Law and Human Rights' Rule of Law in Armed Conflict project, *Non-International Armed Conflicts in Libya*, last updated 30 Sep 2019.

7 Academy of International Humanitarian Law and Human Rights' Rule of Law in Armed Conflict project, *Non-International Armed Conflicts in Libya*, last updated 30 Sep 2019.

8 Common Article 3 is customary international law and applicable to non-international armed conflict. Article 3 common to the Geneva Conventions of 12 August 1949 (Common Article 3). See Convention (I) on Wounded and Sick in Armed Forces in the Field, 1949 and its commentary (First Geneva Convention), 8 December 1949, Art. 3; Convention (II) on Wounded, Sick and Shipwrecked of Armed Forces at Sea, 1949 and its commentary (Second Geneva Convention), 8 December 1949, Art. 3; Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949 (Third Geneva Convention), 8 December 1949, Art. 3; Convention (IV) relative to the Protection of Civilian Persons in Time of War Geneva (Fourth Geneva Convention), 12 August 1949, Art. 18, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>.

9 The Geneva Conventions of 1949 and API are only applicable to international armed conflicts. These treaties are also relevant to the formation of customary IHL which is applicable in both international and non-international armed conflict.

10 See, for example, UN Human Rights Committee, General Comment No. 36: Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life, CCPR/C/GC/36, 30 October 2018, para. 64, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf; International Court of Justice (ICJ), *Legality of the Threat or Use of Nuclear Weapons*, 8 July 1996, para. 25, <https://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-00-EN.pdf>; ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, 9 July 2004, para. 106, <https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (API), 8 June 1977, Art. 75, <https://ihl-databases.icrc.org/ihl/INTRO/470>.

parties.¹¹ The Libyan government has not notified the UN Secretary-General of any derogations from the treaty.¹² Thus, in addition to IHL standards applicable to non-international armed conflicts, IHRL continues to apply to the Libyan context, and, where appropriate, interpreted in light of IHL.¹³

Importantly, IHRL is applicable to states, while customary IHL, Common Article 3 and APII relating to non-international armed conflicts are applicable to both the state and armed groups. APII, however, only applies to the state and to armed groups fighting the state, while Common Article 3 and customary IHL also apply to conflicts that only involve armed groups. Additionally, even where the state did not commit the violation, IHRL provisions, such as the right to life and the prohibitions of torture and ill-treatment, may still be violated if the duty to take appropriate measures to investigate, prosecute and provide redress are not met.¹⁴ Perpetrators are also accountable under domestic laws. In many of the files in the Archive, the perpetrators of each incident are not identified or are not otherwise known with any degree of certainty. Thus, this Report suggests relevant IHRL and IHL standards that may have been violated in each section but cannot delve into the legalities over whether the perpetrator falls within the specific criteria outlined in international law.

11 Some provisions, such as the right to life, the prohibition against torture and the right to liberty and security of persons may never be derogated from. International Covenant on Civil and Political Rights (ICCPR), 16 December 1966, Art. 6, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

12 See https://treaties.un.org/Pages/CNs.aspx?cnTab=tab2&clang=_en.

13 The *Lex specialis* principle is applicable in cases of direct conflict between these two branches of law and requires that the rule that is more specific to the situation prevails over a more general rule. However, it can be used to adopt a conciliatory interpretation so as to establish the legal context in which IHRL is interpreted in accordance with IHL rather than displacing one branch of law in favour of another. See ICJ, *Legality of the Threat or Use of Nuclear Weapons*.

14 See, for example, UN Human Rights Committee, General Comment No. 36, para. 64.

SECTION I: CIVILIAN CASUALTIES AND ATTACKS ON CIVILIAN INFRASTRUCTURE

This Section primarily utilises UN Support Mission in Libya (UNSMIL) civilian casualty reports issued from January 2016 to March 2019¹⁵ and relevant UNSMIL press releases and reports from April 2019 to 11 December

15 UNSMIL, *Libya Human Rights Report on Civilian Casualties – January & February 2016*, 1 March 2016, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-january-february-2016>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – March 2016*, 1 April 2016 <https://unsmil.unmissions.org/libya-human-rights-report-civilian-casualties-march-2016>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – April 2016*, 1 May 2016, <https://unsmil.unmissions.org/libya-human-rights-report-civilian-casualties-april-2016>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – May 2016*, 1 June 2016, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-0?page=3>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – June 2016*, 1 July 2016, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-june-2016>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – July 2016*, 1 August 2016, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-july-2016>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – August 2016*, 1 September 2016, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-august-2016-0>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – September 2016*, 1 October 2016, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-september-2016>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – October 2016*, 1 November 2016, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-october-2016>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – November 2016*, 1 December 2016, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-november-2016>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – December 2016*, 1 January 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-december-2016>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – January 2017*, 1 February 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-january-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – February 2017*, 1 March 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-february-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – March 2017*, 1 April 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-march-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – April 2017*, 1 May, 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-april-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – May 2017*, 1 June 2017, <https://unsmil.unmissions.org/libya-human-rights-report-civilian-casualties-may-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – June 2017*, 1 July 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-june-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – July 2017*, 1 August 2017, <https://unsmil.unmissions.org/libya-human-rights-report-civilian-casualties-july-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – August 2017*, 1 September 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-august-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – September 2017*, 1 October 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-september-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – October 2017*, 1 November 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-october-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – November 2017*, 1 December 2017, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-november-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – December 2017*, 1 January 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-december-2017>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – January 2018*, 1 February 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-january-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – February 2018*, 1 March 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-february-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – March 2018*, 1 April 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-march-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – April 2018*, 1 May 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-april-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – May 2018*, 1 June 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-may-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – June 2018*, 1 July 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-june-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – July 2018*, 1 August 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-july-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – August 2018*, 1 September 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-august-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – September 2018*, 1 October 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-september-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – October 2018*, 1 November 2018, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-october-2018>;

2019¹⁶ that were uploaded to the Archive from 1 January 2018 to 11 December 2019. Since UNSMIL stopped publishing its civilian casualties report after March 2019, the Archive does not contain the equivalent level of detailed information on civilian casualties for the 1 April 2019 to 11 December 2019 time period covered in this Report.¹⁷ Thus, this Section is separated into two separate time periods. First, information from 1 January 2016 to 31 March 2019 is analysed followed by an analysis of the information relating to the 1 April 2019 to 1 December 2019 time period. Importantly, as civilian casualties are verified on an ongoing basis, statistics contained in the UNSMIL monthly civilian casualty reports uploaded to the Archive may have been subsequently revised without corresponding public updates by UNSMIL. Hence, official UNSMIL numbers may differ slightly from those contained in the civilian casualty reports uploaded to the Archive.

UNSMIL, *Libya Human Rights Report on Civilian Casualties – 1 November through 31 December 2018*, 6 March 2019, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-1-november-through-31-december-2018>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – 1 to 31 January 2019*, 6 March 2019, <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-%E2%80%93-1-31-january-2019>; UNSMIL, *Libya Human Rights Report on Civilian Casualties – 1 February through 31 March 2019*, 22 May 2019, <https://unsmil.unmissions.org/civilian-casualties-report-1-february-31-march-2019>.

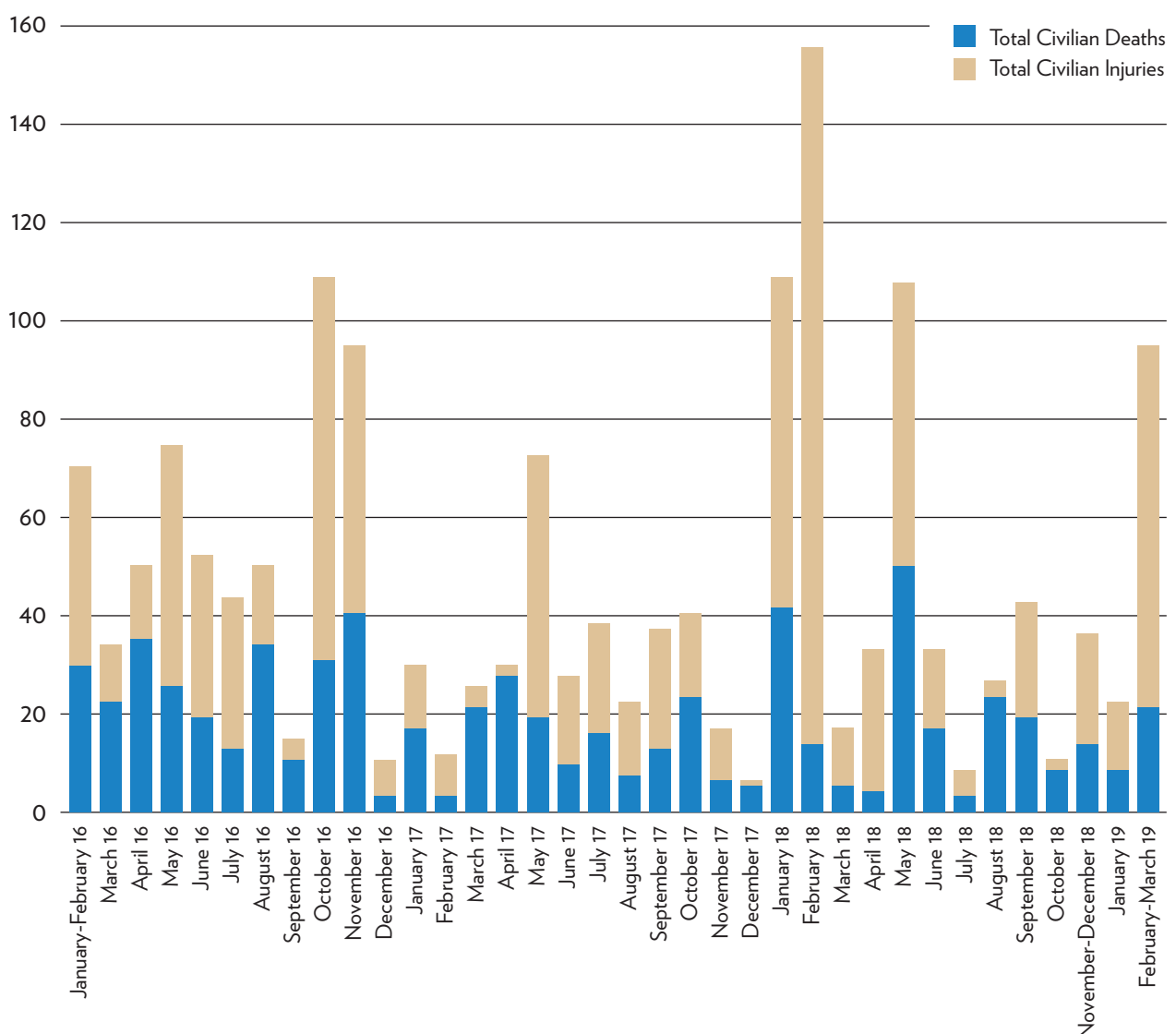
16 UNSMIL, *Statement by the Special Representative of the Secretary-General for Libya Ghassan Salame*, 8 April 2019, <https://unsmil.unmissions.org/statement-special-representative-secretary-general-libya-ghassan-salame>; UNSMIL, *SRSR Ghassan Salame: Heavy Shelling of Residential Neighbourhood, Killing Innocent People is as Blatant Violation of International Law*, 17 April 2019, <https://unsmil.unmissions.org/srsg-ghassan-salame-heavy-shelling-residential-neighbourhood-killing-innocent-people-blatant>; UNSMIL, *UNSMIL Condemns the Terrorist Attack in the City of Sebha, Urges Military De-Escalation and Focus on Combatting Terrorism*, 4 May 2019, <https://unsmil.unmissions.org/srsg-ghassan-salame-heavy-shelling-residential-neighbourhood-killing-innocent-people-blatant>; UNSMIL, *UNSMIL Expresses Deep Concern at Increased Abductions, Arbitrary Detention and Enforced Disappearance Cases Since the Outbreak of Fighting in Tripoli*, 8 May 2019, <https://unsmil.unmissions.org/unsmil-expresses-deep-concern-increased-abductions-arbitrary-detention-and-enforced-disappearance>; UNSMIL, *UNSMIL Deplores Recent Attacks in Tripoli Including Kidnapping of HCS Member*, 26 May 2019, <https://unsmil.unmissions.org/unsmil-deplores-recent-attacks-tripoli-including-kidnapping-hcs-member>; UNSMIL, *Humanitarian Coordinator A.I. in Libya Strongly Condemns the Attack of Az-Zawya Field Hospital and Al-Alamin School*, 29 July 2019, <https://unsmil.unmissions.org/humanitarian-coordinator-ai-libya-strongly-condemns-attack-az-zawya-field-hospital-and-al-alamain>; UNSMIL, *Remarks of SRSR Ghassan Salame to the United Nations Security Council on the Situation in Libya*, 29 July 2019, <https://unsmil.unmissions.org/humanitarian-coordinator-ai-libya-strongly-condemns-attack-az-zawya-field-hospital-and-al-alamain>; UNSMIL, *Statement of Special Representative of the Secretary-General and Head of the UN Support Mission in Libya on Repeated Attacks on Mitiga Airport*, 4 August 2019, <https://unsmil.unmissions.org/statement-special-representative-secretary-general-and-head-un-support-mission-libya-repeated>; UNSMIL, *Special Representative of the Secretary-General for Libya Ghassan Salame Statement on the Explosion in Benghazi*, 10 August 2019, <https://unsmil.unmissions.org/special-representative-secretary-general-libya-ghassan-salame-statement-explosion-benghazi>; UNSMIL, *Statement on the Implementation of a Humanitarian Truce on Eid Al-Adha*, 14 August 2019, <https://unsmil.unmissions.org/unsmil-statement-implementation-humanitarian-truce-eid-al-adha>; UNSMIL, *SRSR Ghassan Salame Strongly Condemns Attacks against Health Facilities and Workers*, 15 August 2019, <https://unsmil.unmissions.org/srsg-ghassan-salame-strongly-condemns-attacks-against-health-facilities-and-workers>; UNSMIL, *Special Representative of the Secretary-General for Libya Ghassan Salame Statement UNSMIL, UNSMIL Deplores the Ever-Increasing Attacks on Airports Available for use by Civilians in Western Libya*, 15 August 2019, <https://unsmil.unmissions.org/unsmil-deplores-ever-increasing-attacks-airports-available-use-civilians-western-libya>; UNSMIL, *UNSMIL Dispatches Assessment Mission to Zuwara Airport*, 17 August 2019, <https://unsmil.unmissions.org/unsmil-dispatches-assessment-mission-zuwara-airport>; UNSMIL, *UNSMIL: Latest Attacks on Mitiga Airport, A Direct Threat to the Lives of Civilian Passengers, Perpetrator will Face Accountability*, 1 September 2019, <https://unsmil.unmissions.org/unsmil-latest-attacks-mitiga-airport-direct-threat-lives-civilian-passengers-perpetrators-will-face>; UNSMIL, *UNSMIL Appalled by an Airstrike Targeting the Equestrian Club in Tripoli's Janzour, Reportedly Injuring a Number of Children*, 6 October 2019, <https://unsmil.unmissions.org/unsmil-appalled-airstrike-targeting-equestrian-club-tripoli%E2%80%99s-janzour-reportedly-injuring-number>; UNSMIL, *Humanitarian Coordinator for Libya El Hillo Condemns Increasing Attacks on Civilians, Calls for the Respect of International Humanitarian Law and Protection of Civilians*, 8 October 2019, <https://unsmil.unmissions.org/humanitarian-coordinator-libya-el-hillo-condemns-increasing-attacks-civilians-calls-respect>; UNSMIL, *UNSMIL Shocked by Attack on a Civilian-Populated Area in Tripoli Killing Young Children*, 14 October 2019, <https://unsmil.unmissions.org/unsmil-shocked-attack-civilian-populated-area-tripoli-killing-young-children>; <https://unsmil.unmissions.org/srsg-ghassan-salame-briefing-security-council-18-november-2019>; UNSMIL, *SRSR Ghassan Salame Briefing to the Security Council – 18 November 2019*, 18 November 2019, <https://unsmil.unmissions.org/srsg-ghassan-salame-briefing-security-council-18-november-2019>; Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019; UN Security Council, “Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council”, S/2019/914, 9 December 2019, pg. 1, <https://undocs.org/S/2019/914>

17 The primary reason for the decrease in the level of detailed information is that UNSMIL civilian casualty reports provided a comprehensive breakdown on the number of civilians killed or injured, by region and by cause.

Only civilians killed or injured in the course of hostilities and who are not directly participating in the hostilities are considered civilian casualties. Civilian casualties do not include, for example, those who are killed or injured following capture or abduction, those who have been tortured or those who are killed or injured as an indirect consequence of hostilities. Of note, not all civilian casualties during conflict would be considered violations of IHL.¹⁸

A. CIVILIAN CASUALTIES AND ATTACKS ON CIVILIAN INFRASTRUCTURE FROM 1 JANUARY 2016 TO 31 MARCH 2019

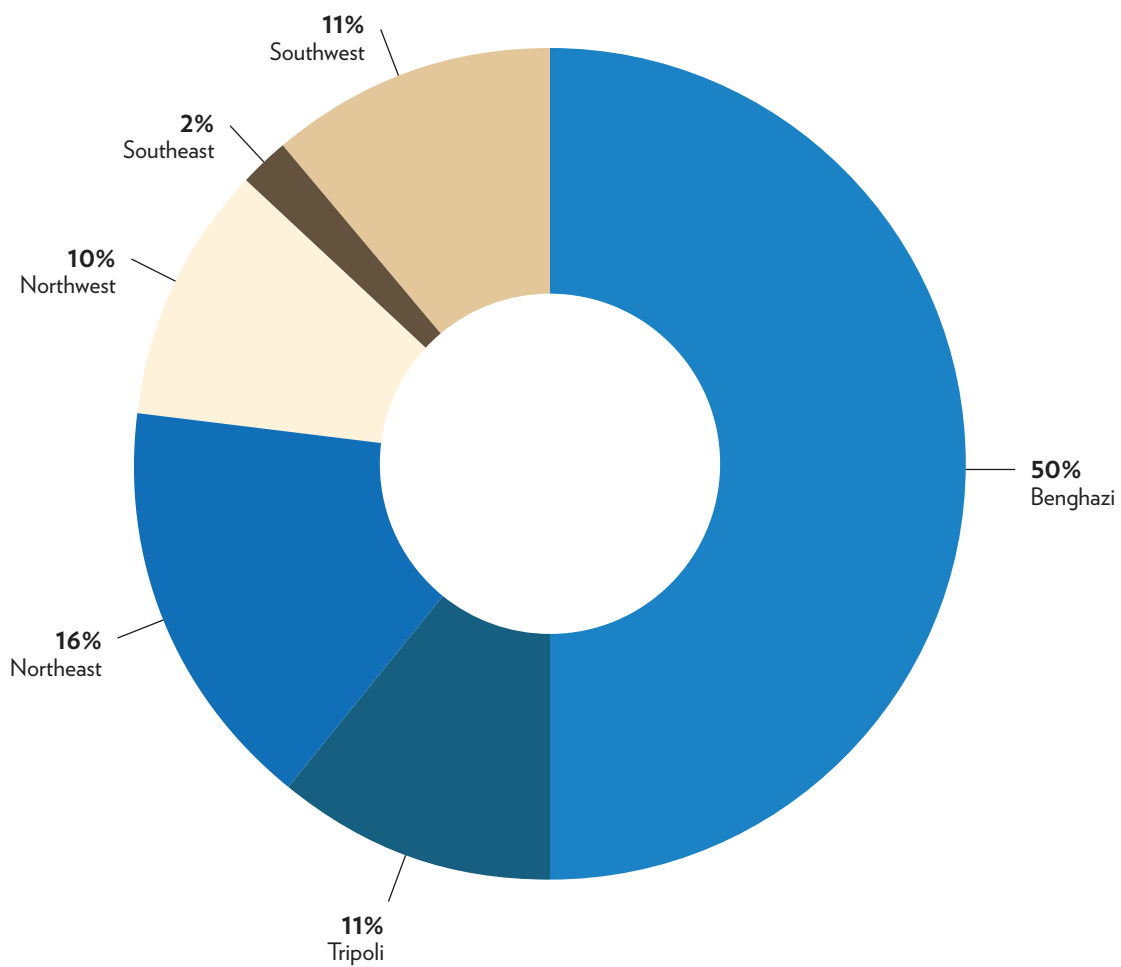
Civilian Casualties from 1 January 2016 to 31 March 2019



¹⁸ See UNSMIL civilian casualty reports, such as UNSMIL, *Libya Human Rights Report on Civilian Casualties – 1 February through 31 March 2019*, 22 May 2019, <https://unsmil.unmissions.org/civilian-casualties-report-1-february-31-march-2019>

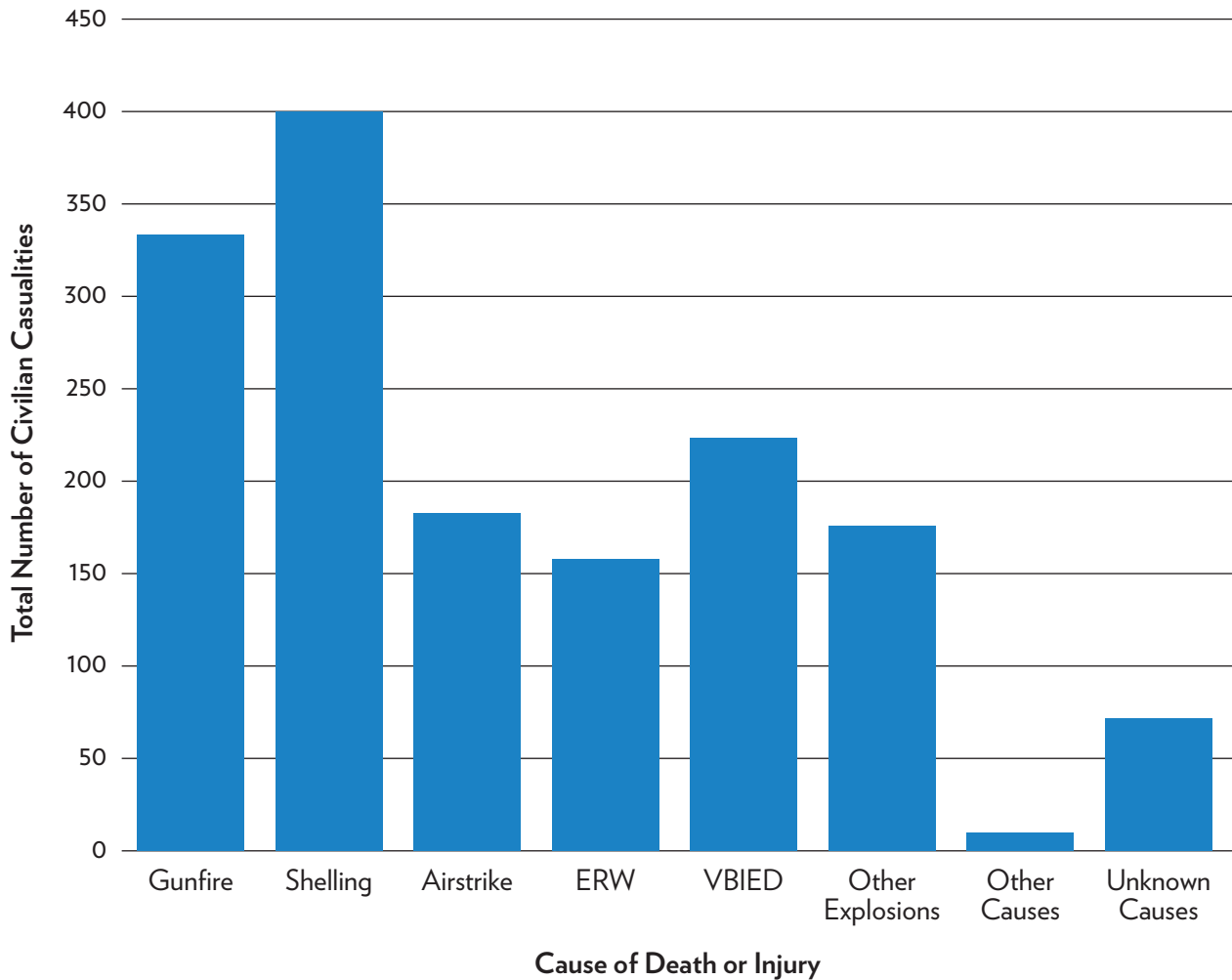
From 1 January 2019 to 31 March 2019, reports contained in the Archive contained information on 1,558 civilian casualties, consisting of 623 civilian deaths and 935 injuries. While the sex of the individual was not identified in all cases, *at a minimum*, 158 were women (72 dead and 86 injured). Additionally, at least 271 of these casualties were children (121 dead, 150 injured). During February 2018, the highest number of civilian casualties were reported with 146 civilian casualties (13 dead, 133 injured). The explosion of two improvised explosive devices (IEDs) inside the Sa'ad Ben 'Ubada Mosque in Benghazi on 9 February 2018 caused most of these casualties as it killed the Mosque's imam and injured 116 civilians, including six young boys.

Casualties by Region (1 January 2016 – 31 March 2019)



The majority of civilian casualties during 1 January 2016 to 31 March 2019 occurred in Benghazi, amounting to 773 civilian casualties (239 killed, 534 injured). Northeast Libya, excluding Benghazi, had the second most civilian casualties with 255 casualties (115 killed, 140 injured) followed by Southwest Libya with 178 casualties (71 killed, 107 injured), Tripoli with 170 casualties (92 killed, 78 injured), Northwest Libya, excluding Tripoli, with 149 casualties (95 killed, 54 injured) and Southeast Libya with 33 casualties (11 dead, 22 injured).

Cause of Civilian Casualties (1 January 2016 – 31 March 2019)



Shelling (127 killed, 274 injured) and gunfire (189 killed, 145 injured) were the primary causes of civilian casualties during the period from 1 January 2016 to 31 March 2019. Vehicle-borne improvised explosive devices (**VBIEDs**) and other explosions, primarily consisting of the use of IEDs, also caused a significant number of civilian casualties (82 killed, 318 injured). These devices appeared to be widely used during attacks on civilian infrastructure, such as mosques and medical facilities. Generally, reports contained in the Archive alleged that the LAAF was responsible for many of the airstrikes carried out during this period, including in Derna, Benghazi, Sabha, Hun and Ras Lanuf. Similarly, reports implicated the BRSC for civilian casualties in Benghazi caused by mines and explosive remnants of war (**ERWs**) as they had left mines and ERWs in the area prior to their retreat.

Numerous documents in the Archive reported that indiscriminate shelling in densely populated areas led to a high number of civilian casualties. For instance, clashes in September 2017 in Sabratha between the 48th Infantry Brigade and the Operations Room to Combat the Islamic State killed 5 civilians and injured 12. These clashes posed a particular threat to civilians as the armed groups fought in densely populated areas and used imprecise weapons,

such as artillery and anti-aircraft guns. In February and March 2018, the fighting between Awlad Suleiman and Tebu tribal armed groups in Sabha caused civilian casualties due to the use of indiscriminate fire, while the Special Deterrence Force (the **SDF**) fired shots in crowded areas in Warshafana in February 2018. Furthermore, the escalation in fighting between the LAAF and the DPF is believed to have caused the majority of civilian casualties (17 killed, 22 injured) in Derna in May 2018 and at least 37 casualties (7 killed, 30 injured) in February 2019. Both of these parties placed civilians in extreme danger as the DPF was present in densely populated residential areas, while the LAAF reportedly used indiscriminate fire and unguided weapons, as well as restricted civilians' ability to flee from conflict areas. During late 2018 and early 2019, fighting between the Al-Kaniyat armed group and the Tripoli Revolutionary Brigade and their allies on the fringes of Tripoli included the use of rockets, tanks and artillery in densely populated areas resulting in at least 19 civilian deaths and one injury. Finally, in some cases, armed groups appeared to directly target civilians. For example, the Abu Salim Central Security Forces reportedly killed one civilian and injured four others when they opened fire on civilians in Tripoli on 15 July 2018.

Under customary IHL, parties to the conflict must distinguish between civilians and combatants (the **principle of distinction**).¹⁹ Hence, civilians may not be the object of an attack and intentionally targeting the civilian population is a war crime in both international and non-international armed conflicts.²⁰ Indiscriminate attacks²¹ on civilians resulting in death or injury may also amount to war crimes.²² Furthermore, directing attacks at civilians and indiscriminate attacks violate the right to life enshrined in Article 6 of the ICCPR.²³ The wide use of indiscriminate fire and unguided weapons in densely populated areas suggest that violations of IHL and the right to life may be taking place and further investigations could determine whether war crimes are being committed. In fact, the UN Panel of Experts on Libya (the **UN Panel**) did recently conclude that the indiscriminate use of surface-to-air missiles²⁴ in a populated civilian area was a violation of IHL as it was an indiscriminate attack that also did not comply with the principles of proportionality²⁵ and precautions²⁶ in attack.²⁷

19 International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law, Rule 1: Definition of War Crimes*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1.

20 Rome Statute of the International Criminal Court (Rome Statute), 17 July 1998, Arts. 8(2)(b)(i), 8(2)(e)(i), <https://www.icc-cpi.int/resource-library/Documents/RS-Eng.pdf>; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (APII), 8 June 1977, Art. 13(2), <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AA0C5BCBAB5C4A85C12563CD002D6D09&action=openDocument>; API, Arts. 48, 51(20, 52(2).

21 According to the ICRC, an indiscriminate attack are those "(a) which are not directed at a specific military objective; (b) which employ a method or means of combat which cannot be directed at a specific military objective; or (c) which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each case, are of a nature to strike military objectives and civilians or civilian objects without distinction". ICRC, *Customary International Humanitarian Law, Rule 28: Medical Units*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule12. See, also, API, Art. 51(4)(a).

22 ICRC, *Customary International Humanitarian Law, Rule 156: Definition of War Crime*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule156. See, also, API, Art. 51(4)(a). See, also, ICRC, *Customary International Humanitarian Law, Rule 11: Indiscriminate Attacks*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule11.

23 UN Human Rights Committee, General Comment No. 36, CCPR/C/GC/36, 30 October 2018, para. 64.

24 Specifically, S-125 Nova Pechora missiles used in improvised launchers.

25 "Launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited." ICRC, *Customary International Law, Rule 14: Proportionality in Attack*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule14.

26 "In the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects. All feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects." ICRC, *Customary International Law, Rule 15: Principle of Precautions in Attack*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule15.

27 UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, pg. 118-119.

Throughout the period from 1 January 2016 to 31 March 2019, numerous attacks on civilian infrastructure, including medical facilities, were consistently reported in documents contained in the Archive. Overall, in 2016, 15 attacks on civilian infrastructure, including against medical units and an internally displaced person (IDP) camp, were reported in documents in the Archive, causing 12 deaths and 47 injuries.²⁸ The use of VBIEDs in these attacks caused the majority of civilian casualties. Similarly, in 2017, 15 attacks on civilian infrastructure were alleged, including against medical units, education facilities and IDP camps, leading to the death of 11 civilians and injuries to 23 others.²⁹ A significant rise in the number of civilians killed or injured (at least 50 deaths, 203 injuries) was reported during at least 23 reported attacks on civilian infrastructure in 2018.³⁰ These civilian casualties were primarily due to two attacks on two mosques in Benghazi. Finally, in the first three months of 2019, five attacks on civilian infrastructure, including against medical units and a mosque, were reported in the Archive.

According to IHL, including customary IHL, the principle of distinction also requires parties to the conflict to distinguish between civilian objects and military objectives. Attacks targeting civilian objects are prohibited in both international and non-international armed conflict.³¹ Furthermore, medical units are to be “respected and protected in all circumstances”.³² Intentionally targeting hospitals or medical units using distinctive emblems constitutes a war crime in both international and non-international armed conflict.³³ Targeting civilian objects and objects indispensable to the survival of the civilian population are also violations of ICCPR Article 6 on the right to life as such practices are inconsistent with IHL.³⁴ The use of VBIEDs and IEDs, in particular, at mosques and during some attacks on hospitals, suggests that these facilities may have been the object of such attacks. If so, these attacks may violate both customary IHL and the right to life. Additionally, such attacks may also violate customary IHL’s prohibition on acts that aim to spread terror among the civilian population.³⁵

28 In 2016, civilian infrastructure allegedly hit during attacks included electricity plants, a hospital in Derna, the Al-Naba television channel in Tripoli, the Benghazi Medical Centre, Al-Jalaa hospital in Benghazi, the Zawiya Teaching Hospital, a Tawergha IDP camp, medical staff in Abu Salim hospital and the Red Crescent in Sabha.

29 In 2017, civilian infrastructure attacked included the Benghazi Medical Centre, the al-Khadra Hospital in Tripoli, the Ras Lanuf Medical Center, the Faculty of Medicine in al-Zawiya, the Safaa Hospital in Tripoli, the Bilal Ben Rebah Mosque in Salouq, an IDP settlement in Misrata, a Benghazi clinic, the Al-Jalaa Hospital in Benghazi, a university hospital in Sabratha, a World Heritage Archaeological Site in Sabratha, the Misrata Court Complex, the Sidi Al-Saeh IDP camp, a UN convoy and the Al-Arab Medical University in Benghazi.

30 In 2018, attacks on civilian infrastructure included the twin bombing of the Bi’At al-Rdawan Mosque in Benghazi, the Benghazi Medical Centre, the Mitiga Airport, the Sa’ad Ben ‘Ubada Mosque in Benghazi, the Sabha Medical Center, banks, the High National Election Commission Headquarters, schools, mosques, private homes and a hospital in Derna, the desalination plant in Derna, a mosque in Tripoli, the Ibn Issa Martyrs school in al-Zawiya, the Tariq al-Matar detention centre for migrants, an electricity station in Tripoli, al-Fallah-2 camp, the Brega Oil Company in Tripoli, the National Oil Corporation headquarters in Tripoli, a school in Sabratha, the Al-Jalla Hospital in Benghazi and an ambulance in Tripoli.

31 See, for instance: ICRC, *Customary International Humanitarian Law, Rule 7: the Principle of Distinction between Civilian Objects and Military Objectives*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule7; API, Art. 48, 52(2); Rome Statute, Art. 8(2)(b)(ii).

32 “Medical units exclusively assigned to medical purposes must be respected and protected in all circumstances. They lose their protection if they are being used, outside their humanitarian function, to commit acts harmful to the enemy.” ICRC, *Customary International Humanitarian Law, Rule 28: Medical Units*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule28; Common Article 3; APII, Art. 11(1).

33 Rome Statute, Arts. 8(2)(b)(ix), 8(2)(e)(ii) and (iv).

34 UN Human Rights Committee, General Comment No. 36, CCPR/C/GC/36, para. 64.

35 ICRC, *Customary International Humanitarian Law, Rule 2: Violence Aimed at Spreading Terror among the Civilian Population*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule2; First Geneva Convention, Art. 33; API, Art. 51(2); APII, Arts. 4(2)(d), 13(2).

B. CIVILIAN CASUALTIES AND ATTACKS ON CIVILIAN INFRASTRUCTURE FROM 1 APRIL 2019 TO 11 DECEMBER 2019

Since the start of the LAAF's military offensive on Tripoli on 4 April 2019, documents contained in the Archive reported on at least 413 civilian casualties (143 dead, 270 injured).³⁶ These casualties primarily occurred in Tripoli, but were also recorded in Benghazi, Murzug, Sabha, Ghadwa and Fogha Town. Three incidents led to most of these casualties. First, on 2 July 2019, an airstrike hit the Tajoura migrant detention centre, which is located in a large military compound on the outskirts of eastern Tripoli, resulting in 183 civilian casualties (53 killed, 130 injured). The UN Panel, however, continues to verify the number of casualties because it believed that the number of casualties might be lower based on its site assessment on 3 July 2019.³⁷ Second, in August 2019, an airstrike allegedly carried out by the LAAF in Murzug killed 43 civilians from the Tebu Tribe and wounded 51 others. Last, airstrikes in the densely populated Abu Salim area of Tripoli in April 2019 resulted in 54 civilian casualties (14 killed, 40 injured), including four health care workers.

As of 18 November 2019, UNSMIL estimates that over 200 civilians have been killed in Tripoli since 4 April 2019 and that the use of airstrikes, drones and heavy weaponry intensified. In fact, during 2019, the primary cause of civilian casualties in Libya was airstrikes, causing 394 casualties (182 deaths, 212 injuries),³⁸ which is far greater than the 183 civilian casualties that resulted from airstrikes carried out throughout Libya from 1 January 2016 to 31 December 2018. Moreover, the number of civilians killed during these eight months is more than double the 92 civilians reportedly killed in Tripoli during the entire period from 1 January 2016 to 31 March 2019.

In addition to a significant increase in civilian casualties in Tripoli, multiple IS attacks in Ghadwa, Sabha and Fogha Town were reported, which had not been as commonly alleged in these areas during the 2016 to early 2019 period. UNSMIL also found a significant increase in the number of IS attacks in southern Libya since the offensive began in Tripoli. One incident involved an IS attack on Fogha Town on 9 April 2019 during which IS killed the head of the municipal council and a municipal guard and abducted the leader of the municipal guard. The UN Panel found this incident to violate IHL as it was an attack intended to spread terror through the civilian population.³⁹

Civilian infrastructure, particularly airports, medical facilities and migrant detention facilities, continued to be subjected to attacks since 4 April 2019. In particular, according to the documents in the Archive, multiple attacks have targeted the Mitiga airport.⁴⁰ At least 11 precision airstrikes targeted the Misrata airport since September 2019. As previously mentioned, the attack on the Tajoura migrant detention centre resulted in a high number of

³⁶ Various reports did not contain any indication of the number of civilian casualties.

³⁷ UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, pg. 122.

³⁸ UNSMIL, *SRSR Ghassan Salame Message on Human Rights Day*, 10 December 2019, <https://unsmil.unmissions.org/srsg-ghassan-salam%C3%A9-message-human-rights-day-0>.

³⁹ UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, pg. 19, 171-173. See, also, ICRC, *Customary International Humanitarian Law, Rule 2: Violence Aimed at Spreading Terror among the Civilian Population*.

⁴⁰ Documents in the Archive specifically refer to attacks on 7 April, 21, 22, 23, 24 June, 29 July, 3, 11, 14 August and 1, 6, 9 September. For more information on attacks on Mitiga Airport see UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, p. 123.

civilian casualties even though the UN provided the coordinates⁴¹ of this facility to the parties to the conflict. Similarly, an airstrike on a Tripoli biscuit factory in November 2019 led to 45 casualties (10 killed, 35 injured). Water supplies have also been subject to attack in Tripoli and Misrata. In relation to medical facilities and personnel, as of 11 December 2019, at least 61 attacks on medical units resulted in 127 civilian casualties (75 killed, 52 injured) since 4 April 2019. In comparison with the same period in 2018, the period from 4 April 2019 to 11 December 2019 experienced a 69 percent increase in the total number of attacks on medical facilities.⁴²

As discussed in more detail above, civilian objects and medical units are not to be targeted during armed conflict and doing so may amount to a war crime, as well as a violation of the right to life. Regarding specific incidents, the UN Panel determined that the 1 September 2019 attack on the Mitiga airport, violated customary international law with regards to the principles of distinction between civilian objects and military objectives,⁴³ the principle of proportionality in attack and the principle of precautions in attack. The UN Panel did not assign responsibility, but did determine that Haftar's LAAF did not carry out this specific attack.⁴⁴ However, the LAAF and its affiliated forces were found likely to be responsible for these same violations for an attack on the Mitiga airport on 6 September 2019.⁴⁵ Although the UN Panel disputed the veracity of claims made by the media and various organisations, the UN Panel believed that the attack on the Tajoura migrant detention centre was carried out by a modern fighter ground attack aircraft owned and operated by a UN Member State⁴⁶ in direct support of Haftar's LAAF forces. Accordingly, the UN Panel established with high probability that the LAAF likely violated IHL by failing to undertake detailed assessments on proportionality and precautions and for failing to undertake the relevant precautions to minimize the effects on civilians. Moreover, the UN Panel found that the GNA also violated IHL by (1) not undertaking the necessary precautions to separate civilians held in the DCIM detention centre from the military compound; (2) not removing those detained from the combat zone; (3) not establishing satisfactory safety conditions; and (4) not immediately evacuating the detention centre after the first air strike on 7 May 2019.⁴⁷ These few examples demonstrate how both the LAAF and affiliated forces and GNA and affiliated forces are violating IHL, and likely the right to life, in the ongoing conflict in Tripoli. The repeated attacks on medical units and the fighting in densely populated areas, including the use of indiscriminate weapons in these areas, also require further investigations as they may constitute violations of both IHL and IHRL.

41 The UN Panel expressed concerns over how and what coordinates were provided to the parties. UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019.

42 Eighteen health facilities, 20 ambulances, and 40 health personnel were affected. UNSMIL, *SRSR Ghassan Salame Message on Human Rights Day*.

43 See ICRC, *Customary International Law Rule 7: The Principle of Distinction between Civilian Objects and Military Objectives*.

44 UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, pg. 117.

45 UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, pg. 163.

46 The UN Panel found it highly probable that the Member State also violated IHL and continues to investigate this aspect.

47 UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, pp. 120-132.

SECTION II:

EXTRAJUDICIAL, SUMMARY AND ARBITRARY EXECUTIONS

Documents in the Archive contained information suggesting that at least 238 people had been subjected to extrajudicial, summary or otherwise arbitrary executions from January 2016 until December 2019. In over half of these cases, bodies had been discovered with either a gunshot wound to the back of the head or with both a gunshot wound and hands bound together behind their backs, thereby suggesting that victims had been summarily executed. Videos of forty-nine executions were released publicly, including on social media outlets. These videos included the instances where Mahmoud al-Werfalli of the Al-Saiqa Brigade, an elite unit of the LAAF, was seen carrying out, or was otherwise present at, the executions. Al-Werfalli is the subject of an ICC arrest warrant. The LAAF is believed to be responsible for at least 24 percent of the total number of executions reported in the Archive. Forces affiliated with the GNA were also implicated in the alleged execution of 41 wounded LAAF fighters and some civilians at Gharyan hospital in June 2019. Additionally, the Derna Protection Force, IS and the Central Security Force were all implicated in extrajudicial and summary executions.⁴⁸

According to IHRL, everyone has an “inherent right to life” protected by law and “[n]o one shall be arbitrarily deprived” of their life.⁴⁹ The right to life may not be derogated from, including in times of armed conflict.⁵⁰ During armed conflict, the right to life is protected by both IHRL and IHL. The use of lethal force consistent with IHL is not considered arbitrary.⁵¹ Common Article 3 specifies that persons taking no active part in hostilities, such as *hors de combat* – including the wounded and those in detention – may not be subjected to violence against life and person, including murder,⁵² at any time in any location. It applies to both government forces and to armed groups.

48 Information in this section is compilation of documents contained in the Archive, including the following reports: UNSMIL, *Libya Human Rights Report on Civilian Casualties – March 2016*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – June 2016*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – July 2016*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – March 2017*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – May 2017*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – June 2017*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – July 2017*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – January 2018*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – February 2018*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – October 2018*; *Report on Civilian Casualties – 1 February through 31 March 2019, 22 May 2019*; Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, *S/2019/682*, 26 August 2019; ICC, *Statement to the United Nations Security Council on the Situation in Libya, Pursuant to UNSCR 1970 (2011)*, 6 November 2019, <https://www.icc-cpi.int/Pages/item.aspx?name=191106-stat-icc-otp-UNSC-libya>.

49 The right to life is recognized customary international law. ICCPR, Art. 6. See, also, Universal Declaration on Human Rights (UDHR), Art. 3, <https://www.un.org/en/universal-declaration-human-rights/>; Convention on the Rights of the Child (CRC), 20 November 1989, Art. 6, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>; Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, Art. 3, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>; African Charter on Human and People’s Rights, Art. 4, June 1981, <https://www.achpr.org/legalinstruments/detail?id=49>.

50 ICCPR, Art. 4; UN Human Rights Committee, General Comment No. 36, para. 64.

51 UN Human Rights Committee, General Comment No. 36, para. 64.

52 Murder is also a crime against humanity when part of a widespread of systematic attack directed the civilian population. Rome Statute, Art. 7(1)(a).

Additionally, “[v]iolence to the life and person, in particular murder of all kinds”, is a war crime in both international and non-international armed conflict.⁵³ As outlined above, the information contained in the Archive alleges that detained and wounded fighters and civilians have been summarily executed by the LAAF, IS, forces affiliated with the GNA and other armed groups. The ICC has already issued an arrest warrant against al-Werfalli for murder as a war crime. If true, the execution of wounded LAAF soldiers and civilians in Ghayan in June 2019 by forces affiliated with the GNA would likely be considered as violating IHL, as it involves the murder of *hors de combat* and civilians. Furthermore, violations of IHL amounting to murder would also be considered arbitrary, thereby also constituting violations of the right to life under IHL.⁵⁴ Although insufficient details are available in the context of the other reported incidents of extrajudicial, summary or arbitrary executions, some of the circumstances indicate that armed forces and armed groups may be responsible for committing similar violations of IHL and the right to life.

⁵³ Rome Statute, Arts. 8(2)(a)(i), Arts. 8(2)(c)(i), 8(2)(c)(iv). See, also, First Geneva Convention, Art. 50; Second Geneva Convention, Art. 51; Third Geneva Convention, Art. 130; Fourth Geneva Convention, Art. 147; API Art. 75(2)(a); APII, Art. 4(2)(a).

⁵⁴ “[P]ractices inconsistent with international humanitarian law, entailing a risk to the lives of civilians and other persons protected by international humanitarian law (...) violate article 6”. UN Human Rights Committee, General Comment No. 36, para. 64.

SECTION III: TORTURE AND ILL- TREATMENT

Files uploaded to the Archive during 2018 and 2019 contained allegations that at least 104 people were subjected to torture or ill-treatment. Sixty-three individuals also reportedly died, including two young boys. The majority of the reports of torture and ill-treatment occurred in or near Benghazi, Al Abyar, Misrata and Tripoli. For instance, in Al Abyar, which is approximately 50 km east of Benghazi, 36 bodies were discovered on 27 October 2018, with some bearing visible marks of torture. Approximately 60 percent of the torture and/or ill-treatment related cases in the Archive were based on signs of torture found on bodies discovered or turned over to medical facilities.

In almost all cases, the perpetrator of the torture and/or ill-treatment was unknown or simply identified as an unknown armed group. However, in cases that involved migrants, which accounted for 32 percent of the allegations, detention centre guards were reported as the perpetrators of torture and ill-treatment. Migrants explained how they had been severely beaten, subjected to electric shocks, shot in the feet and held in the back of refrigeration trucks while being held in migrant detention centres (see Section VI on migrant-related violations for further information on migrants held in detention centres).

Some instances of torture and/or ill-treatment became known when bodies were discovered or when videos were released on social media. In 2017, for instance, two videos emerged showing members of the LAAF engaging in torture and ill-treatment of detainees.⁵⁵ A video released in September 2016, showed an alleged IS fighter being subjected to ill-treatment.⁵⁶

Torture⁵⁷ and cruel, inhuman or degrading treatment or punishment is prohibited by numerous international conventions.⁵⁸ The prohibition of torture and ill-treatment is a peremptory norm, or *jus cogens*, that may not be derogated from or justified at any time, including during armed conflict.⁵⁹ Torture and ill-treatment is also

55 UNSMIL, *Libya Human Rights Report on Civilian Casualties – July 2017*.

56 UNSMIL, *Libya Human Rights Report on Civilian Casualties – August 2016*.

57 According to Article 1 of the Convention against Torture, torture is “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

58 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 10 December 1984, Arts. 2, 6, <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>; ICCPR, Art. 7; UDHR, Art. 5; ACHPR, Art. 5.

59 See, for example: CAT, Art. 2; UN Committee against Torture (UN CAT), UN Human Rights Committee, General Comment No. 2: Implementation of Article 2 by States parties, CAT/C/GC/2, 24 January 2008, paras. 3, 5, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGC%2f2&Lang=en; ICCPR, Art. 4; International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Anto Furundžija*, Case No. IT-95-17/1-T, 10 December 1998, para. 144, <https://www.icty.org/x/cases/furundzija/tjug/en/fur-tj981210e.pdf>.

prohibited by IHL⁶⁰ and the prohibition of torture and ill-treatment is a norm of customary IHL. The Geneva Conventions, customary IHL and the Rome Statute of the ICC all specify that acts of torture or ill-treatment are war crimes in both international and non-international armed conflicts.⁶¹ Acts of torture, when widespread and systematic, may also amount to crimes against humanity.⁶² Although the files in the Archive do not go into sufficient detail or typically identify perpetrators, numerous files and open source materials in the Archive suggest that torture and ill-treatment is being committed by various armed groups throughout Libya, including those affiliated with the GNA and LAAF, as well as by guards at migrant detention centres. Further investigations would be required to determine if such acts not only constitute violations of IHRL and IHL, but also amount to war crimes or crimes against humanity.

60 Common Article 3; First Geneva Convention, Art. 12; Second Geneva Convention, Art. 12; Third Geneva Convention, Arts. 17(4); Fourth Geneva Convention, Art. 32; API, Art. 75(2); APII, Art. 4(2).

61 ICRC, *Customary International Humanitarian Law, Rule 156: Definition of War Crimes*; Common Article 3; First Geneva Convention, Art. 50; Second Geneva Convention, Art. 51; Third Geneva Convention, Art. 130; Fourth Geneva Convention, Art. 147; Rome Statute, Arts. 8(2)(a)(ii)&(iii), 8(2)(c)(i), 8(2)(b)(xxi)&(c)(ii).

62 The definition of torture in the Rome Statute is: "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions. Rome Statute, Art. 7(1)(f).

SECTION IV:

ABDUCTIONS AND DISAPPEARANCES

Disappearances have continued to be widespread in Libya with militias reportedly abducting individuals and subjecting them to torture and other gross human rights violations. Those abducted or disappeared are held without judicial oversight and with no access to lawyers or their families. In some cases, the victim's whereabouts are completely unknown. The upsurge in violence since April 2019 led to further increases in the number of abductions, kidnappings and disappearances in Libya, including of officials, activists and journalists.⁶³

The files uploaded to the Archive during 2018 and 2019⁶⁴ recorded 60 instances of abductions and/or disappearances. Of the cases uploaded to the Archive, six reported abductions occurred in 2011, one in 2013, one in 2014, one in 2015, 28 in 2016, four in 2017, three in 2018 and 16 in 2019. Half of the individuals were later found dead, including one abducted journalist. Seventy-seven percent of these reported abductions occurred in either Tripoli (16) or Benghazi (30). The majority of the abductions in Tripoli transpired since 4 April 2019, while most of the abductions in Benghazi reportedly occurred in 2016.

Although the perpetrators in many of the cases were simply identified as an unknown armed group, the LAAF and its affiliated armed groups were allegedly responsible in 28 cases whereas eight abduction cases assigned responsibility to the GNA-affiliated armed groups. On 2 May 2019, for example, two journalists with Libya's Al-Ahrar TV channel, Muhammad al-Qarraj and Muhammad al-Shaibani, were reportedly abducted by an armed group affiliated to the LAAF and held in an unknown location until their release on 25 May 2019.⁶⁵

⁶³ UNSMIL, *UNSMIL Expresses Deep Concern at the Increased Abductions, Arbitrary Detention and Enforced Disappearance Cases Since the Outbreak of Fighting in Tripoli*, 8 May 2019, <https://unsmil.unmissions.org/unsmil-expresses-deep-concern-increased-abductions-arbitrary-detention-and-enforced-disappearance>.

⁶⁴ The information contained in this section, is a compilation of files in the Archive, including the following open source materials: UNSMIL, *Libya Human Rights Report on Civilian Casualties – May 2016*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – May 2017*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – November 2016*; UNSMIL, *Libya Human Rights Report on Civilian Casualties – December 2016*; Libyan Center for Freedom of the Press, "Libya journalists struggle to cover bloody events despite the complexity of the situation", 8 December 2019, <https://lcfp.org.ly/libya-journalists-struggle-to-cover-bloody-events-despite-the-complexity-of-the-situation/>; Security Council, "United Nations Support Mission in Libya: Report of the Secretary-General", S/2019/682; UNSMIL, *UNSMIL Expresses Deep Concern at the Increased Abductions, Arbitrary Detention and Enforced Disappearance Cases Since the Outbreak of Fighting in Tripoli*; UNSMIL, *UNSMIL Deplores Recent Attacks in Tripoli Including Kidnapping of HCS Member*; UNSMIL, *SRSG Ghassan Salame Briefing to the Security Council – 18 November 2019*.

⁶⁵ Libyan Center for Freedom of the Press, "Libya journalists struggle to cover bloody events despite the complexity of the situation"; ; UNSMIL, *UNSMIL Expresses Deep Concern at the Increased Abductions, Arbitrary Detention and Enforced Disappearance Cases Since the Outbreak of Fighting in Tripoli*.

At least 12 of the 60 cases⁶⁶ involved the abductions of human rights activists, journalists, politicians or religious figures. For example, Seham Sergewa, a parliamentarian and women's rights defender, was abducted from her home in July 2019 in Benghazi by militias and was taken to an unknown location. Sergewa had been critical of the LAAF offensive on Tripoli and armed groups affiliated with the LAAF are believed to be responsible for her disappearance. At the time of this report, her fate remained unknown.⁶⁷ In another case, the Second Special Support Forces (the **SSF**), integrated under the Ministry of Interior of the GNA at the time, abducted human rights defender Jabir Zain in Tripoli on 25 September 2016. Jabir Zain was abducted after he participated as a speaker in an event on women's rights. He was subsequently taken to an SSF detention facility and later transferred to the al-Shahida Sabria Sasi security camp that was under the authority of the Martyr Sabria Brigade, which was also affiliated with the GNA. He was subjected to torture and other ill-treatment while in detention. His whereabouts and fate remained unknown until May 2018 when his family was able to visit him in the General Intelligence's premises. He was never provided with access to a lawyer or a fair trial. He was deported to Sudan on 2 November 2018 by the intelligence services without being able to challenge the deportation decision.

An enforced disappearance involves the "arrest, detention, abduction or any other form of deprivation of liberty" undertaken by state agents or persons acting with "the authorization, support or acquiescence of the State", which is accompanied by a refusal to acknowledge such deprivation or concealment of the individual's fate or whereabouts, "which place such a person outside the protection of the law".⁶⁸ The UN Human Rights Committee determined that the prohibition of abductions and unacknowledged detention could not be derogated from, including in times of emergency.⁶⁹

Although Libya is not a party to the International Convention on the Protection of All Persons from Enforced Disappearance, enforced disappearances in secret detention centers are also *per se* violations of the prohibitions of arbitrary detention and torture and ill-treatment.⁷⁰ If the disappeared person is extrajudicially, summarily or arbitrarily killed while in detention, a violation of the right to life would also result. Additionally, customary international humanitarian law also prohibits enforced disappearances in both international and non-international armed conflicts, which, in the case of non-international armed conflict, is applicable to both the government and to armed groups.⁷¹ While IHL treaties do not explicitly prohibit enforced disappearances, they violate other customary rules, including the prohibitions of arbitrary detention, torture and ill-treatment and murder.⁷² Furthermore, the use of enforced disappearances, by either the state or a political organisation, may amount to crimes against

66 Not all files were sufficiently detailed so as to record the professions or activities of the victims. Thus, this number may be higher.

67 The UN Panel of Experts specified that that her abduction was an enforced disappearance and a human rights violation. UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, pp. 19, 185.

68 International Convention for the Protection of All Persons from Enforced Disappearance, Art. 2, 20 December 2006, <https://www.ohchr.org/en/hrbodies/ced/pages/conventionced.aspx>.

69 UN Human Rights Committee, General Comment No. 29: Article 4 of the International Covenant on Civil and Political Rights, CCPR/C/21/Rev.1/Add.11, 31 August 2001, Art. 13(b), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.11&Lang=en.

70 See, for instance, UN Special Rapporteur on human rights and counter-terrorism, Martin Scheinin, Special Rapporteur on torture, Manfred Nowak, Working Group on arbitrary detention represented by its Vice-Chair, Shaheen Sardar Ali, Working Group on enforced or involuntary disappearances represented by its Chair, Jeremy Sarkin, "Joint study on global practices in relation to secret detention in the context of countering terrorism", paras. 20, 28, <https://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-42.pdf>.

71 APII is not applicable to conflicts between armed groups.

72 ICRC, *Customary International Humanitarian Law, Rule 89: Enforced Disappearance*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_ru_rule98.

humanity when committed as part of a widespread or systematic practice against the civilian population.⁷³ Given that multiple files in the Archive do not contain details on the perpetrator nor details on the circumstances in which the individual was abducted, it would not be possible to assess whether a violation occurred in each case. Still, some files in the Archive do assign responsibility to unknown armed groups, including some cases where groups are identified as affiliated with either the GNA or the LAAF, who, pending further investigations, could potentially be held accountable under IHL for violating the prohibitions of enforced disappearance, arbitrary detention, torture and ill-treatment and, in the cases where the individual was also killed, for violence to the life of the person. In terms of IHRL, the right to life, freedom from arbitrary detention and the prohibition of torture and ill-treatment may also likely be violated in the cases where the government or its affiliated armed groups forcibly disappeared individuals.

⁷³ The Rome Statute defines enforced disappearance as meaning “the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.” Rome Statute, Art. 7(1)(i).

SECTION V: ARBITRARY ARREST AND DETENTION

As enforced disappearance also constitutes a violation of the prohibition of arbitrary detention, the cases mentioned in the previous section would also represent cases of arbitrary detention. However, since these cases have already been discussed, this section does not further address them.

UNSMIL estimates that 8,813 individuals are held in official prisons under the Ministry of Justice, including 278 women and 109 individuals under the age of 18. Other detainees are held in prisons under the control of the Ministry of Interior, the Ministry of Defence or armed groups. Sixty percent of those detained are in pre-trial detention.⁷⁴

Overall, thousands of individuals are being subjected to arbitrary arrests and prolonged arbitrary detentions throughout Libya.⁷⁵ Since April 2019, the deterioration of the security situation in Libya led to a further rise in arbitrary arrests and detention.⁷⁶ Those held in prisons have little opportunity to challenge the legality of their detention or to seek redress for any violations suffered.⁷⁷ The Ministry of the Interior has been accused of denying visits from families and lawyers to those detained in detention centres under its control.⁷⁸ Generally, Libyan prisons have been characterised as overcrowded with widespread ill-treatment and medical neglect.⁷⁹

Almost 80 percent of arbitrary detention cases contained in the Archive involve migrants detained in migrant detention centres. Generally, vulnerable foreign citizens are being subjected to “mandatory and indefinite detention” and most have never been charged or tried.⁸⁰ Documents contained in the Archive also generally reported on overcrowding, the lack of adequate medical care, food and clean water and torture and ill-treatment in migrant detention centres. In several Archive reports, young migrant males reported that they had been accused of belonging to IS and were subsequently arrested and detained, first in prison and then in migrant detention facilities. In a few cases, young men continued to be detained after being cleared of charges because of a missing passport and/or missing paperwork.

74 Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019, pp. 8-9.

75 See Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019; UNSMIL, *SRSG Ghassan Salame Message on Human Rights Day*.

76 UNSMIL, *UNSMIL Expresses Deep Concern at the Increased Abductions, Arbitrary Detention and Enforced Disappearance Cases Since the Outbreak of Fighting in Tripoli*, 8 May 2019, <https://unsmil.unmissions.org/unsmil-expresses-deep-concern-increased-abductions-arbitrary-detention-and-enforced-disappearance>; Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019.

77 Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019.

78 Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019.

79 Human Rights Watch, *Libya: Events of 2018*, in *World Report 2019*, <https://www.hrw.org/world-report/2019/country-chapters/libya>. See, also, Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019.

80 UNSMIL and OHCHR, “Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya”, December 2018, p. 5, <https://www.ohchr.org/Documents/Countries/LY/LibyaMigrationReport.pdf>.

The arbitrary detention of human rights defenders, journalists and officials was reported in eighteen cases contained in the Archive. One case involved the arbitrary detention of Deputy Minister for Defence Ouheida Abdulah Najim, who was detained for 42 days by an unidentified Tripoli-based armed group in April 2019.⁸¹ Several journalists appear to have been arbitrarily detained following the posting of videos that portrayed the LAAF in a negative light or who were accused of working for banned news organizations.⁸² Human rights defenders and activists have also reportedly left the country due to threats.⁸³

Article 9 of the ICCPR and other international treaties prohibit the use of unlawful or arbitrary detention or arrest.⁸⁴ This prohibition specifies that “[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law”.⁸⁵ Judicial oversight of detention is a critical safeguard for guaranteeing this right and initially arises when a person is arrested or detained for the alleged commission of an offence as the person is to be brought promptly before a judge.⁸⁶ Additionally, individuals detained are to have access to courts to challenge the lawfulness of their detention, a procedure often referred to as *habeas corpus*.⁸⁷ Detainees are also to be able to have prompt and regular access to counsel.⁸⁸ In addition to violations stemming from failing to provide these safeguards, the prohibition of arbitrary detention is violated when individuals accused of criminal conduct are detained for prolonged periods or indefinitely without charge.⁸⁹ Arbitrary detention is also prohibited in both international and non-international armed conflict by customary IHL.⁹⁰ The application of customary IHL during non-international armed conflict, however, is not detailed. Importantly, IHRL, which is far more detailed and, given that Libya has not provided any notification that it intends to derogate from Article 9 of the ICCPR, continues to apply during conflict. Reports contained in the Archive⁹¹ contain numerous allegations that individuals are being detained without charge, especially migrants that are being detained without charge or trial. Furthermore, the Ministry of Interior has been accused of denying access to counsel to detainees. Accordingly, the prohibition of arbitrary arrest and detention, protected under both customary IHL and IHRL, may be violated in many cases and further investigations are required.

81 UN Security Council, “Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council”, S/2019/914, 9 December 2019, pg. 18 and Annex 23.

82 Libyan Center for Freedom of the Press, “Libya journalists struggle to cover bloody events despite the complexity of the situation”.

83 Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019, pp. 10.

84 ICCPR, Art. 9; UDHR, Art. 9; ACHPR, Art. 6.

85 UN Human Rights Committee, General Comment No. 35: Article 9: Liberty and security of person, CCPR/C/GC/35, 28 October 2014, para. 3, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en.

86 ICCPR, Art. 9.

87 ICCPR, Art. 9.

88 UN Human Rights Committee, General Comment No. 35, para. 46.

89 This would be considered a *per se* violation of the prohibition of arbitrary detention.

90 ICRC, *Customary International Humanitarian Law, Rule 99: Deprivation of Liberty*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_ru_rule99.

91 See, for instance, Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019.

SECTION VI: MIGRANT-RELATED VIOLATIONS

As of 2019, Libyan law continues to criminalise illegal entry, stay or exit of the Libyan territory and punishes these acts with imprisonment until deportation.⁹² Libya has not signed the 1951 Convention Relating to the Status of Refugees and does not officially recognize the UN High Commissioner for Refugees.

As of 20 October 2019, the UN Panel estimated that 3,944 migrants were being detained at migrant detention centres operated by the Office for Migration Affairs and the Department for Combating Illegal Migration (the **DCIM**).⁹² The DCIM is in charge of 20 facilities⁹³ and an unknown number of unofficial detention centres exist holding an unknown number of migrants.

Approximately 3,500 migrants detained in migrant detention centres are exposed to, or are in close proximity to, the fighting that erupted in Tripoli in April 2019.⁹⁴ This dangerous situation became fatal on 2 July 2019 when an aerial attack hit the military compound housing the migrant detention centre in Tajoura, just outside of Tripoli, resulting in numerous civilian casualties, including women and children (please see Section I on civilian casualties for further information on this incident).

Thousands of men, women and children remain arbitrarily detained at migrant detention centres around Libya without due process, access to lines of communications and without any formal charge or reason for their detainment. Detention centres are fraught with inhumane conditions, reports of abuse and serious violations of human rights. Women migrants and refugees, in particular, are at a serious risk of rape and other forms of sexual and gender-based violence, sexual exploitation and forced prostitution.⁹⁵ Other reported violations include arbitrary detention, forced labour, disappearances, lack of medical care and torture.⁹⁶ Overall, the main complaints outlined in Archive documents consisted of (1) lack of adequate medical care; (2) lack of clean water; (3) lack of clothing and food; (4) torture and ill-treatment; (5) forced labour; (6) human trafficking; and (7) offences related to minors, such as preventing communication with their families and holding minors in the same cells as adults.

92 The International Organization for Migration had estimated that 4,754 migrants were held in detention centres in July 2019, suggesting the numbers of detained migrants is decreasing. This Report, however, cannot explain the reasons for this decrease. UN Security Council, “Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council”, S/2019/914, 9 December 2019, pp. 164-165; International Organization for Migration, “IOM Libya Update: 16-30 November 2019”, 11 November 2019, <https://www.iom.int/sitreps/libya-iom-libya-update-16-30-november-2019>.

93 UN Security Council, “Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council”, S/2019/914, 9 December 2019, pg. 18.

94 Please note that this estimate pertains to August, not October 2019. Security Council, “United Nations Support Mission in Libya: Report of the Secretary-General”, S/2019/682, 26 August 2019.

95 UNSMIL, “SRSG Ghassan Salame Briefing to the Security Council”, 18 November 2019.

96 UN Security Council, “Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council”, S/2019/914, 9 December 2019, pg. 18.

Migrants detained in the Surman detention centre, which is now closed, had made allegations of torture in the centre. A 22-year old woman, for instance, reported being tortured in May 2017. She said that a guard forced her to undress and then tied her ankles with a rope and dangled her head down from a metal bar. Two guards then proceeded to beat her with water pipes.⁹⁷ UNSMIL reported that the most common methods of torture and ill-treatment at this centre included beatings with various objects (such as water pipes, metal bars, rifle butts and sticks); forcing detainees into uncomfortable positions, such as squatting, for prolonged periods; punching and kicking; and electric shocks.⁹⁸ UNSMIL recorded similar accounts and occurrences in other detention centres around Libya.⁹⁹

The most serious abuses and violations reported in the Archive were related to the Karareem migrant detention centre operated by DCIM in Misrata. One detainee, who had just been moved from the Karareem detention centre to Sirte detention centre, explained that migrants were tortured by the guards through beatings and electric shocks. She said the guards were ordered to treat them in this manner by the head of the detention centre. Another female migrant reported being beaten and tortured by electric shocks on several occasions. Additionally, migrants reported being subjected to forced labour. In addition to torture, this detention facility also allegedly prevented migrants from communicating with their families, was overcrowded, failed to separate all children from adults and subjected migrants to forced labour. The UN Panel reported that this migrant detention centre has now been confirmed closed.¹⁰⁰

Similarly, numerous reports of torture related to the migrant detention centre in Suq al Khamis overseen by DCIM, which is still operational and is detaining 191 migrants.¹⁰¹ Guards had repeatedly beat one young male detainee's genitals until they were swollen and provided no medical treatment afterwards. Additionally, in 2018, four migrants inside this centre reportedly attempted suicide due to severe psychological distress caused before and during their detainment in the centre. Other reported issues at the centre include malnutrition, minors being detained with adults and unsuitable drinking water.

Migrants also suffered abuses at the hands of smugglers and traffickers seeking to extort money from their families. For example, smugglers forced a young Somali male to sit on a rod with a cloth drenched in gasoline, which burned his skin. They filmed this torture and sent the videos to his family asking for money to obtain his release. Additionally, smugglers beat another young Somali male so severely on his face that he lost his eye. A video was then sent to his family to extort money. Other Somali migrants have also reportedly been kidnapped, tortured, burned and raped by smugglers. Migrants detained in detention centres are also reportedly being sold to smugglers.

97 UNSMIL and OHCHR, "Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya" December 2018, p. 44, 20.

98 Security Council, "United Nations Support Mission in Libya: Report of the Secretary-General", S/2019/682, 26 August 2019.

99 See, for example, UNSMIL and OHCHR, "Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya" December 2018.

100 UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, pg. 165.

101 UN Security Council, "Letter dated 29 November 2019 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S/2019/914, 9 December 2019, pg. 165.

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