Enshrining Impunity: A decade of international engagement in Libya
ACKNOWLEDGEMENTS

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<td>AFRICOM</td>
<td>United States Africa Command</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>DCIM</td>
<td>Department for Combatting Illegal Migration</td>
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<td>ECHR</td>
<td>European Court of Human Rights</td>
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<td>EU</td>
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<td>EUTF</td>
<td>European Trust Fund for Africa</td>
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<td>FFM</td>
<td>UN Fact-Finding Mission on Libya</td>
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<td>GNA</td>
<td>Government of National Accord</td>
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<td>GNC</td>
<td>General National Congress</td>
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<td>GNS</td>
<td>Government of National Salvation</td>
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<td>GNU</td>
<td>Government of National Unity</td>
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<td>HoR</td>
<td>House of Representative</td>
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<td>HRC</td>
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<td>International Criminal Court</td>
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<td>IS</td>
<td>Islamic State</td>
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<td>Libyan Arab Armed Forces</td>
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<td>Libyan Coast Guard</td>
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<td>MoU</td>
<td>Memorandum of Understanding</td>
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<td>NATO</td>
<td>North Atlantic Treaty Organisation</td>
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<td>NTC</td>
<td>National Transitional Council</td>
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<td>PoE</td>
<td>United Nations Panel of Experts on Libya</td>
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<td>UAE</td>
<td>United Arab Emirates</td>
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<td>UK</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>United Nations Office on Drugs and Crime</td>
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<td>UNSC</td>
<td>United Nations Security Council</td>
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1. Introduction

The 2011 Libyan uprising galvanised an unparalleled momentum of multilateral efforts ostensibly aimed at upholding the safety, rights and freedoms of the Libyan population. After Muammar Gaddafi’s threat of ‘no mercy or compassion’ towards revolutionaries, the United Nations Security Council (UNSC) authorised a set of measures with the central goal of protecting civilians, including by way of military intervention. Some observers saw this as the high point of multilateralism. Others soon criticised intervening states for using humanitarian principles to justify their foreign policy aspirations.

If multilateral efforts in the name of humanitarian principles were already covering up self-serving interests in 2011, 11 years later, overt unilateralism has taken centre stage. Driven by a complex mix of geopolitical, security and economic interests, at least ten foreign states have been involved in the conflicts that have ravaged Libya in the last decade, projecting their global and regional rivalries into Libyan dynamics. The 2021 report by the UN-mandated Independent Fact-Finding Mission (FFM) on Libya concluded that ‘the involvement of foreign States in the NIACs [non-international armed conflicts] on Libya concluded that ‘the involvement of foreign States in the NIACs (non-international armed conflicts) on Libya was such that they were considered parties thereto’.

The resulting violence has led to an untold cost for people in Libya. In a decade of conflict marked by widespread human rights violations and significant allegations of war crimes and crimes against humanity, thousands of people in Libya have been killed or injured, and hundreds of thousands have been forcibly displaced. An estimated 10,000 people are missing and thousands of Libyans from all walks of life continue to be disappeared, tortured and abused. The 600,000 migrants, refugees and asylum seekers estimated to be in Libya have also fallen victim to the ongoing lawlessness and a brutal war economy in which they are seen as objects to be exploited, extorted and enslaved. Throughout 2021, 800,000 of Libya’s 6.8 million people were considered to be in need of humanitarian assistance, a figure projected to reach 1.5 million in 2022. Covid-19 and a floundering economy have further worsened living conditions, amid power cuts and a lack of access to water, health care and education.

While redressing human rights violations and abuses was one of the key drivers of the 2011 Libyan uprising, 11 years later these aspirations have remained unanswered. Women, men and children across Libya continue to demand justice and accountability for the harm they have suffered from the Gaddafi regime, as well as the armed conflicts and political

7 Libya presents a complex displacement scenario, with alternating waves of internal displacement and return. In 2021, Libya counted more than 270,000 internally displaced persons and a returnee population of more than 600,000. See IOM’s displacement portal, available at: https://dtn.iom.int/libya

8 This estimate includes persons who have been missing since the Gaddafi era. See: International Commission on Missing Persons, Libya [accessed July 2021], available at: https://www.icmp.int/the-missing/where-are-the-missing/libya/r29540.pdf


12 Most recent available value from 2020 available at: https://data.worldbank.org/indicator/SP.POP.TOTL.LOCLocations=LY

repression that followed. Justice and accountability, however, have been overlooked by international actors engaging in Libya. They are often subordinated for the sake of political expediency and geopolitics, at times in the name of peace. However, neither peace nor justice have been achieved.

After a decade of conflict, the establishment of an interim unity government in March 2021 raised hopes for a more peaceful and stable Libya. At the same time, the unilateral meddling of foreign powers in Libya remains unresolved, and a transition to lasting peace will require a stark change from the trends that have characterised the involvement of international actors in Libya so far.

This report reflects on the last decade of international engagement in Libya, looking at the impact of unilateral international engagement on the conflict and on the lives of people in Libya. After providing an overview of Libya’s conflicts and related foreign interference since 2011, it analyses how the different ways in which foreign states have engaged in Libya, including through military assistance, weapon transfers, and cooperation in the field of counter-terrorism and migration, have directly or indirectly exacerbated violence and human rights abuses. The report further shows how self-interested foreign engagement has resulted in the marginalisation of human rights concerns and the failure to respond to Libyans’ aspirations for justice and accountability, allowing impunity to prevail. Lastly, it reflects on the impact of a unilateral approach and the marginalisation of international law and standards in efforts to achieve sustainable peace.

This report aims to inform international policy makers on how to refocus their efforts away from unilateral interests and narrow security goals towards a more comprehensive, principled and human rights-based approach to support the people of Libya in a sustainable transition to peace, justice and democracy. To this end, the report provides concrete recommendations to third states, as well as relevant international institutions and mechanisms, for constructive engagement in Libya.

15 A 2020/2021 survey conducted by LFIL, referred in this report as the Perceptions of Justice Survey, revealed a strong demand for justice and accountability for human rights violations among more than 350 respondents from different demographics across the country. Key findings of this study are presented in the following sections.
2. LIBYAS (UN)CIVIL WARS

CIVIL WAR AND INTERNATIONAL SPONSORS

In January 2011, against the backdrop of uprisings in neighbouring Egypt and Tunisia, protests swept through many cities in Libya. By the middle of February, this had evolved into a fully-fledged uprising in the eastern city of Benghazi.16 As the Libyan state sought to crack down on opposition using lethal force, international pressure on Gaddafi mounted. The UNSC passed resolution 1970 (2011), which imposed an arms embargo, along with sanctions including travel bans and the freezing of assets.17 In a rare move, the UNSC also referred the situation to the International Criminal Court (the Court or the ICC).18 Foreign states gradually started recognising the interim National Transitional Council (NTC), formed as the political face of the revolution, as Libya’s de facto government.19

Some countries, including France and the United Kingdom (UK) started calling for military intervention, which was eventually authorised by UNSC resolution 1973 on 17 March 2011.20 The resolution called for an immediate ceasefire and the establishment of a no-fly zone to protect civilians. Two days later, an international coalition led by the UK, France and the United States (US) started operations in Libya. This intervention, over which the North Atlantic Treaty Organisation (NATO) took command,21 changed the course of the civil conflict and led to the overthrow of the four-decade-long Gaddafi regime.

Following Gaddafi’s fall, the UNSC established the United Nations Support Mission in Libya (UNSMIL) to support national efforts towards a democratic transition.22 In the summer of 2012, national elections were held in Libya, resulting in the establishment of the General National Congress (the GNC).23 Initial post-Gaddafi governance attempts, however, were fraught with challenges, and the GNC was weakened politically by internal divisions.24

It soon became clear that the revolutionary groups that shared the objective of deposing Gaddafi in 2011 would not continue to work together, nor would they demobilise. In the post-2011 period, armed groups that had formed in opposition to Gaddafi’s forces benefited from state weakness, while new ones continued to emerge.25 From 2012, revolutionary fighters were integrated into formal security institutions such as the interior and defence ministries without any vetting processes to exclude those responsible for gross human rights violations.26 While the prospect of a salary led to growth in their memberships, many of these militias and armed groups27 continued to act with a high degree of autonomy.28 By May 2015, a Libyan government committee reported that it was seeking to reintegrate 110,000 armed group members.29

24 For example, political parties frequently announced boycotts: Nigel Ash, ‘The two biggest parties to boycott GNC except for work on constitution’, Libya Herald, 5 July 2013, available at: https://www. libyaherald.com/2013/07/05/the-two-biggest-parties-to-boycott-gnc-except-for-work-on-constitution;
27 In this report, the term militias is used to refer to armed groups affiliated to the authorities and often supported by the State. The term armed groups refers to groups and criminal gangs not affiliated to the authorities. However, affiliations and alliances are often fluid and change over time.

2011 period, armed groups that had formed in opposition to Gaddafi’s forces benefited from state weakness, while new ones continued to emerge.25 From 2012, revolutionary fighters were integrated into formal security institutions such as the interior and defence ministries without any vetting processes to exclude those responsible for gross human rights violations.26 While the prospect of a salary led to growth in their memberships, many of these militias and armed groups27 continued to act with a high degree of autonomy.28 By May 2015, a Libyan government committee reported that it was seeking to reintegrate 110,000 armed group members.29
In this context of growing fragmentation, Libyan military and political leaders often capitalised on the networks of foreign support that were formed during the 2011 conflict to strengthen their clout. In parallel, some states sought to influence the post-2011 outcomes in their favour. Most notably, Qatar and the United Arab Emirates (UAE) played out their regional rivalry by supporting different groups during and after the 2011 conflict. Libya thus became the scene of their scramble for influence to shape post-revolutionary states in the region, motivated by divergent views on the role of political Islamist groups, such as the Muslim Brotherhood, as well as ambitions over Mediterranean trade and energy routes.

At the same time, Western states gradually retreated from the scene. Both the UK and US, as well as other former coalition members, focused on limited stabilisation efforts such as the training of different security units. These were largely unsuccessful due to the emerging fragmentation of Libya’s security landscape. The US particularly distanced itself from Libya after the 2012 assassination of Ambassador Chris Stevens in Benghazi, adopting a policy of ‘no ownership’ of the post-Gaddafi transition. This retrenchment left the space for regional powers, and later Russia, to become key players in the Libyan conflicts.

**FROM CIVIL WAR TO PROXY WAR**

By 2014, tensions had erupted into full-scale civil war. In February 2014, protests took place after the GNC extended its own mandate, which was set to expire that month. At the same time, in oil-rich eastern Libya, a growing number of violent attacks by militias and armed groups, targeted at Gaddafi-era officials but also activists, journalists and the judiciary, had been gradually undermining successive governments. The violence, which reportedly killed more than 640 people in 2013, laid the groundwork for General Khalifa Haftar – a Gaddafi-era officer who spent two decades in exile in the US – to consolidate power.

As the government failed to tackle the violence, Haftar presented himself as the solution. On 14 February 2014, in a televised speech, he announced a new ‘Libya roadmap’ that included the formation of an interim government and a defence military council. In May 2014, bringing together Gaddafi-era army units and other armed groups in the self-proclaimed Libyan National Army (LNA), later to become known as the Libyan Arab Armed Forces (LAAF), Haftar launched ‘Operation Dignity’. This was presented as a counter-terrorism operation against violent groups which had been on the rise in and around an increasingly unstable Benghazi. In practice, the operation targeted those perceived as opponents by Haftar, and used disproportionate force. In parallel, on 18 May 2014, pro-Haftar militias also stormed the GNC in Tripoli. Unified by these threats, several political and military factions formed a coalition, later known as ‘Libya Dawn’, and mobilised against Haftar-allied groups.

Amidst growing violence in the east and west, in June 2014, the House of Representatives (HoR), set to replace the outgoing GNC, was elected with a low turnout, with candidates largely supportive of Haftar. Although it was supposed to hold its sessions in Benghazi, the HoR relocated to the eastern city of Tobruk citing security considerations...
in light of ongoing violence in Tripoli and Benghazi. The relocation of the HoR marked the beginning of political divisions and the creation of parallel institutions. Aligned with the HoR, the Interim Government took seat in Bayda. Meanwhile former GNC members aligned with Libya Dawn formed their own government in Tripoli – the Government of National Salvation (GNS). Libya thus found itself with parallel governments and institutions: the GNS in Tripoli and a parallel administration in the east aligned with the HoR. This rupture in the governance structure paved the way for protracted conflict in the years to come.

During the ensuing conflict, two regional alliances formed around Libya. On the one hand, anti-Haftar actors were supported by Qatar and Turkey. For Qatar, opposing Haftar was part of its regional rivalry with the UAE. Turkey, in addition to being ideologically close to Libya’s branch of the Muslim Brotherhood, had – and continues to have – key economic interests, maritime ambitions and geopolitical aspirations in Libya. On the other hand, the UAE and Egypt aligned with Haftar’s counter-terrorism narratives. In line with its rivalry with Qatar and opposition to the rise of political Islamist groups domestically and regionally, in 2014, the UAE started supporting Haftar with weapons and air power. It also pushed for pro-Haftar propaganda against Qatari-sponsored anti-Haftar news. Egyptian President Abdel-Fattah al-Sisi, having himself seized power from Egypt’s first democratically elected Muslim Brotherhood President in 2013, saw in Haftar an ally to prevent a violent spill-over on Egypt’s western border. Additionally, Egypt reportedly sought to address energy concerns and to revitalise a struggling economy through opportunities for its business elites and labour force. After being one of the strongest proponents of the NATO intervention, France also returned to the Libyan scene. Guided by security and defence calculations in the context of its broader military investments in the Sahel, France reportedly engaged in covert counter-terrorism operations in support of Haftar. These operations were revealed by the killing of three French intelligence agents in eastern Libya in 2016, and the later discovery of French missiles in a pro-Haftar base in July 2019.

As a result of the internationalisation of the conflict, weapon shipments to members of the two loosely constituted factions in the east and the west increased, in contravention of the arms embargo established by the UN in 2011. Against the backdrop of an uptick in violence in 2015, the UN brokered a political dialogue between representatives of Libya’s warring parties. This dialogue culminated with the signing of the Libyan Political Agreement (LPA) in Skhirat, Morocco, which birthed the internationally recognised Government of National Accord (GNA) – led by Fayez al-Sarraj. However, the LPA held little local legitimacy and was unable to address Libya’s governance split. The GNA failed to establish a monopoly on security institutions, becoming little more than a shell government that maintained the bare minimum of formal international representation. The HoR, set to become the legitimate legislative authority under the LPA, did not endorse the GNA, continuing to support the interim government in Bayda. By 2016, Libya thus had three centres of power: the ‘internationally-recognised’ GNA in Tripoli; the GNS, also based in Tripoli, but which had gradually lost control and support; and the authorities in Tobruk and Bayda.

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49 Ibid. See also pp. 13–14 of this report.
54 Wehrey, 2020, op. cit.
The LPA was never recognised by Haftar, who instead continued with efforts to seize control of the country militarily. By mid-2018, Haftar's forces had taken control of the majority of eastern Libya, and, in January 2019, of the southern region of Fezzan. In April 2019, while UN Secretary-General António Guterres was on an official visit to Tripoli, days before a planned UN-led national conference to broker a power-sharing deal, the LAAF launched an offensive on Tripoli. In response, several militias and armed groups in western Libya united against Haftar’s offensive, including some not formerly aligned with the GNA.

As violence escalated, the UNSC failed to react. Both the US and Russia vetoed a resolution drafted by the UK calling for a ceasefire. The US veto came days after a phone call between President Donald Trump and Haftar to discuss “counter-terrorism efforts”, in an apparent contradiction of US support of UN efforts in Libya. Despite official claims to the contrary, France’s policy in Libya continued to diverge from its fellow European Union (EU) members, and Paris allegedly blocked an EU statement against Haftar’s offensive. Amidst its silence and American and European ambivalence, other foreign states fully entered the fray.

In support of Haftar, the UAE conducted more than 850 drone and jet strikes, and sent more than 6,000 tons of weapons and ammunition through airlifts between April 2019 and 2020. In addition to facilitating weapons transfers in collaboration with the UAE, Egypt provided aerial and tactical support, and repeatedly threatened to deploy ground-combat troops. To capitalise on American and European incoherence and position itself as a geopolitical powerbroker, Russia also threw its weight behind Haftar. Moscow provided Haftar with billions in a parallel Libyan currency printed outside of Libyan official channels. This was estimated at 4.5 billion Libyan dinars between February and June 2019. Russian private military personnel from the Wagner Group also started operating in Libya.

Coming to the rescue of the GNA, Turkey deployed troops to Libya. The intervention was based on a military cooperation agreement signed between the GNA and Turkey in November 2019. At the same time, Ankara secured its economic interests in a Memorandum of Understanding (MoU) with the GNA covering maritime boundaries in the Mediterranean, including an exclusive economic zone. Turkey also recruited Syrian fighters to take part in hostilities, including children, adding to the tens of thousands of mercenaries from Russia, Chad and Sudan already in the country. Turkey’s intervention effectively rolled back Haftar’s gains, which halted his advance on Tripoli, and the conflict entered a period of stalemate in Libya’s central region.

Building on previous diplomatic efforts and its position as a neutral conflict actor, Germany hosted an international conference to bring together international actors involved in Libya, known as the Berlin Conference. Participants committed to redoubling efforts to de-escalate the conflict.

63 Al Jazeera[elsewhere this is Aljazeera – please choose and check], ‘Egypt’s parliament approves troop deployment to Libya’, 20 July 2020, available at: https://www.alexjazeera.com/news/2020/7/20/egypt-parliament-approves-troop-deployment-to-libya
and end hostilities, to support UN-backed negotiations, and to respect and implement the arms embargo.\textsuperscript{79} The process also resulted in the formation of the 5+5 joint military commission, which finally agreed to a ceasefire on 23 October 2020.\textsuperscript{71}

The conclusions of the Berlin Conference were endorsed by the UNSC in resolution 2510, which set the framework for UNSMIL to facilitate the Libyan Political Dialogue Forum (the LPDF).\textsuperscript{72} Under the LPDF framework, 75 Libyan representatives agreed on a roadmap\textsuperscript{71} and selected the to national elections scheduled for 24 December 2021.\textsuperscript{74} In an historic moment, on 10 March 2021, the Government of National Unity (the GNU) replaced the GNA, and was endorsed by the HoR in the central city of Sirte. This was the first peaceful handover of government since 2012.

However, tensions and uncertainties continued amidst disagreements over the laws that should govern the elections and a vote of no confidence in the GNU by the HoR in 2021.\textsuperscript{75} In December 2021, elections were delayed, raising further uncertainty over Libya's future.\textsuperscript{76}

Meanwhile, it remains unclear how the competing visions of foreign states involved in Libya will take shape in this expected new chapter of transition. Turkey has been advocating for its forces to remain on Libya's soil for tactical and training purposes,\textsuperscript{77} and in July 2021 a report claimed that regular Russian troops have been stationed in Libya.\textsuperscript{78} Despite the development of an Action Plan for the withdrawal of mercenaries,\textsuperscript{79} and reports of partial withdrawals,\textsuperscript{80} many remain on the ground.\textsuperscript{81} The American administration of President Biden raised some hopes for constructive engagement through renewed support to the UN\textsuperscript{82} as well as keeping foreign powers in check.\textsuperscript{83} The US, Europe and the UK have also applied sanctions on individuals allegedly involved in human rights violations.\textsuperscript{84} Constructive engagement will need to be sustained to reverse the trends of the last decade, which has seen self-interested unilateralism triumph in Libya – with disastrous implications for people in Libya.

\begin{itemize}
  \item[71] The 5+5 joint military commission consists of five military officers representing the Tripoli-based government, and five representing the east. UNSMIL, ‘UN salutes new Libya ceasefire agreement that points to a better, safer, and more peaceful future’ (23 October 2020), available at: https://news.un.org/en/story/2020/10/1076012.
  \item[73] The 5+5 joint military commission was endorsed by the HoR in September 2021.\textsuperscript{75} In December 2021, elections were delayed, raising further uncertainty over Libya's future.\textsuperscript{76}
  \item[74] UNSMIL, Roadmap For the Preparatory Phase of a Comprehensive Solution, available at: https://unsmil.unmissions.org/sites/default/files/pdf_roadmap_final_arabic_0.pdf.
  \item[77] 'Roadmap for the Preparatory Phase of a Comprehensive Solution', available at: https://unsmil.unmissions.org/sites/default/files/pdf_roadmap_final_arabic_0.pdf
3. ENTRENCHING CONFLICT AND ABUSE

In their unilateral pursuit of self-interest in Libya, international actors have provided support militarily or entered into security cooperation with a multitude of local actors, impacting complex local dynamics, and often directly or indirectly empowering armed groups and militias. From military intervention and illegal arms sales to narrow securitised approaches to counter-terrorism and migration, the ways in which international actors have engaged in the country have exacerbated the conflict and the suffering experienced by people in Libya.

A MORE DEADLY BATTLEFIELD

One of the main ways in which foreign states have intervened in Libya is through the provision of military support to factions in Libya’s conflict. This has primarily taken the form of weapons transfers in violation of the arms embargo, leading to a proliferation of diverse types of weapons in the country. The exact scale of the illegal arms transfers is hard to gauge, but the problem is so serious that Libya has been called ‘a testing ground for foreign military equipment’. This includes Chinese-made Turkish and UAE drones, making Libya one of the biggest ‘drone war theatre[s]’ in the world. Russian landmines, banned by the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, have also been found. Some of the world’s main arms exporters, including the US, the UK and a number of EU countries, have also continued to sell arms to states flaunting the arms embargo in Libya, showing little consideration for human rights concerns in their security relations.

Advanced weaponry imported from abroad has made the conflict more deadly, especially as it has been used in densely populated civilian areas. Moreover, some foreign states have directly deployed military force through airstrikes and foreign fighters and troops. Attacks allegedly carried out by foreign actors have only further escalated the conflict, raising the possibility that foreign states might be responsible for death, injury and potential war crimes in Libya.

The trend had already started in 2011: NATO strikes reportedly resulted in 223 to 403 ‘likely civilian deaths’, which NATO has never acknowledged. In the following years, more than 4,500 strikes have been documented, operated by 15 different actors including local factions and foreign states. By 2020, Libya had become one of the worst countries in the world for civilian killings and maiming. In the first months of 2020, UNSMIL reported a 45% increase in civilian deaths in comparison to the previous year. The number of internally displaced persons also peaked in 2019–2020, with more than 250,000 people forced to leave their homes between April 2019 and June 2020, especially in Tripoli and other conflict-affected areas.

Some of the incidents buried in these numbers have been well documented. Airstrikes seemingly targeted at civilian facilities have been allegedly traced back to the UAE,

93 McVeigh, op. cit.
including the bombing of a food factory near Tripoli\textsuperscript{96} and a migrant detention centre in Tajoura, which killed 53 detained migrants in July 2019.\textsuperscript{97} Turkey has been accused of being implicated in the indiscriminate killing of civilians in densely populated areas in 2020, at times resulting in the deaths of entire families.\textsuperscript{98} For example, on 3 June 2020, GNA-allied air forces conducted four airstrikes in a residential neighbourhood in Qasr Ben-Ghashir, south of Tripoli, which caused the deaths of at least 12 civilians, including women and children.\textsuperscript{99} According to the 2021 FFM report, ‘the attacks were intentionally directed against individual civilians not taking direct part in hostilities, thereby potentially amounting to a violation of [international humanitarian law] and a war crime’.\textsuperscript{100} Weapon fragments found on the site of the attack suggest that the laser-guided munitions used were produced by a Turkish manufacturer.\textsuperscript{101} This type of munition is often used by Turkish military aircraft.\textsuperscript{102} Moreover, the Wagner group has reportedly been involved in extrajudicial killings, including the alleged execution of three civilians near Tripoli in September 2019,\textsuperscript{103} which mayamount to war crimes.\textsuperscript{104} Journalists, activists, and human rights defenders documenting these incidents within Libya have faced unlawful detention, enforced disappearance and torture. For example, a young man from Derna who started documenting war crimes after witnessing the civilian casualties caused by joint Egyptian/Libyan airstrikes in 2015\textsuperscript{105} was arbitrarily detained and eventually forced into exile after reportedly being accused of being ‘a spy’ because of his documentation work.\textsuperscript{106}

\textbf{LIVING IN A COUNTRY FULL OF WEAPONS}

The proliferation of arms also impacts the everyday lives of Libyans outside the battlefield. In September 2020, machine gun\textsuperscript{107} and rocket\textsuperscript{108} shells were shot into residential areas, leading to injuries and property damage. Claims were made of Russian\textsuperscript{109} and Turkish\textsuperscript{110} planes bombing residential areas in Tripoli, including the airport, in mid-2020.\textsuperscript{111} In July 2020, GNA-allied forces conducted an airstrike in the city of Sirte, reportedly targeting a Turkish military base, which resulted in civilian casualties.\textsuperscript{112} The conflict has also led to the displacement of thousands of people inside and outside Libya, with many seeking refuge in neighbouring countries.

96 Missile fragments found on the scene were reportedly launched by a type of drone that is only used by the UAE in Libya: Human Rights Watch, ‘Libya: UAE Strike Kills 8 Civilians’, 29 April 2020, available at: https://www.hrw.org/news/2020/04/29/libya-uae-strike-kills-8-civilians
99 LFJL conducted an interview with a witness and relative of some of the victims. For information on the incident, see: Airwars, ‘LC413’, 3 June 2020, available at: https://airwars.org/civilian-casualties/lc413-june-3-2020/
101 Investigations conducted by LFJL.
102 UN Doc S/2019/914, 2019, p. 32.
106 Testimony of a Libyan man currently in exile in Turkey because of risks arising from his work documenting the conflict available at: Da Miri, Tariq Elmeri ‘46: Accept the life you choose with its bittersweetness’, 16 March 2021 [own translation], available at: https://apple.co/3vGsQH1
guns and anti-aircraft weapons, reportedly provided by Turkey, were fired by GNA-affiliated militias to crack down on largely peaceful protests in Tripoli, allegedly killing one protester and wounding many.107 Moreover, openly sold in markets or online, firearms are widespread in Libya not only among armed groups and militias, but also for personal use, such as self-defence against recurrent robberies and kidnappings.108 Echoing a common sentiment, a Libyan woman from Tripoli explained:

"I do not feel safe, and what worries me the most are armed groups and the weapons all around us."

The normalisation of violence can be particularly concerning among young people, as exemplified by an incident of a university student holding a professor at gunpoint to seek a better grade,110 or a professor being attacked by armed students to be forced to leak exam questions.111 The ever-looming threat of weapons, combined with patriarchal norms, has particularly impacted women. Simple activities, such as doing groceries, going to the hospital, or attending a wedding can become a source of anxiety.112 Small arms also make domestic violence more dangerous and potentially deadly.113 According to a 2017 study on Libya and Yemen, women generally identify disarmament as a key priority for peace and security, linking their lack of safety and freedom to the potential of armed violence in their everyday lives.114

Small arms have also made the increasing attacks against critical voices and human rights defenders, particularly women, more dangerous and often deadly. The long list includes human rights activist and lawyer Salwa Baghais, as well as political activist and lawyer Hanan al-Barassi, both murdered in Benghazi in 2014 and 2020 respectively.115 Small arms were similarly used during the kidnapping of Libyan lawmaker Seham Sergewa in July 2019, during which her husband was shot in the leg.116 Her whereabouts are still unknown.

The information war often intensifies in parallel with conflict escalation on the ground. During the initial phase of Haftar’s attack on Tripoli in April 2019, tweets with the hashtag #Haftar from Egyptian, Emirati and Saudi accounts dominated the Twittersphere, while Qatari and Turkish tweets in support of the GNA soon followed.121 A study of Facebook posts related to Haftar’s offensive on Tripoli found that more than half of the posts originated from outside Libya and that ‘there is a substantively meaningful relationship between the location of content

108 While many light weapons were imported into Libya during the Gaddafi regime, the presence of weapons manufactured in at least 12 states and attributable to post-2011 imports has also been documented: Jenzen-Jones and Ian McCollum, ‘Web Trafficking: Analysing the Online Trade of Small Arms and Light Weapons in Libya’, April 2017, available at: https://www.smallarmssurvey.org/resource/web-trafficking-analysing-online-trade-small-arms-and-light-weapons-libya-working-paper-26
109 LFJL interview conducted between October 2020 and January 2021.
113 Ibid.
117 Wehrey, 2020, op. cit.
119 Including Saudi Arabia and the UAE, as well as other regional powers such as Egypt, Israel and Bahrain.
producers and a post’s slant.\textsuperscript{122} The discovery of hundreds of foreign accounts tweeting almost identical messages in the aftermath of Haftar’s offensive also shows an automated tweeting pattern, most likely involving the use of bots.\textsuperscript{123}

While foreign powers battle with bots, the information war has led to the further polarisation of Libya’s already fragmented media landscape (and social fabric), with incitement to violence increasingly widespread. \textsuperscript{124} Fake news and hate speech have proliferated. The Libyan Centre for Freedom of the Press detected 23,362 breaches linked to the publication of hate speech and fake news in the 15 most followed media outlets in Libya in the period between January and June 2020.\textsuperscript{125} Similar trends have been documented in Libya’s social media spaces.\textsuperscript{126} Some foreign actors have reportedly created fake analyst profiles to provide commentaries for international media.\textsuperscript{127}

This occurs against the backdrop of increasing harassment and attacks against independent journalists and the curtailment of media freedom.\textsuperscript{128} In addition, online violence against women has been on the rise, with the primary aim of silencing women’s online voices by targeting female activists, human rights defenders and women working in political affairs.\textsuperscript{129} Such online violence can have a deep psychological impact on women, and can translate into offline violence, with serious implications for their active participation in public life.\textsuperscript{130} The killing of political activist and lawyer Hanan al-Barassi, murdered in 2020 in Benghazi a few minutes after posting a video online criticising the LAAF, is one of the most prominent examples of the toxic mix between online restrictions to free expression and offline violence.\textsuperscript{131} As stated by Nadine Dahan, a legal consultant:

“\textit{Especially in the Libyan context, when you’re threatened online, it is not just a comment or a message – it can very easily turn into physical danger.}\textsuperscript{132}”

This also shows how dissenting voices, particularly when belonging to women, are being excluded from narratives in and on Libya, which are instead dominated by a toxic mix of propagandist, militarised, and violent content. Indeed, a 2019 report found that ‘users on public social media pages are more interested in security-related topics than in elections, the constitution, or the UN-backed roadmap,’\textsuperscript{133} with alleged war crimes widely shared on Facebook and YouTube by the very militias committing them.\textsuperscript{134} The domination of war propaganda in Libya’s mediascapes, exacerbated by the engagement of foreign actors in Libya’s information war, contributes to the normalisation of violence and impunity in Libyan society.\textsuperscript{135}

\textbf{COUNTERING TERROR?}

From 2014 onwards, foreign supporters of the GNA and Haftar invoked counter-terrorism to justify their support or interventions in Libya. This coincided with the slow embedding of Islamic State-(IS) affiliated groups in Sirte in 2013 and 2014, which exploited pre-existing networks, political fissures and social tensions.\textsuperscript{136} In September 2014, several militia groups in the port city of Derna announced that they had pledged their affiliation to IS.\textsuperscript{137} As winds were picking up globally for an anti-IS campaign, the emergence of IS affiliates in Libya, less than 300 kilometres from Europe, galvanised international attention.

\begin{footnotesize}
\begin{enumerate}
\item[123] Democracy Reporting International, op. cit.
\item[124] Media Landscape, \textit{Libya}, available at: https://medialandscapes.org/country/libya
\item[125] Libyan Centre for Freedom of the Press, \textit{Walking on Hot Coals: How Disinformation Is Fueling the Fight in Libya} May 2019, available at: https://medium.com/dfrlab/walking-on-hot-coals-how-disinformation-is-fueling-the-fight-in-libya-41a0474d757e
\item[129] LFJL, \textit{‘We will not be silenced’}, Online Violence Against Women in Libya’, March 2021, available at: https://uploads-ssl.webflow.com/5aad88052f99e0014b141a6047a914c778c7d2e3c3ea_lfjl%20Online%20Violence%20Against%20Women%20Report_EN.pdf
\item[130] Ibid.
\item[133] Democracy Reporting International, op. cit.
\item[135] Spiegel International, 18
\item[136] Wehrey, 2020, op. cit.
\end{enumerate}
\end{footnotesize}
As Haftar announced the launch of Operation Dignity as an effort to counter terrorism, pro-Haftar media outlets echoed this narrative and framed Haftar’s operations as a war on terrorism, picking up on this renewed international focus. Haftar’s opponents included groups that the US had designated as ‘terrorists’, including suspects in the attack on the US diplomatic mission in Benghazi in September 2012.138 This reportedly resulted in ‘a more tolerant stance toward Haftar’s operation by some elements in Washington and even some tacit acceptance of Emirati and Egyptian support’.139

It was not until two years later that the US launched a full counter-terrorism operation. In August 2016, soon after the GNA was formed, the US Africa Command (AFRICOM)140 launched a military campaign against suspected IS groups in Sirte. ‘Operation Odyssey Lightning’ followed an official request for assistance from the GNA.141 In support of ground forces nominally affiliated with the GNA, in the five months between August 2016 and December 2016, US forces carried out more than 495 airstrikes, reportedly killing 800 to 900 IS fighters.142 According to the United Nations, this operation decimated the IS presence in Libya, but a foothold remained.143 The perceived success144 of this operation led the US to laud the template of the Sirte operation for replication elsewhere – whereby ‘special operations forces working with indigenous proxies loosely tethered to a recognised political authority [are] backed by precision airstrikes’.145

Yet this perceived counter-terrorism success came at high cost for Libyans. Airwars have reported that the 2016 US/GNA joint campaign may have killed up to 50 civilians.146 Similar allegations continued to be levelled against AFRICOM, including during an airstrike against al-Qaeda in the south of Libya in November 2018, which led to local demonstrations against alleged civilian killings.147 Although the US has the highest standard of reporting strikes among intervening states in Libya, AFRICOM has not reported any civilian deaths in its operations in Libya.148 New America have suggested that there ‘are reasons to doubt some of the Pentagon’s reports of strikes and casualties’, given the steps taken by the Pentagon to conceal the extent of its operations in Libya.149

Moreover, the Sirte model directly emboldened the local militias and violent groups employed by rival camps. During Operation Odyssey Lightning, coalition forces reportedly supported militias including the Misrata Brigades, a group admonished in the 2012 report of the International Commission of Inquiry on Libya for attacks against civilians, and possible crimes against humanity.149148 Collaboration with groups like these sent a clear message to Libyans: counter-terrorism is essential, whereas human rights are optional. For many analysts, the empowerment of militias – including those implicated in gross human rights violations and serious international crimes – is not just an unintended consequence of the counter-terrorism campaign but an integral part of its design.151

In addition, the switch in focus towards counter-terrorism gave many intervening states in Libya the cover to prioritise security partnerships, regardless of the toxic behaviour of the partners in question, or the likely impact of their empowerment in entrenching abuses, political divisions and conflict in the country. France in particular has adopted a regressive view that ‘strongmen’ like General Haftar are the only solution to counter the emergence of violent groups using terror tactics.152 When considered in concert with the willingness of Macron’s government to partner with General Sisi in Egypt and the regime in UAE, the support for General Haftar should be seen as part of a wider trend. For France, and its major security investments across the north and west of Africa, preventing violent groups and mass migration is the number one security priority, and if it comes at the cost of human rights and democracy then, as one senior French

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138 Wehrey, 2020, op. cit.
139 Ibid.
140 The command responsible for US military operations in Africa. See https://www.africom.mil/about-the-command
143 In the months following Operation Odyssey Lightning, the UN estimated the number of the IS fighters in Libya, could range from several hundred to as many as 3,000. UNSC, ‘Fourth report of the Secretary-General on the threat posed by ISIL (Daesh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat’, UN Doc S/2017/97, 2 February 2017, available at: http://www.securitycouncilreport.org/atf/cf/%7e65bfcf9b-6d27-49c3-8cd3-cf6e4ff96f9%7d/2017_97.pdf
144 AFRICOM, op. cit.
145 Wehrey, 2020, op. cit.
149 Ibid.
of these fighters were reported to have left the country to conduct terrorist attacks in Libya.\(^{153}\) Indeed, deliberate efforts taken by France to legitimise Haftar over the past few years,\(^{154}\) despite his atrocious human rights record,\(^{155}\) have undermined any calls for accountability.

The US under Trump flirted with a similar position. Notably in 2018, during an official phone call President Trump told Haftar, that he appreciated Haftar’s “significant role in fighting terrorism”.\(^{156}\) This was understood by many observers to be an ‘endorsement’ of both his campaign and the conduct of the forces under his command.\(^{157}\)

Ultimately, the short-term prioritisation of counter-terrorism goals has created a deep paradox in Libya. Isolated counter-terrorism efforts to remove IS from its strongholds, unmatched by adequate diplomatic, governance, and peace-building investment, have done little to resolve the fundamental political problems facing Libya and the instability and state weaknesses that allowed violent groups using terror tactics to proliferate. In turn, support for abusive militias or individuals such as Haftar risks fuelling resentment, increasing instability, and providing fertile ground for violent groups and further conflict in Libya.

In August 2020, UN reports suggested that IS retained only a few hundred fighters in Libya.\(^{158}\) By August 2021, most of these fighters were reported to have left the country to the Sahel region.\(^{159}\) Nonetheless, France, Egypt and the UAE continue to frame their support and interventions in Libya as a ‘war on terrorism’.\(^{160}\) The US is still involved with counter-terrorism cooperation within the country, conducting airstrikes and special operations raids against suspected violent groups in cities like Sirte and generally in south Libya.\(^{161}\) However, in a promising move, Biden’s administration has been reviewing the use of lethal strikes outside recognised battlefields,\(^{162}\) including through the use of drones, which has so far resulted in a reduction in drone attacks in Libya.\(^{163}\)

This could be an opportunity for the US to initiate a shift from a war-based approach to a diplomacy-centred one rooted in human rights, justice and peace-building, which should be widely followed.\(^{164}\) As long as international actors continue to use a threat narrative while ignoring other important drivers of violence and human rights abuses, counter-terrorism will continue to be conducted at the cost of Libyan lives and freedoms. The long-term impact of empowering abusive militia groups to seek short-term military gains is still playing out, with the risk of fuelling further conflict and opportunities for violent groups using terror tactics to expand.

**CONTAINING MIGRATION AT ALL COSTS**

In addition to counter-terrorism, migration has become a critical priority for Western states in the last decade. Europe’s engagement in Libya has been shaped by an escalating obsession with reducing and restricting the arrival of people from Africa and the Middle East to European shores. Rather than comprehensively addressing Libya’s governance and conflict challenges, the EU and its member states have attempted to deal with the repercussions that this crisis has
Despite the official put it.166 This has resulted in disastrous consequences for stability, human rights and accountability in Libya.166

Libya has long been a destination country for sub-Saharan migrants looking for work, as well as refugees and asylum seekers escaping conflicts and insecurity. After 2011, conflicts and rising insecurity in Libya have forced migrants, refugees and asylum seekers to seek safety across the Mediterranean.167 The consequences for the rights and welfare of migrants, refugees and asylum seekers have been catastrophic, while efforts to externalise border controls, migration management and containment have also stoked conflict and the political economies driving instability. Libyan institution building and overall security priorities such as combatting fuel smuggling, illegal fishing and currency abuse, have all been overlooked in favour of a focused counter-migration policy by European states.

In the 1990s and early 2000s, European migration controls in North Africa were largely bilateral, including Italy’s engagement with Libya.168 As the escalation of conflict in 2014 drove more people to flee Libya and try and enter Europe, by 2015 this had become a key EU policy concern. European responses in Libya led by Italy and the EU have included naval patrols and assistance and training to the Libyan Coast Guard (LCG). EU cooperation with Libyan authorities started with the launch of the EU Border Assistance Mission in Libya in 2013, with the goal of supporting Libyan authorities in improving and developing the security of the country’s borders.169

Operation Sophia, formerly EU NAVFOR MED, was an EU military operation aiming to dismantle the smuggling and trafficking routes’ but focused greatly on training, financing and equipping the LCG. In 2020 it was succeeded by ‘IRINI’, which continues airborne surveillance of the Mediterranean, but with search and rescue operations now to the responsibility of the LCG. Despite being officially tasked with implementing the arms embargo at sea, IRINI has the ‘secondary task’ of continuing to train the LCG,170 highlighting the EU’s focus on containing migration even within operations ostensibly aimed at supporting peace and accountability efforts. Moreover, Operation Sophia and IRINI surveillance at sea is deliberately conducted mainly with aircrafts, not ships, in order to ensure that European actors are not put in a position where they may be under an obligation to rescue migrants at sea – a task that shifted to the LCG following the Libyan declaration of its own Search and Rescue zone in 2017.

A new EU pact on migration and asylum has been designed to help share responsibilities across Europe but will likely perpetuate the same approach in countries like Libya, with a focus on controlling migration beyond EU borders via security cooperation.171 With demands for even more support from the LCG, the EU is also considering providing more equipment through the controversial ‘European Peace Facility’.172 Funding also comes from the EU Trust Fund for Africa (EUTF), of which Libya is the second-largest recipient after Somalia. Much of the funding goes to either supporting the LCG or addressing the conditions in which migrants, refugees and asylum seekers are arbitrarily and indefinitely detained.173

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165 Anderson and Keen, op. cit., p. 29
167 Ibid.
170 As described by the operation’s official website, available at: https://www.eeas.europa.eu/csdp-missions-operations/eubam-libya/3859/about-eu-border-assistance-mission-libya-eubam_en
These EU mechanisms complement bilateral cooperation between Libya and EU member states. Italy in particular solidified its long-standing collaboration with Libya through a 2017 MoU with the GNA, which shifted counter-migration efforts further to the LCG while ignoring the principle of non-refoulement and the fundamental right to asylum that Libya does not uphold.174 The MoU was endorsed by the EU in the Malta Declaration,175 and renewed for a three-year period in February 2020.176 Civil society organisations (CSOs), journalists and international organisations have documented violence, exploitation, and ongoing crimes of enslavement, persecution, sexual violence and other human rights violations throughout migration routes from sub-Saharan Africa to Libya and on to Europe at such a scale that they may amount to crimes against humanity.177 Rescue operations have further been severely hindered by southern European governments having harassed and curtailed the ability of nongovernmental organisations (NGOs) to carry out search and rescues for those who run into difficulty in the Mediterranean.178

International shipping vessels that rescue migrants at sea have been instructed by the Italian maritime rescue coordination centre to land in Libya, where migrants and refugees have been violently removed from the vessels, in clear violation of the international law of the seas and the obligation to deliver rescue to a place of safety.179 Meanwhile the LCG frequently forcibly returns migrants, refugees and asylum seekers intercepted at sea to Libya.180 Following disembarkation in Libya, tens of thousands of women, men and children have been transferred to detention centres run by the Department for Combatting Illegal Migration (DCIM), only nominally under the control of the Libyan Ministry of Interior. There people are detained arbitrarily for an indeterminate period of time, and inhumane conditions and overcrowding are accompanied by the prevalence of torture and other ill-treatment. Migrants, refugees and asylum seekers are also detained in unofficial detention centres, controlled by a range of armed groups, militias and state and non-state actors as part of trafficking networks. Cases of beatings, sexual violence, unlawful killings, and deaths in custody due to inadequate medical treatment or lack of adequate food, have been widely documented both in official and unofficial places of detention.181 Equally widespread is the torture, enslavement and exploitation of migrants, refugees and asylum seekers through forced labour and the extortion of their relatives in exchange for their freedom.182

The EU’s counter-migration focus and collusion with the LCG is not only disastrous for the rights of migrants, refugees and asylum seekers but also feeds instability in Libya and in the wider region in several ways.

Firstly, the impact of counter-migration on instability in Libya is reflected in how opportunities to address Libyan security needs are ignored in favour of counter-migration measures. In 2017, the Italian secret services reportedly circumvented the Libyan central authorities and brought several Libyan tribal leaders from the south to Rome for talks overtly aimed at addressing price, but ultimately focused on securing their support for stopping the movement of people across Libya’s southern border.183 In other parts of Libya, policing issues of greater relevance to Libyans than counter-migration, including fuel smuggling, illegal fishing and currency abuse, have been ignored in international support.184

174 Under the MoU, Italy provides training to the Libyan LCG to intercept migrants at sea, whose treatment upon their return to Libya is to be the responsibility of Libyan authorities. Although the MoU includes some humanitarian cooperation, such as support to ensure the healthcare of migrants, it does not include key human rights guarantees. In particular, the MoU is silent on Italy’s obligation to provide access to asylum, given that Libya lacks a legal framework and a system for asylum. See: LFJL, LFJL concerned that the latest Memorandum of Understanding between Libya and Italy on Border Security Fails to Protect Migrants, 7 February 2017, available at: https://www.libyanjustice.org/news/267-lfjl-concerned-that-the-latest-memorandum-of-understanding-between-libya-and-italy-on-border-security-fails-to-protect-migrants


Secondly, European political support and security assistance for counter-migration creates a system that empowers abusive Libyan forces. Libyan governments, security forces and armed groups are acutely aware of the EU’s strategy to halt migration and have engaged in ‘double gaming’, simultaneously facilitating smuggling and trafficking while presenting themselves as the only option for halting it. Since the fall of Gaddafi, consecutive Libyan governments have leveraged the ‘threat’ of migrants heading across the Mediterranean in order to gain international credibility and support. Militias have also sought to ‘launder’ their international reputations and seek legitimacy through leveraging their services by engaging in counter-migration, even where they have simultaneously engaged in trafficking themselves.

The potential destabilising effect of European counter-migration strategies is exemplified by the development of trafficking and anti-smuggling activities in Sabratha, which became a key smuggling and trafficking hub in 2015. In July 2017, one of the main militias controlling illicit activities in the region struck a deal with ‘Tripoli’ authorities under Italian pressure to desist from human trafficking operations. As a result, not only did departures not cease, but the deal fuelled deadly clashes between opposing militias, and fighting over control of what had become key counter-smuggling hubs.

Al Zawya LCG commander Abd al-Rahman Milad (known as Bija) provides a further example. In 2018, he was added to the list of those sanctioned by the UNSC for his involvement in trafficking and the ‘sinking of migrants’ boats using firearms’. He was previously trained in an EU-funded programme which saw him participating in a meeting on migration issues in Catania, Italy, in 2017, despite existing evidence of his involvement in trafficking activities. Bija was later detained for six months only to be released in April 2021 as, according to Tripoli’s attorney general, the charges against him had to be dropped due to a ‘lack of evidence’ against him. However, observers have read his release as part of a ‘package’ to appease militias in the west and ensure their support for the GNU.

**EMPOWERING MILITIAS AND ARMED GROUPS**

Foreign involvement in Libya’s conflict is one of the factors that has facilitated the development of militias and armed groups that have emerged since 2011. Firstly, with the growing involvement of foreign actors in Libya’s conflicts, particularly since 2014, some militias and armed groups have received foreign support, whether military, financial or political. For example, Tripoli-based militias have become increasingly dependent on Turkish-supplied forces, while LAAF’s affiliated groups received military assistance from the UAE, as well as alleged financial support. Secondly, militias and armed groups have benefited from the cooperation established by foreign states for both counter-terrorism and anti-trafficking efforts. For example, both in the west and in the south of Libya, some armed groups have tried to position themselves as potential anti-smuggling partners for the EU to access funding, while often still engaging in smuggling and trafficking activities. Militias affiliated with successive governments have also indirectly benefited from foreign support channelled to the Libyan state, which has provided some of them with official functions and salaries, while they continue to act with de facto autonomy, and with little accountability to the state institutions with which they are affiliated.

The empowerment of militias and armed groups enables the continuing fragmentation of Libya’s security sector – a key barrier to Libya’s long-term stability. Indeed, as a major beneficiary of the war economy, militias and armed groups have simultaneously engaged in trafficking and smuggling activities, and human rights violations.

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185 Anderson and Keen, op. cit., p. 48.
186 Ibid. p. 28; Alex Crawford, ‘Libya: UN-backed PM says 800,000 migrants could reach Europe amid instability’ 16 April 2019, available at: https://news.sky.com/story/libya-un-backed-pm-says-800-000-migrants-could-reach-europe-amid-instability-11694971
187 Aidan Lewis and Ulf Laessing, ‘Migrant flows slow to trickle in Libyan former smuggling hub’ Reuters, 27 November 2018, Migrant flows slow to trickle in Libyan former smuggling hub | Reuters
190 Lorenzo Tondo, ‘Human trafficker was at meeting in Italy to discuss Libya migration’ The Guardian, 4 October 2019, available at: https://www.theguardian.com/world/2019/oct/04/human-trafficker-at-meeting-italy-libya-migration-abd-al-rahman-milad
191 Although he was subjected to UN sanctions only in 2021, the 2017 PoE report had already revealed Bija’s involvement in trafficking networks and human rights violations.
195 Ibid.
196 Ibid.
197 Militias and armed groups have complex revenue-generating models, which in certain cases include access to state salaries through affiliation with official authorities. For more information see: Eaton et al, op. cit. pp. 11–14.
generally have an interest in state weakness.198 As violent groups continue to be empowered by their international sponsors, the daily life of many Libyans is marked by the arbitrariness of their rule: frequent checkpoints, arrests, enforced disappearances and the constant threat of violence.199 Faced by a 50% unemployment rate,200 young people have also been greatly affected by the empowerment of armed groups and militias, which have managed to attract Libya’s youth by providing them with an income as well as a sense of purpose.201 Expressing the frustration at the continuing empowerment of militias and armed groups through foreign support, a youth activist from Tripoli stated:

“Political and military foreign intervention is based on their own country politics – and it should stop. Stopping the support [which foreign actors] provide to parties in the conflict will mean drying up their resources, and they will become less powerful.”202

The power enjoyed by militias and armed groups also majorly impacts the lives of women.203 As a result of conflict, instability, and the presence of militias and armed groups, some women have faced threats to their physical security, as well as limitations to their mobility and ability to travel and work.204 This is particularly the case in conflict zones controlled by forces that are unknown to local communities.205 Even in areas of relative stability, women have experienced the arbitrary imposition of limitations to their freedoms in general, and freedom of expression in particular.206

The discovery of mass graves in the city of Tarhuna in mid-2020 offered a glimpse of the bleak reality of life under the control of violent militias, who have been directly and indirectly empowered by international actors. Located to the southeast of Tripoli, Tarhuna was controlled by the al-Kaniyat militia, led by seven brothers, which had established a semi-sovereign system of rule.207 The al-Kaniyat ruled over Tarhuna between 2015 and June 2020, a period in which more than 300 people were reported missing.208 In a ‘rule by murder’ fashion, the victims were abducted, tortured, disappeared, and killed because of their real or perceived opposition to the militia, or as part of a complex pattern of local revenge killings.209 Since the discovery of the first mass graves, new ones continue to be found, and the number of bodies exhumed continues to rise.210 These included several women and children, and many remain unidentified.

While being intermittently affiliated with the GNA in previous years,211 the al-Kaniyat joined Haftar during his attack on Tripoli in 2019. Tarhuna thus became a launchpad towards Tripoli, and the base of thousands of mercenaries from Russia and elsewhere supporting the LAAF.212 Civilian killings significantly increased after April 2019, when maintaining control of the territory was vital both for the al-Kaniyat’s survival and the wider military operations by Haftar and his supporters.213 This shows how foreign interference in Libya not only empowers violent militias, but also directly impacts on conflict dynamics and dramatically escalates violence.

After Turkish-backed GNA forces entered Tarhuna, the al-Kaniyat leadership sought refuge in eastern Libya, where they evaded accountability. In July 2021, Mohammed al-Kani, one of the leaders of the al-Kaniyat, was reportedly killed in Benghazi,214 leaving a further gap in the potential for accountability and truth for crimes committed in Tarhuna.

209 Ibid.
211 The al-Kaniyat militia, also known as 7th brigade, was reportedly operating under the banner of the GNA until it launched an attack on Tripoli in August 2018 against militias nominally affiliated with the GNA. See: Hilary Matfess, ‘Targeting Tripoli: Newly Active Militias Targeting Capital in 2018’ ACLED, 6 September 2018, available at: https://reliefweb. int/sites/reliefweb.int/files/resources/acleddata.com-Targeting%20 Tripoli%20Newly%20Active%20Militias%20Targeting%20Capital%20 in%202018.pdf
212 Harchaoui, op. cit.
213 Ibid.

199 Cordaid, op. cit.
202 LFJL interview conducted between October 2020 and January 2021.
204 Ibid.
205 Ibid.
206 Ibid.

4. A DECADE OF IMPUNITY

In this decade of instability and conflict, often fed by foreign interference, Libya has been marked by widespread gross human rights violations and serious international crimes, including enforced disappearance, torture and ill-treatment, arbitrary arrest and detention, unlawful killing, forced labour, trafficking, and indiscriminate attacks on civilians and civilian objects. These crimes, in several instances, could amount to war crimes and crimes against humanity. They are committed by both state and non-state actors, between whom it is often difficult to draw a clear distinction. Foreign states intervening in the conflict could also be responsible for a series of crimes and violations.215

Those who have been subjected to widespread violence and abuse before and after 2011 have been demanding justice for the harm they have suffered. In Tarhuna, for example, burials of exhumed bodies that have been identified are often accompanied by protests asking for perpetrators to be brought to justice.216 These are not isolated demands. A 2020/2021 LFJL study with more than 350 individuals from different demographics across Libya, titled the Perceptions of Justice Survey, found that victims see prosecuting perpetrators as crucial for delivering justice for their suffering.217 An overwhelming 91% of respondents called for accountability through criminal prosecutions and trials, and nearly all respondents objected to amnesties for serious international crimes through community mechanisms, including compensation and the provision of psychosocial and material support to affected communities.218 Respondents expressed very low support for achieving justice for serious international crimes through community mechanisms, which many (particularly women and minorities) considered non-inclusive.219

As violent conflict, state weakness and the collapse of the criminal justice system impede access to justice within Libya, international actors have become increasingly important to ensure accountability for crimes committed in Libya. Justice, and particularly criminal justice, was a central feature in the international response to the Libyan crisis in 2011, when the UNSC garnered unprecedented momentum for a referral of the situation in Libya to the ICC. However, successive international efforts towards accountability are yet to result in perpetrators being brought to justice or the payment of reparations to victims. Moreover, international actors seem to have moved away from a focus on justice and accountability.221 Perpetrators of gross human rights violations and serious international crimes have not only been emboldened by their international sponsorship, but also by rampant impunity. In turn, affected communities feel increasingly abandoned, nurturing feelings of stark disappointment, hopelessness and despair.222 Expressing a growing frustration with the international response to the situation in Libya, a local government representative in Tarhuna stated:

"To the international community I would say: In 2011 you acted during the revolution; where are you now while crimes are happening in Libya? If there is an international community that is ethical and cares about its obligation, it should not leave Libya after bombing it. Now they are just watching."223

IMPUNITY WITHIN LIBYA

Within Libya, victims lack adequate domestic remedies and the criminal justice system is currently unable to hold perpetrators to account. The Libyan legal framework presents major gaps in relation to international human rights, and criminal and humanitarian law standards. Crimes such as torture, enforced disappearance and slavery are either not defined at all, or not sufficiently defined in line with

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215 See section 3 of this report.
217 The survey was conducted between October and December 2020 with representatives, mostly victims, of 28 communities in 25 different locations across Libya. This was enriched by 35 in-depth detailed interviews with community leaders, victims’ groups representatives, civil society members, academics, lawyers and people supportive of different political views, operating at national and grassroots level in the sampled locations/communities, as well as activists from the Libyan diaspora.
218 LFJL’s Perceptions of Justice Survey.
219 Ibid.
220 Ibid. Only 7% of respondents stated that they trusted community mechanisms.
222 Feelings of frustration and powerlessness among victims were highlighted by different representatives of Libyan CSOs participating in a closed roundtable on accountability in Libya organised by LFJL in June 2021.
223 LFJL interview conducted in December 2020.
Libya’s institutional framework is similarly incapable of holding perpetrators to account and providing victims with reparation. A decade of conflict has led to the collapse of the Libyan criminal justice system. Many criminal courts are not functional due to insecurity, and the empowerment of armed groups and militias has led to persistent intimidation and attacks against judicial actors.224 Some groups and communities face higher barriers to access justice than others, with women, displaced people, and some ethnic minorities being particularly disadvantaged.225 As explained by a Libyan woman LFJL spoke to as part of its survey, ‘anarchy and slander being particularly disadvantaged’.226 As explained by a Libyan woman LFJL spoke to as part of its survey, ‘anarchy and slander limit access to justice, and being a woman is an added risk’.227


227 For example, Law n.38 of 2012, adopted by the NTC, exempted ‘revolutionaries’ (al-thuwar) from any ‘military or security or civil measures exercised by them for the purpose of the success of the revolution or its protection’.

228 International Commission of Jurists, op. cit.

229 80% of respondents to a survey conducted by LFJL among victims of human rights violations between January and April 2021 stated that they believe certain groups have less access to justice than others. See: LFJL, ‘Victims’ Voices: The Libyan Political Dialogue Forum’, 28 July 2021, p. 10, available at: https://www.libyanjustice.org/news/victims-voices-the-libyan-political-dialogue-forum

230 Interview conducted as part of LFJL’s Perceptions of Justice Survey.

231 For accountability to become the norm in Libya’s future, it is important for international actors to support the development of effective, victim-centred and human rights-based accountability mechanisms within Libya. This includes helping to strengthen the domestic criminal justice system, as well as supporting transitional justice processes that ensure international standards.223 Between 2018 and 2020, more than 20 people have been sentenced to death and hundreds imprisoned by military courts in the east amid arbitrary detention, torture and the total absence of fair trial guarantees.225

Some international efforts to foster domestic accountability in Libya have targeted Libyan institutions through international cooperation, often channelled through the UN, including UNSMIL and the UN Development Programme (UNDP).224 This has included supporting rule of law institutions and building the capacity of the police, judiciary and other criminal justice institutions, including on human rights principles and standards.225 Libyan authorities have also been the beneficiaries of efforts to strengthen criminal justice systems and reform in the wider region by the UN Office on Drugs and Crime (UNODC).226 UNODC has further collaborated with the EU on regional efforts to strengthen authorities’ capacity in dismantling criminal networks involved in smuggling and trafficking under the framework of the EUTF.227 The extent to which victim perspectives and human rights principles are effectively mainstreamed in these efforts, however, remains unclear. A 2017 research based on an access to information request revealed that among the training materials used in the EU’s trainings to the Libyan LCG, only one power point slide (amounting to 0.5% of the content) was dedicated to human rights-related content.228

For accountability to become the norm in Libya’s future, it is important for international actors to support the development of effective, victim-centred and human rights-based accountability mechanisms within Libya. This includes helping to strengthen the domestic criminal justice system, as well as supporting transitional justice processes that ensure
accountability, truth and reparations for victims. In the absence of an adequate legal framework, functioning law enforcement and judicial authorities, perpetrators continue to enjoy impunity, while victims have no opportunity to access and obtain reparation. As Libyan human rights defenders put it:

“Survivors and victims have lost all trust in local courts – they are desperate.” 

“I feel ashamed and helpless every day because I am a legal professional but I cannot achieve justice for my mother and my brothers [who were subject to human rights violations].”

**IMPUNITY OUTSIDE LIBYA**

While it is crucial for international actors to continue and step-up efforts to strengthen accountability mechanisms within Libya, the complex challenges faced by Libya’s justice system will not be solved overnight. Foreign states and international bodies thus have a key role to play to deliver justice to victims.

Gross human rights violations and serious international crimes have been thoroughly documented by a wide range of international actors, including international investigative mechanisms, UNSMIL, the UN Panel of Experts (PoE) on Libya, as well as international and local CSOs. In the last decade, the UN Human Rights Council (HRC) has established three investigative mechanisms mandated with documenting human rights violations at different stages of the conflict. The latest is the FFM on Libya established on 22 June 2020. After delays linked to budgetary constraints and the Covid-19 pandemic, the FFM started work in April 2021 to document and preserve evidence of human rights and international humanitarian law violations since 2016, with a view to ensuring that perpetrators are held accountable. On 1 October 2021, the FFM presented its report to the HRC, highlighting a need for additional time and resources. On 8 October, the HRC voted to renew the FFM’s mandate for an unprecedented additional nine months, which nonetheless severely limits the ability of the investigation to establish individual and state responsibility. These documentation efforts are crucial to contribute to accountability and truth for affected communities. This growing body of information, however, is yet to be used effectively as evidence to bring perpetrators to justice.

The international momentum that led to the UNSC referral of the Libya situation to the ICC in 2011 created a rare opportunity for accountability, but this is yet to bear fruit. While investigations initially proceeded at an unprecedented pace, progress soon slowed down. In ten years, the ICC has issued public arrest warrants against five individuals, but none have been arrested and transferred to the Court. An arrest warrant against Muammar Gaddafi was withdrawn following his death, while one against Abdullah al-Senussi, intelligence chief under the Gaddafi regime, was ruled inadmissible by the Court in 2013. Egypt never handed over Gaddafi-era security chief Al-Tuhamy Khaled, wanted by the ICC for alleged war crimes and crimes against humanity. He died in Egypt in February 2021.

Governments holding bilateral meetings with Haftar equally failed to exert pressure on him to surrender Mahmoud al-Werfalli, a military commander of the LAAF indicted by the ICC in 2017, and again in 2018, to the Court. In fact, France, the US and the UK praised the LAAF for opening an investigation on al-Werfalli, rather than calling for his transfer to The Hague. Such prise is not only unwarranted given the authorities’ track record of shielding perpetrators of international actors, including international investigative mechanisms, UNSMIL, the UN Panel of Experts on Libya, as well as international and local CSOs. In the last decade, the UN Human Rights Council (HRC) has established three investigative mechanisms mandated with documenting human rights violations at different stages of the conflict. The latest is the FFM on Libya established on 22 June 2020. After delays linked to budgetary constraints and the Covid-19 pandemic, the FFM started work in April 2021 to document and preserve evidence of human rights and international humanitarian law violations since 2016, with a view to ensuring that perpetrators are held accountable. On 1 October 2021, the FFM presented its report to the HRC, highlighting a need for additional time and resources. On 8 October, the HRC voted to renew the FFM’s mandate for an unprecedented additional nine months, which nonetheless severely limits the ability of the investigation to establish individual and state responsibility. These documentation efforts are crucial to contribute to accountability and truth for affected communities. This growing body of information, however, is yet to be used effectively as evidence to bring perpetrators to justice.

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from accountability, but also undermines the ICC’s authority. Indeed, al-Werfalli was promoted within the LAAF.\textsuperscript{252} He was reportedly killed in Benghazi in March 2021.\textsuperscript{253} At the time of writing, this leaves the ICC with only one outstanding public arrest warrant in Libya, that against Saif al-Islam Gaddafi, which has remained unexecuted since 2011.

Such slow progress could be partly explained by a number of challenges, including the failure of states to support and cooperate with the Court in the execution of the above-mentioned arrest warrants, and, as often highlighted by the former ICC Chief Prosecutor, resource constraints.\textsuperscript{254} Increased financial, diplomatic, and technical support to the court by states is crucial to address these challenges. At the same time, in the absence of clear communication by the Court, it remains unclear what is preventing it from playing a more prominent role in Libya, despite its broad mandate and the existence of credible information about ongoing serious international crimes committed in Libya.\textsuperscript{255}

The absence of any meaningful progress in the ICC’s investigations cannot but frustrate victims, as alleged perpetrators for the most serious crimes continue to enjoy impunity, despite the ICC’s jurisdiction in Libya.\textsuperscript{256} In addition to general challenges it faces vis-à-vis victims, the Court seems to have failed to conduct effective outreach and engagement of victims in the context of the Libya situation in particular.\textsuperscript{257} Indeed, 90\% of respondents to LFJL’s Justice Perceptions Survey were unfamiliar with the ICC’s work.\textsuperscript{258} Consequently, in addition to increased state support to the ICC in the form of cooperation and funding, improvements

\textsuperscript{252} Middle East Eye, ‘Libya’s Haftar promotes accused war criminal wanted by international court’, 9 July 2019, available at: https://www.middleeasteye.net/news/libyas-haftar-promotes-accused-war-criminal-wanted-international-court
\textsuperscript{253} CNN Arabic, ‘Libya: The killing of Mahmoud al-Werfalli, the most prominent commander of the Special Forces, wanted by the International Criminal Court’, 24 March 2021, available at: https://arabic.cnn.com/middle-east/article/2021/03/25/libya-mahmoud-al-werfalli-killed-international-criminal-court The case before the ICC remains officially open as of January 2022 as the Office of the Prosecutor is taking steps to verify the reported death.
\textsuperscript{254} See for example the regular ICC Prosecutor’s briefings to the UNSC, such as: ICC, ‘Statement of the ICC Prosecutor to the United Nations Security Council on the Situation in Libya, pursuant to UNSCR 1970 (2011)’ 17 May 2021, available at: https://www.icc-cpi.int/Pages/item.aspx?name=210517-otp-statement-unscc-libya

\textsuperscript{255} The OTP has been conducting investigations for ten years, and in her briefings to the UNSC, the former Prosecutor has consistently highlighted the existence of credible information and evidence about a diverse set of serious international crimes committed in Libya. The OTP has also established a Memorandum of Understanding with Libya for mutual support in investigations and prosecutions, as well as a cooperation strategy for the exchange of evidence and information with third states. See: ICC, 17 May 2021.
\textsuperscript{258} LFJL Perceptions of Justice Survey.
in the ICC’s communication and outreach would be crucial for the Court to play a more relevant role in Libya.

In addition to the ICC, an existing potential pathway for accountability for crimes committed in Libya is the application of extraterritorial and universal jurisdiction, providing an opportunity for the prosecution of international crimes committed in Libya to take place at national courts in third countries. While a range of European states have been using their own laws and specialised war crimes units within their police and prosecution services to criminally prosecute crimes committed in Syria and elsewhere,260 few similar cases exist for crimes committed in Libya. These include trafficking-related prosecutions of sub-Saharan African nationals in Italy for crimes committed against migrants.261 Moreover, two complaints have been filed by victims against Khalifa Haftar in France before specialised units.262 Haftar also faces three civil suits in the US, in which the plaintiffs are seeking compensation from civil suits’.263


Two families file complaint against Khalifa Haftar in US

261 Trial International, K [last updated 15 June 2020], available at: https://trialinternational.org/resources/universal-jurisdiction-database/?keywords=&country=1570&topic=&resource_type=Trial+Watch&body=&orderBy=date&submitted=1

While litigation in third countries has so far yielded limited results, opportunities for justice do exist. Suspects of serious international crimes committed in Libya travel abroad, providing an opportunity for their investigation and arrest. For example, one of the leaders of the al-Kaniyat militia has reportedly been receiving medical treatment in Germany since 2017.263 Several victims and witnesses live in third states and their presence gives states an opportunity to build cases for future prosecutions by collecting victim and witness testimonies. States have an obligation to hold perpetrators of international crimes to account,264 and such opportunities should not be wasted.

Even if universal or extraterritorial jurisdiction proceedings are only likely to target a handful of perpetrators of international crimes in Libya, they would send a strong signal in favour of accountability and make the world a smaller place for perpetrators. These developments would also be a welcome step for victims, as expressed by a human rights defender from Tawergha:

“Nobody has been punished to this day. Lack of accountability means the loss of rights, and I fear that a large number of victims have lost hope in obtaining real accountability for the crimes to which they have been subjected. When a person is holding a high position in a security body or an armed militia is held accountable, it will mean a lot to the victims.”265

Yet, for external accountability efforts to be meaningful within Libya, better engagement of victims and affected communities is necessary. LFJL’s Perception of Justice Survey registered a low level of understanding and trust in international and external accountability mechanisms.266 Victims’ scepticism towards international accountability mechanisms also reflects a general mistrust of international involvement in Libya’s affairs, informed by people’s perceptions of the 2011 intervention, as well as continued meddling by foreign states in the conflict. For example, some respondents to the survey said that they would trust extraterritorial trials in countries that have not had any political or military involvement in Libya.267

As mistrust in domestic mechanisms was even higher, respondents generally preferred a mixed approach, such as Libyan courts with international support.268 This suggests the potential of a specialised or hybrid court to tackle Libya’s accountability gap. Moreover, despite their distrust, members of local CSOs as well as affected communities see an important role for external accountability mechanisms to complement local accountability processes by prosecuting powerful perpetrators whose local prosecution would be


260 For example, in 2017, the court of Milan convicted and sentenced to life imprisonment a Somali national who headed a migrant camp in Beni Walid for kidnapping for extortion aggravated by murder and sexual violence. In 2020, the court of Messina sentenced to 20 years three individuals involved with torture and kidnapping of migrants in Zawiya. More information available at: https://trialinternational.org/resources/universal-jurisdiction-database/?keywords=&country=1570&topic=&resource_type=Trial+Watch&body=&orderBy=date&submitted=1

261 Trial International, Khalifa Haftar [last updated 15 June 2020], available at: https://trialinternational.org/latest-post/khalifa-haftar/


265 LFJL interview conducted in February 2021.

266 LFJL’s Perceptions of Justice Survey.

267 Ibid.

268 50% of respondents to LFJL’s Perceptions of Justice Survey expressed a preference for delivering accountability for past and ongoing serious international crimes through Libyan courts with international community support. This was preferred over other international mechanisms such as the ICC and UJ. There was strong support (66%) for trials to be held locally, and 53% of respondents preferred courts trying war-related crimes to be composed of both Libyan and international judges.

ENSHRINING IMPUNITY: A DECADE OF INTERNATIONAL ENGAGEMENT IN LIBYA
most challenging.” International and external accountability mechanisms could also have a positive long-term impact at the local level if they aim to strengthen the capacity of the domestic system and build pressure for local accountability processes to commence.

ACCOUNTABILITY THOROUGH INDIVIDUAL TARGETED SANCTIONS?

In the absence of progress in individual and state accountability for gross human rights violations and serious international crimes committed in Libya, targeted sanctions have been the only consequence faced by some alleged perpetrators for their illegal acts. Using targeted measures against foreign individuals involved in gross human rights violations, the EU, the UK and the US have issued sanctions against certain human rights violators in Libya, such as the two main leaders of the al-Kaniyat militia, and individuals involved in human trafficking and crimes against migrants and refugees.270

Similarly at the UN level, the Libyan Sanctions Committee, a body comprising the 15 members of the UNSC, and supported by the PoE, has issued asset freezes and travel bans against individuals reportedly involved in gross human rights abuses or other violations of international law.271 The PoE is mandated to gather information and make recommendations to the Sanctions Committee, which takes decisions on the issuing of sanctions by consensus.272 Targeted sanctions can be issued against individuals or companies according to a set of criteria, including violations of international human rights and humanitarian law, violations of the arms embargo, and illicit oil exports or appropriation of state funds.273

Since 2011, 29 entries (27 individuals and two entities) have been listed by the Sanctions Committee.274 These include members of the Gaddafi regime; five Libyans and two Eritreans designated for their involvement in gross human rights violations related to human trafficking; and two militia leaders, Salah Badi and Ibrahim Jadhran, listed for ‘working against the stability of Libya’ and ‘undermining a political resolution.’275 Despite heightened violence in the context of Haftar’s 2019 attack on Tripoli, and ample evidence of violations provided by the PoE in its latest reports, as of January 2022 only one addition had been made to the sanctions list since 2018.276 Whilst the list of individuals and entities recommended by the PoE for sanctioning by the Sanctions Committee is not public, it is clear that a set of individuals identified by the PoE is yet to be sanctioned, as the PoE report of March 2021 requests the Sanctions Committee to ‘expeditiously consider the information provided separately by the Panel since 2018 on entities and individuals meeting the designation criteria.’277

Lack of consensus among members of the Sanctions Committee was highlighted by the former Chair of the Sanctions Committee, Ambassador Günter Sautter of Germany. In his December 2020 briefing to the UNSC, he lamented that ‘the committee has not been able to live up to its responsibility’ in its decision-making, calling for more ‘transparency’ and ‘coherence’.278 Moreover, the Sanctions Committee’s inconsistency becomes clear when looking at the list of designated individuals, as many individuals who seem to fit the criteria for designation are not listed. For example, Haftar’s attack on Tripoli in 2019 clearly undermined the planned UN political process and Libya’s stability but did not result in sanctions. Similarly, the al-Kaniyat militia took part in some of the same attacks that led to the designation of Badi and Jadhran,279 and is also allegedly responsible for serious crimes in Tarhuna.280 In this context, the designation of militia

269 Ibid.
271 The Committee was established pursuant to resolution 1970 (2011) to oversee the sanctions measures imposed by the UNSC, including the arms embargo, asset freezes, and, since 2014, ‘measures in relation to attempts to illicitly export petroleum’. See: UNSC, ‘Libya Sanctions Committee’, available at: https://www.un.org/securitycouncil/sanctions/1970
274 The full list of sanctions individuals and entities is available at: https://www.un.org/securitycouncil/sanctions/1970/materials/summaries
275 Ibid.
276 Ibid.
279 For example, in August 2018, the al-Kaniyat, also known as the 7th Brigade, led an attack on Tripoli-based militias. The Sumood brigade, led by Salah Badi, reportedly participated in the same attack. See: Mattiess, op. cit. This attack is mentioned as one of the key reasons for Badi’s designation. See: UNSC, ‘Salah Badi’, available at: https://www.un.org/securitycouncil/sanctions/1970/materials/summaries/individual/salah-badi
280 See ‘Empowering militias and armed groups’ under section 3 of this report.
leaders Badi and Jadhran seems to be explained by the fact that they had lost support within and outside Libya at the time of their designation. On the contrary, the al-Kaniyat benefited from foreign protection, as shown by Russia’s reported veto to a proposed asset freeze and travel ban on the al-Kaniyat militia in November 2020.

The Sanctions Committee thus seems to have failed to apply sanctions uniformly to those allegedly sponsored by foreign powers. This has eroded the credibility of the sanctions regime and has sent “a completely wrong message: that you can get away with anything in Libya as long as you don’t lose” Such inconsistency risks making sanctions counterproductive, and only creates more incentives for local factions to seek international sponsorship and protection.

Moreover, when selectively imposed and without complementary measures for accountability and reparations, sanctions can be perceived as arbitrary and insufficient at the local level. In the words of a youth activist from Tripoli:

“The international pressure is biased. Indeed, sometimes it resulted in bans on travelling and freezing assets [of alleged Libyan perpetrators] but it is not enough to bring perpetrators to justice.”

Sanctions used in isolation do not provide victims with any form of redress or reparation, nor do they address Libyans’ demand for accountability for gross human rights violations and serious international crimes. Travel bans also risk interfering with criminal accountability efforts, as they might, for example, limit opportunities to arrest suspects travelling abroad for potential proceedings in third countries or at the ICC level. Therefore, sanctions should not only be applied in a fair and transparent manner in accordance with human rights standards and due process, but also in coordination with other accountability mechanisms, as a tool to contribute to judicial accountability and redress for victims.

HOLDING EXTERNAL ACTORS TO ACCOUNT

External actors contributing to Libya’s conflicts might themselves be responsible for violations of international law in Libya. Much like their Libyan counterparts, however, alleged perpetrators continue to enjoy a high degree of impunity. Indeed, the same geopolitical considerations that enable impunity for Libyan actors can obstruct efforts towards third country responsibility.

Most evidently, violators of the arms embargo, well documented by the PoE despite reported attempts to block the release of its reports, have suffered very few consequences. While extensive evidence exists showing that the UAE is one of the most flagrant violators of the arms embargo, the Sanctions Committee has not issued any sanctions against UAE officials or companies. The same is true for arms and military assistance provided to the GNA by Qatar and Turkey. Similarly, despite the existence of national sanctions regimes, the US, France and the UK have not issued any sanctions against arms embargo violators, with which they often have close security and economic ties. An exception is represented by US sanctions on individuals and companies linked to the Wagner group over their activities in Libya, in light of the US’ long-standing rivalry with Russia. Although these sanctions can represent a positive step towards tackling the activities of mercenary groups in Libya, they also reflect geopolitical dynamics.

In addition to non-compliance with UNSC measures such as the arms embargo, foreign states and their nationals have also so far managed to evade accountability for their alleged direct involvement in, and responsibility for, serious international crimes in Libya. This goes back to NATO’s intervention in 2011, and the failure of members of the NATO coalition to acknowledge responsibility for the civilian casualties they reportedly caused, thereby leaving the victims with no redress to date. Echoing the need for accountability and redress of affected communities, a teacher from the city of Sirte explained:

289 See section 3 of this report.
Civilians have continued to be killed as a result of foreign military operations over the past 11 years, particularly through airstrikes, at times facilitated or directly conducted by foreign states. These often go unclaimed or are subject to a complex blame game by the parties involved, requiring thorough and effective investigations that are, most often, not being carried out. Even when documentation exists, geopolitical considerations might prevent accountability. The PoE stopped short of naming the UAE in connection with the bombing of the Tajoura detention centre in July 2019, despite evidence pointing towards its involvement. 

Circumventing accountability has also characterised the development of migration containment policies by the EU and its member states. In 2012, in the Hirsi Jamaa and Others v. Italy case, the European Court of Human Rights (ECHR) found Italy responsible for illegal pushbacks at sea after the Italian Coast Guard intercepted migrants and returned them to Tripoli, where their human rights and lives were at risk. While the ECHR’s decision did not stop pushbacks, the subsequent focus on the capacity-building of the LCG has been designed to ensure that people are intercepted at sea and disembarked in Libya by non-European actors.

This approach is on dubious legal grounds as multiple litigation efforts against the EU are testing. The 2021 FFM report found that crimes committed against migrants in Libya amount to crimes against humanity, and called for further investigations to assess ‘the responsibility that may be borne by third States’. The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had also previously suggested that the EU’s migration strategy could amount to complicity in torture and crimes against humanity.

In January 2021, Italy was also found by the UN Human Rights Committee to have failed to respect its duty to protect the lives of people in distress at sea for delaying the rescue mission of a migrant boat that sank in October 2013 after departing from Libya, killing 200 people. The decision also found that judicial proceedings initiated in Italy against the officers allegedly responsible have been ‘unduly delayed’.

Third states involved in Libya should ensure that crimes allegedly committed by their nationals in Libya are independently and thoroughly investigated, and victims provided with adequate redress. Moreover, external accountability avenues applicable to Libyan perpetrators should be explored for crimes committed by foreign nationals as well. The ICC’s mandate itself can include alleged crimes committed by non-Libyan nationals regardless of the nationality and the status of their country of origin vis-à-vis the ICC. Indeed, in her briefing to the UNSC in May 2021, the former ICC Chief Prosecutor made clear that crimes committed by mercenaries and foreign fighters on Libyan territory may fall under the jurisdiction of the Court, no matter the nationality of the persons involved.

293 LFIL interview conducted remotely between October and December 2020.
294 See examples included in section 3 of this report.
296 The PoE’s 2019 report states that ‘the Panel finds it highly probable that the air strike was conducted using PGM at night by a modern FGA aircraft owned and operated by a Member State, acting in direct support of the HAF. The Panel reserves identification of this Member State until further physical evidence or imagery emerges to increase attribution confidence levels, and continues to investigate the circumstances of the air strikes.’ UN Doc S/2019/914, 2019, Annex 15, para 16.
297 The pushbacks breached the principle of non-refoulement: ‘returning an asylum seeker or refugee to the frontiers of territories where his or her life or freedom would be threatened, or where he or she would risk persecution’ as Libya does not have a protection mechanism for refugees. The full ECHR decision is available at: https://hudoc.echr.coe.int/spa#{%22itemid%22:[%22001-109231%22]} See also: LFIL and others, ‘EU: Time to review and remedy cooperation policies facilitating abuse of refugees and migrants in Libya’, 28 April 2020, available at: https://www.hrw.org/sites/default/files/supporting_resources/joint_statement_eu_financial_responsibility.pdf
299 Ibid.
300 UN Doc A/HRC/48/83, 1 October 2021, pp.16-17.
303 Ibid.
304 The ICC’s jurisdiction as a result of the UNSC referral includes any Rome Statute crimes committed in Libya and related to the 2011 situation. Paragraph 6 of Resolution 1970 which referred the Libya situation to the ICC states that: ‘nationals, current or former officials or personnel from a State outside the Libyan Arab Jamahiriya which is not a party to the Rome Statute of the International Criminal Court shall be subject to the exclusive jurisdiction of that State for all alleged acts or omissions arising out of or related to operations in the S/RES/1970 (2011) 11-24558 3 Libyan Arab Jamahiriya established or authorized by the Council, unless such exclusive jurisdiction has been expressly waived by the State’. This does not preclude the ICC from investigating crimes committed by nationals of foreign states who might be responsible for international crimes in Libya arising from operations unrelated to the NATO intervention.
Holding foreign actors accountable for their actions in Libya is a legal imperative, and it is of paramount importance to move away from a decade of impunity that has allowed national and foreign actors alike to pursue self-seeking objectives with disregard to international law and standards. Moreover, the lack of channels for accountability between affected communities within Libya and intervening foreign actors highlights a fundamental gap in an international system that has proven unable to regulate the actions of foreign states acting with impunity outside of their territory. Establishing third state responsibility for crimes committed in Libya and corresponding accountability measures would constitute a crucial sign for victims who have grown increasingly distrustful of international actors’ ability to positively engage in their country. As stated by an expert in international criminal justice:

“There seems to have been a shift from a justice and accountability project with states reprioritising other issues they consider to be critical. They need to be reminded that addressing international crimes is the responsibility of the international community, not a gift or a favour, but an obligation – and the consequences of impunity are even greater than impunity itself.”

306 Participant of LFJL’s closed roundtable on accountability in Libya, June 2021.
5. NEITHER JUSTICE, NOR PEACE

As violence and impunity have mutually fuelled each other in the last decade, foreign states and multilateral institutions have engaged in efforts to broker a political solution to Libya’s conflicts and launch the country’s transition towards peace and democracy. These efforts, however, have been marked by the same shift towards self-interested unilateralism that has shaped the wider behaviour of international actors in Libya. As a result, rule-based approaches rooted in international law and standards have been side-lined. The ensuing processes have failed to take into meaningful consideration the voices of communities directly affected by the conflict, including their demands for justice and accountability, nor have they secured sustainable peace.

UNILATERALISM DOES NOT BUILD A LASTING PEACE

International efforts to broker a political solution to the Libyan conflict were first tested in 2015 through the UN-led Skhirat process, which resulted in the LPA. While many internal and external factors might have contributed to the failure of the LPA, the pursuit of unilateral interests both against and within the UN-led process seems to have played a role.

Firstly, the external support enjoyed by Haftar, particularly from Egypt and the UAE, empowered him to resist a political solution in the knowledge that he would enjoy military and diplomatic support in his endeavours.307 This was partly enabled by the fact that Western states which backed the UN process failed to put their full weight behind keeping Haftar’s international supporters in check, in light of their own bilateral economic or security cooperation.308 The threat of the imposition of UN sanctions on Haftar in case he spoiled the process was also allegedly limited by Russia and France’s opposition at the UNSC level.309

Secondly, states that supported the UN framework were largely guided by the self-interested objective of having a government they could recognise and work with towards a set of national security priorities in the shortest time possible. With IS gaining ground in Libya, the US seemed to be primarily motivated by the need to have a recognised government with which to coordinate its counter-terrorism response.310 Similarly, the EU’s support for a quick deal was shaped by considerations on containing migration, as growing numbers of migrants, refugees and asylum seekers reached Italy’s shores from Libya.311 Such short-termism rushed the process, leading to an agreement which lacked both legitimacy among the Libyan people and the holistic approach necessary to bridge Libyan divides.

The continuing fragmentation of the Libyan political and military landscape was compounded by a similarly fragmented international response, as foreign states increasingly used mediation initiatives as a strategy to advance their interests, in parallel to their direct or indirect support to parties in the conflict. Consequently, mediation initiatives, at times in competition with each other, proliferated, leading to a situation in which the states acting as peace-brokers were at times the same ones who continued to fuel violence and conflict.

In 2017, for example, France organised political talks which elevated Haftar’s diplomatic stance and international legitimacy, by hosting him for the first time in a Western country.312 A second conference held in Paris in 2018 was criticised, among other reasons, for undermining UN-led peace efforts and lacking a broad consultation process.313 This was followed by a conference organised by the Italian government in Palermo in November 2018, in collaboration with then Special Representative of the Secretary-General, Ghassan Salamé, seen as an Italian effort to reassert its diplomatic leadership towards Libya vis-à-vis Paris.314 Similar

308 Ibid.
311 Ibid.
initiatives were initiated by the UAE\textsuperscript{315} and Egypt\textsuperscript{316} with little in the way of concrete results.

The first Berlin Conference on Libya, convened by Germany and the UN on 19 January 2020, sought to address such international fragmentation and establish a multilateral framework to which foreign states engaged in Libya could commit. The conference resulted in an important pledge by participating states to respect international human rights and humanitarian law, comply with the arms embargo and commit to a non-military solution in Libya through a UN-led process.\textsuperscript{317} These outcomes, endorsed by the UNSC, set an important framework for constructive multilateral engagement in Libya and for the LPDF. At the same time, they revealed a persistent gap between discourse and reality: some of the same states represented in Berlin resumed weapon transfers to Libya soon after signing the conference outcomes.\textsuperscript{318} Indeed, the second Berlin Conference, hosted by German Foreign Minister Heiko Maas, UN Secretary-General António Guterres and the UN Support Mission in Libya in June 2021, reiterated much of the same calls.\textsuperscript{319}

**WHOSE PRIORITIES?**

Ensuring that all Libyans can participate in decisions about the future of their country is a fundamental condition for a legitimate and long-term resolution to the conflict. Diverse Libyan voices, however, have often been absent from internationally-sponsored initiatives primarily focused on brokering a power-sharing deal that cater to the needs of political and military elites and their sponsors. Inclusivity and national ownership – not only by parties to the conflict but also among affected communities – constitute basic mediation

\begin{itemize}
\item \textsuperscript{315} The New Arab, ‘Libya rivals agree to hold elections during UAE meeting; UN’, 28 February 2019, available at: https://english.alarabiy.co.uk/news/libya-rivals-agree-hold-elections-during-uae-meeting
\item \textsuperscript{316} See for example: Lin Noueihed and Ahmed Mohammed Hassan, ‘Egypt brokers Libya peace roadmap, but key figures fail to meet’, 16 February 2017, available at: https://www.reuters.com/article/us-egypt-libya-talks/egypt-brokers-libya-peace-roadmap-but-key-figures-fail-to-meet-idUSKBN15V01B
\item \textsuperscript{318} UNSMIL, ‘UNSMIL Statement on continued violations of arms embargo in Libya’, 25 January 2020, available at: https://unsmil.unmissions.org/unsmil-statement-continued-violations-arms-embargo-libya
\end{itemize}
principles, yet women, youth and ethnic minorities were not adequately included in UN-led processes seeking a solution to Libya’s conflicts. Most notably, while women played a crucial role in the 2011 uprising as well as in political and civil society activities in following years, they have largely been absent from international peace conferences on Libya. 

Raising hopes of better inclusivity, the first Berlin Conference conclusions recognised the importance of the meaningful participation of all Libyans in decisions related to democratic transition and conflict resolution for a successful end to the crisis. The conclusions endorsed the efforts of the then Special Representative of the Secretary-General to facilitate wider engagement and participation of women and youth.

Within this framework, the 75-member-strong LPDF had a better record in including diverse Libyan voices than previous high-level political initiatives. Meetings of the 75 were also preceded by consultations with different societal groups. Youth consultation, for example, highlighted a strong demand for better youth representation in decision-making processes in and about Libya, as well as strong frustrations and distrust towards domestic political bodies and international actors.

At the same time, the criteria and process followed by UNSMIL to select the 75 LPDF members remained opaque. Of the 75 LPDF members only 17 were women, and these were reportedly added to an initial men-only group following pressure by UN Women officials and civil society actors.

Some regional, ethnic and tribal minorities, including the Amazigh and the Tuareg, also condemned their own underrepresentation in the forum. Moreover, participation and ownership of the process among the broader Libyan population, including communities directly affected by violence and conflict, remain low. Between January and April 2021, LFJL conducted a targeted population survey among Libyans who have been victims of gross human rights violations, about the LPDF and their aspirations about the peace process. While 75% of respondents indicated that they were aware of the LPDF, fewer than half understood the purposes of the process, and far fewer the types of issues discussed. Such lack of understanding inevitably limits the Libyan people’s ability to form informed opinions and participate in the process meaningfully.

Many respondents also believed that politicians do not take their interests into account and highlighted the need for LPDF members to ‘put Libya ahead of personal, tribal or regional interests’ and to think long-term, taking into consideration the needs of people for security and safety, justice, rule of law and a working economy. Asked what changes are needed for the interests of communities affected by the conflict to be considered, a respondent stated:

“Listen to the victims, know what their situation is, and administer justice.”

For the transition to peace and democracy in Libya to be sustainable, transparent and legitimate, this call should be adequately answered by the international actors supporting the process. More needs to be done for the Libyan transition to be truly ‘Libyan-led’ and ‘Libyan-owned’ including systematically informing and engaging the many victims who have a key stake in the process and addressing their demands for accountability and reparations. As a senior UN official put it:


328 Ibid.


331 This is a formula commonly used by UNSMIL to refer to the LPDF and related processes. See for example: UNSMIL, ‘Special envoy mobilizes national and international support to advance the three-track Libyan-led/owned dialogue process.’ 2 March 2021, available at: https://unsmil.unmissions.org/special-envoy-mobilizes-national-and-international-support-advance-three-track-libyan-ledowned
There is a complete lack of any kind of principled engagement, but rather interest-based interventions that are very transactional and are not about the interest of Libyans. This is why the issue of rights-based reconciliation is of extreme importance – it is an opportunity to address the real grievances of communities and issues of justice and to have a forward-looking process.”

Alignment different, and often competing political interests, will be a necessary yet highly challenging element of achieving a successful transition to peace and stability in Libya. However, human rights and accountability cannot be negotiable in the name of reaching a political deal. Firstly, accountability is important in and of itself, and the UN has an obligation to mainstream human rights in all its peace efforts. Secondly, side-lining human rights and accountability enables impunity, which only contributes to further violence and lawlessness. Progress towards human rights and accountability needs to go hand in hand with any peace effort if underlying divisions and grievances are to be dealt with, conflict is to be sustainably brought to an end, and international law standards are to be upheld.

Indeed, in the absence of any meaningful form of accountability, cycles of collective punishment based on identity and real or perceived political affiliation have largely been focused on political solutions.

“Can you imagine seeing people killed in front of your eyes? You cannot sleep for days. The only solution is to bring those criminals to prison and uphold justice. We are a tribal community. It is a shame to forget the blood of your dead brother. If the law is not applied, only revenge is the answer, and then the blood will reach up to the knees. If there is justice, then peace will prevail and the cycle of revenge will stop.”

International peace efforts in Libya, however, have fallen short of following a comprehensive and human-rights-based approach which considers justice and peace as mutually reinforcing imperatives. The rushing of the Skhirat process to produce the LPA meant that complex accountability and transitional justice issues were not adequately addressed. By way of example, the LPA referenced problematic transitional justice laws that do not meet international law and standards.

The same disregard for accountability emerged in the 2015 UNSMIL-led mediation process between the city of Tawergha and the city of Misrata. This conflict resulted in horrendous human rights abuses, which, according to a 2012 UN investigation, could amount to crimes against humanity against the Tawerghans. Nevertheless, the agreement resulting from the UNSMIL-led initiative did not set out a

334 LFJL interview with a senior UN official conducted in May 2021.
335 Principles of international law and justice underpin the purposes of the UN, which include maintaining peace and security as well as ‘promoting and encouraging respect for human rights and for fundamental freedoms.’ See art. 1 of the UN Charter, available at: https://www.un.org/en/about-us/un-charter/full-text
336 UN Doc A/HRC/19/68, 2012.
339 LFJL’s Perceptions of Justice Survey.
340 The LPA includes direct reference to law no. 29 of 2013 on transitional justice, which includes a highly problematic definition of transitional justice as applicable only to crimes committed under the Gaddafi regime, differentiated from the ‘simple’ incidents that occurred afterwards, violating the principle of equality and non-discrimination. The endorsement of such problematic law in an internationally recognised peace agreement increased the risk of such problematic provisions being elevated at the constitutional level. For a more detailed discussion on the subject see: Azza Maghur and Salah Al Marghani, ‘Transitional justice: evolutions, challenges, and ways forward in Libya’ February 2021.
341 UN Doc A/HRC/19/68, 2012.
concrete pathway to accountability. The only provision on justice generally required the Libyan state ‘to prosecute those accused’ of crimes, with no clear steps or mechanisms to monitor progress. Moreover, the agreement was later amended to accommodate demands that prevent Tawerghan victims from accessing redress mechanisms for the violations they suffered.

Recent efforts seemed more promising. In addition to nominal commitments to human rights and international law in its conclusion, the Berlin Conference set a framework for continued dialogue around a set of thematic tracks, including one dedicated to human rights and humanitarian law. This was an important sign of recognition that human rights and humanitarian law violations are a key area of concern. However, the organisation of political talks through parallel thematic discussions meant that human rights and accountability issues were largely discussed in isolation and omitted from the security and political tracks. Under such an approach, human rights and accountability concerns risk receiving tokenistic inclusion, without being meaningfully mainstreamed. As stated by a senior UN official:

“A lot of these discussions are done in silos. Human rights and accountability are not taken seriously enough. They are seen as something to mention, so it all becomes nice words, but how does it translate into practice? Human rights and accountability issues should be prioritised as a political issue. They should be a political priority.”

Similarly, the LPDF was successful in establishing a roadmap that included some key human rights demands, but failed meaningfully to mainstream human rights and accountability in its approach. This is reflected in the perception of some victims towards the LPDF, who expressed concerns that the process did not do enough to counter the culture of impunity in Libya in search of political concessions.

The LPDF’s approach to transitional justice provides an example of these shortcomings. The roadmap include the important objective to launch ‘a comprehensive national reconciliation process based on the principles of transitional justice’. However, it does not provide a clear transitional justice strategy, and uses terms such as ‘reconciliation’ and ‘amnesty’ without clear definitions, raising concerns that they might be misused to ensure further impunity. Libya’s existing legal framework on transitional justice presents several gaps and inadequacies, including the provision of amnesties for gross human rights violations and serious international crimes, contrary to international law and standards. The roadmap also mandated the establishment of a High Commission for Reconciliation, but this might not guarantee effective implementation as shown by the weak results of other state institutions previously established in Libya to tackle human rights and transitional issues.

As expressed by a civil society representative from Tawergha:

“It seems that transitional justice has turned into a dream. Victims continue to hear about it, but it has not become a reality in their lives for ten years.”

The lack of vetting for candidates for nomination to the interim authority provides another example of UNSMIL’s failure to integrate human rights and accountability standards in the LPDF process. Vetting candidates for public office, although not explicitly addressed by international legal instruments, is largely recognised as best practice in transitional contexts.

343 Ibid.
344 Ibid.
347 LFJL interview with a senior UN official conducted in May 2021.
348 UNSMIL, ‘Roadmap for the preparatory phase of a comprehensive solution’, available at: https://unsmil.unmissions.org/sites/default/files/lpdf_/roadmap_final_eng_0.pdf
351 UNSMIL, ‘Roadmap for the preparatory phase of a comprehensive solution’ Art. 1 (2.9), available at: https://unsmil.unmissions.org/sites/default/files/lpdf_/roadmap_final_eng_0.pdf
353 Maghur and Al Marghani, op. cit.
354 CSO participant at LFJL, closed roundtable on accountability, 30 June 2021.
355 ‘The Principles on the Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions and the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’ provide that persons who may be involved in extrajudicial, arbitrary, or summary executions, or in acts of torture or mistreatment, shall be ‘removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations’ (principles 15 and 3(b), respectively). ‘The Declaration on the Protection of All Persons from Enforced Disappearance’ provides that the alleged perpetrators of a forced disappearance must be suspended ‘from any official duties during the investigation’ into that crime (article 16). The ‘Updated Set of principles for the protection and promotion of human rights through action to combat impunity’ also provide that, as a means of guaranteeing the nonrecurrence of human rights, the state should remove from public institutions those officials and public servants responsible for gross human rights violations.
UNDP’s operational guidelines on Vetting Public Employees in Post-conflict Settings, for example, provide that ‘involvement in gross violations of human rights or serious crimes under international law should always disqualify a person from public employment’.356 Moreover, while it is crucial that vetting procedures follow due process, are non-discriminatory, and do not violate the presumption of innocence of vetted individuals, the standard of proof does not correspond to what would be required for criminal liability. In other words, ‘the absence of a judicial decision condemning an official of a crime does not prevent the official from being suspended from certain public functions or from being relieved of all official duties for the duration of the investigation’.357

These standards are not reflected in the eligibility criteria established by the LPDF, which only required candidates not to have been ‘convicted in a case of financial corruption or violation of human rights or international humanitarian law’, in addition to age and nationality requirements.358 Given the de facto suspension of Libya’s criminal justice system and limitations in international accountability efforts, the requirement for a ‘conviction’ makes the criterion meaningless. In practice it permits individuals subjected to investigations for gross human rights violations and serious international crimes, indicted by domestic or international courts (including the ICC) or designated for UN sanctions, to play leading roles in Libya’s attempted transition to peace.

This is particularly problematic from the perspective of victims who are asked to put their trust in officials who may be responsible for the violations they have suffered. Respondents to LFJL’s Perceptions of Justice Survey often stated that those responsible for Libya’s transition to peace should not be ‘the same ones who caused [the conflict] to happen’.359 This reflects a wider demand among Libyan communities to remove alleged perpetrators of human rights violations from positions of power.360 As one victim put it:

“What is the fate of those who have suffered violations, when the criminals take up government positions?”361

Stronger vetting standards, better transparency, and a higher commitment to accountability and due process would also have been beneficial for the integrity of the forum, which faced serious corruption allegations. Following reports of financial bribes allegedly offered to LPDF participants to influence their political choices, a number of CSOs called for UNSMIL to open a transparent investigation, and to exclude LPDF members and candidates for the interim executive – found to be involved in bribery – from the process.362 In March 2021, ahead of the LPDF nomination of the interim executive, similar corruption allegations emerged in a leaked PoE report.363 Confronted by a challenging situation, UNSMIL failed to follow a transparent process to respond.364

The process thus continued, and the selected Prime Minister of the interim authority, Abdulhamid Debeibah, was nominated despite allegations that LPDF members were bribed to support him.365 This risks undermining the legitimacy of the LPDF, reducing public trust in the process and reinforcing the perception that, even within multilateral frameworks that are supposed to put human rights and due process at their centre, no rules apply in Libya.

SUPPORTING LIBYAN INITIATIVES FOR PEACE AND JUSTICE

A crucial issue that requires better attention from foreign states and multilateral institutions seeking to support a successful transition to peace in Libya is the state of civil society. The work of civil society is vital for peace and justice, and a fundamental component of democracy. CSOs are important on several fronts, from tackling the drivers of violence and

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358 UNSMIL, ‘Chapter on Eligibility for Candidacy for the Executive Authority’, available at: https://unsmil.unmissions.org/sites/default/files/pdf/_eligibility_final_eng_0.pdf
360 LFJL’s Perceptions of Justice Survey.
channelling the voices of affected communities in peace initiatives, to ensuring information and participation around elections, and providing support for victims of violence and conflict. CSOs are also instrumental for accountability, as they work to document human rights and humanitarian law violations and preserve evidence that can support future domestic and international criminal proceedings.

In the space that opened during and immediately after the 2011 uprising, civil society and independent media flourish. However, persistent insecurity and repressive measures by Libyan authorities soon reversed the trend. Since 2016, increasingly stringent rules have been introduced to limit the work of civil society, including the GNA’s Decree 286 of 2019, which presents major obstacles to freedom of expression and association in Libya, including strict rules for the registration of CSOs, funding restrictions and surveillance of activities.366 Civic space has also been limited by the persistent harassment, attacks, arbitrary arrests, enforced disappearance and killing of human rights defenders and critical voices – all perpetrated with impunity.367 The GNU, whose primary task is to move the country towards elections, has not reversed such restrictions, which would be necessary for elections to be free and fair. Moreover, the abduction in June 2021 of Mansour Atti al-Maghrbi, head of the Libyan Red Crescent Society in Ajdabia and civil society activist, is a reminder of the dangers faced by civil society and human rights defenders.368

Against all odds, Libyan civil society continues to lay the groundwork for peace and justice. Organisations like Together We Build It, for example, have worked to empower women to participate in local level peace initiatives, while campaigning for women’s representation in formal peace processes.369 Similarly, the Tamazight Women’s Movement works to highlight intersectional gender issues among indigenous communities in Libya and to strengthen the resilience of CSOs working on women, youth, and an inclusive peace and security agenda.370 Other initiatives have also aimed to tackle the negative impacts of conflict in all its forms. The Libyan Centre for Freedom of Press, for example, has been working to counter the disastrous effects of Libya’s ‘information war’ through the establishment of ‘Falso’: a digital platform that monitors incidents of fake news and hate speech to better inform the public and promote a culture of accountability and professionalism among the media in Libya.371 Local CSOs advocating for victims, such as the Youth Gathering for Tawergha,372 are also playing a crucial role in providing a support network to affected families and documenting human rights violations on the ground.

Such work has partly been enabled by the support and funding provided by international actors that recognise the importance of civil society for a peaceful and stable Libya. More should be done. As explained by a CSO representative from Tawergha, “everyone turns to civil society in Libya, but they are asked to do far more than they have the capacity and resources to do.”373 Donor requirements are at times not aligned with the realities of CSOs on the ground. For example, official CSO registration or permission to operate is often set as a precondition to access funds, while this is often impossible or dangerous to obtain for independent CSOs working on sensitive peace-building, human rights and accountability issues.374 Moreover, the first and second Berlin Conferences failed to address the issue of the ongoing crackdown on civil society, despite its importance for the transition the Conference is meant to support.375 Equally, no mechanism to monitor the situation of civic space and a free civil society has been established.

Supporting Libyan initiatives for peace and justice by ensuring that civil society has the resources and space to function is an area where international actors can make a tangible positive difference for Libya. It is thanks to civil society’s tireless efforts that Libyans can hope to have a voice in the future of their country, and to see their demands for peace and justice fulfilled.

369 The website of Together We Build is available at: https://togetherwebuildit.org/ · https://togetherwebuildit.org/portfolio/women-inclusion-in-the-peace-process-at-municipalities-level/
370 Information on the Tamazight Women Movement is available at: https://www.euromedwomen.foundation/pg/en/profile/ermwf.twm
371 Falso’s website is available at: https://falso.ly/
373 Libyan human rights defender participating in a closed roundtable on accountability held by LFJL in June 2021.
374 CIHRS, 2019, op. cit.

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6. CONCLUSION

The last decade of international engagement in Libya, whether through military deployments to push geopolitical agendas, propaganda, or the pursuit of narrow security and economic interests, has exacerbated Libya’s conflicts at the expense of the people of Libya. This shift from flawed multilateralism to shameless unilateralism has coincided with the erosion of a shared multilateral framework based on human rights and humanitarian protection. If the *raison d’être* of the current multilateral framework centred around the UN is to maintain international peace and security in conformity with the principles of justice and international law, Libya risks becoming an example of the failure of multilateralism.

Eleven years after the multilateral momentum that led to a rare UNSC referral to the ICC, the many hopes raised risk turning into despair. Accountability, be it for Libyan factions killing, torturing, displacing and disappearing civilians, or for foreign actors intervening as they please, has become an unacknowledged victim of the conflict. While impunity has further fuelled violence and conflict, international attempts to guide Libya towards a transition to peace have been undermined by the very subordination of human rights, accountability and local voices to political expediency. When it comes to Libya, it seems that, with very few exceptions, nobody is ready to prioritise international standards, peace human rights – or the Libyan people.

Against all odds, the people of Libya still have the courage to claim a better future for their country. Whether protesting against degrading living conditions and corruption, organising to support victims, promoting women and youth participation in peace processes, or documenting abuses, people in Libya are tirelessly working to bring their grievances to the fore. Refocusing on the real needs and aspirations of the Libyan people is the only way for international actors to engage in Libya constructively and to help build a lasting peace. This includes recognising that human rights and accountability should go hand in hand with establishing security and stability in Libya.

People’s desire for human rights, justice and democracy sparked an uprising 11 years ago; it is time for their demands to be heard. Beyond the geopolitical calculations, security concerns and economic deals that bring foreign actors to the scene, what is at stake is the very survival of a rule-based international framework – and, above all, the lives and rights of all people in Libya.
7. RECOMMENDATIONS

As this report focuses on international actors’ engagement in Libya, recommendations for Libyan actors do not fall within its scope. However, Libyan authorities have the primary responsibility to respect and promote human rights, the rule of law, good governance and peace in the country. Detailed recommendations targeted at domestic actors have been made in other reports. Third states and multilateral institutions should encourage and support Libyan authorities to implement these recommendations, to comply with their obligations under international law, and to cooperate with international human rights and accountability mechanisms.

Third states and international institutions have a fundamental role to play in supporting Libya to embark on a long-term transition towards sustainable peace rooted in human rights, the rule of law, and good governance. To do so, states and international bodies need to commit to human rights and sustaining peace not only in words but also in practice. The five pillars and related recommendations set out below will help international actors take a different path from the one that has led them to witness, and at times contribute to, a decade of conflict, abuse and rampant impunity.

I. A principled multilateral approach to international engagement in Libya, rooted in international law and humanitarian law

- All UN member states must stop acting unilaterally in breach of UNSC resolutions on Libya and refrain from any activities that exacerbate the conflict, or that are inconsistent with the UNSC arms embargo imposed under resolution 1970 (2011) or the 23 October Ceasefire. This includes the sale or transfer of weapons and other military capabilities to Libya or third countries and companies reported to be militarily involved in Libya, the deployment of foreign forces, the financing of military capabilities, or the recruitment of foreign fighters and mercenaries.

- UN member states must back multilateral efforts aimed at supporting Libya to embark on a long-term transition towards sustainable peace rooted in human rights, the rule of law, and good governance. To do so, states and international bodies need to commit to human rights and sustaining peace not only in words but also in practice. The five pillars and related recommendations set out below will help international actors take a different path from the one that has led them to witness, and at times contribute to, a decade of conflict, abuse and rampant impunity.

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II. International standards and human rights obligations rooted in all foreign policies and programmes, including counter-terrorism and migration-related interventions

- States should conduct independent and transparent evaluations in their counter-terrorism efforts vis-à-vis their impact on affected communities, and;

- States should cease any counter-terrorism and security cooperation with armed groups, militias and security forces that are allegedly involved in human rights violations.

- The US must end its unilateral programme of lethal strikes outside recognised battlefields, including in Libya, support UN-led processes and mechanisms, and utilise its

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376 See for example: LFJL, FIDH, and ECCHR, op. cit.; LFJL, We will not be silenced: ‘Online Violence Against Women in Libya’ 2021; LFJL, July 2021, op. cit.; LFJL September 2020, op. cit.


379 In particular, article 21 of the Lisbon treaty requires the EU’s external action to be guided by principles of democracy, the rule of law, human rights and fundamental freedoms, human dignity, equality and solidarity, and respect for the principles of the United Nations Charter and international law.
diplomatic leverage to promote peace, democracy, the rule of law and human rights in Libya.

- EU institutions and member states, in particular Italy, should review and reform all policies of cooperation with Libya on migration and border management to ensure human rights-compliant terms. In particular, EU institutions and member states should; 380
  - Immediately suspend any existing agreement in relation to migration management policies that impact human rights negatively or exacerbate conflict, and refrain from entering new ones with the Libyan authorities until they provide sufficient guarantees to ensure that the human rights of refugees and migrants are protected in Libya;
  - Take immediate steps to investigate the impact of such agreements and arrangements on vulnerable communities and conflict dynamics in Libya and ensure that all such future agreements and arrangements with Libyan authorities comply with international human rights and humanitarian law;
  - Increase and improve access to safe and legal pathways for migrants and refugees to Europe.

III. Accountability for violations and crimes under international law committed in Libya by non-state actors, the Libyan state, as well as third states and their nationals

- Third states and relevant international and regional institutions should support Libya in rebuilding adequate and accessible domestic mechanisms to deliver accountability and redress to victims, including by:
  - Providing resourcing and expertise for legal and institutional reform in Libya to bring the legal and institutional framework in line with international law and standards;
  - Strengthening the capacity of the Libyan justice system through exchanges of knowledge and practice in line with international human rights law and standards;
  - Providing resourcing and expertise for supporting a victim-centred transitional justice process rooted in human rights and able to provide victims with accountability, truth, and reparations. In particular, the EU and its member states should implement the EU policy framework on support to transitional justice (2015). 381 The African Union (AU) and its member states should apply the AU transitional justice policy (2019). 382

- Third states should utilise extraterritorial, including universal, jurisdiction to hold perpetrators of international crimes committed in Libya to account, including by monitoring travel and tracing assets of relevant suspects, and by collecting evidence, including victim and witness statements, to build cases for prosecution.

- The UN and its member states should support the work of international independent investigative mechanisms, including by:
  - Extending the mandate of the FFM and providing the FFM with the necessary resources, including the staff and budget, to conduct effective and meaningful investigations, and;
  - Urging the GNU to fully cooperate and support the FFM and other international independent investigative mechanisms, including by providing unhindered access and support to their investigations throughout all of Libya.

- UN member states and the ICC should ensure that the Court plays a more relevant role in Libya to advance accountability:
  - States should support the ICC with all means possible to carry out its mandate in Libya, including executing arrest warrants, applying collective pressure on Libya and third-party states to surrender those named by ICC warrants, and making sure that the ICC has the resources it requires;
  - The ICC should actively exercise its jurisdiction over Rome Statute crimes committed in Libya, including crimes allegedly committed by nationals of third states within the country, and use the existing evidence to issue further arrest warrants as appropriate;
  - The ICC should improve outreach to victims, affected communities and other stakeholders to better engage Libyan stakeholders and explain its work in Libya and opportunities for victims to participate in ICC proceedings.

- States and international bodies with sanctions regimes such as the US and the UK, the EU and its member states, as well as the Libyan Sanctions Committee in line with

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380 For detailed recommendations to the EU and its member states in relation to their migration policy in Libya see: LFIL, FIDH, and ECCHR, op. cit., p. 48.


The UN and relevant member states should ensure that crimes committed in Libya are independently and thoroughly investigated, perpetrators held accountable, and victims provided with adequate redress.

States and international organisations should review alternative options and opportunities to deliver accountability and reparations to victims of gross human rights violations and serious international crimes committed in Libya, including the potential establishment of a special court for Libya.

IV. Libya’s transition to sustainable peace through an inclusive human rights-based approach towards stability, peace, justice and accountability

- The UN and its member states should ensure that human rights and humanitarian law considerations are mainstreamed throughout all tracks of the Berlin Conference. This should include identifying a clear timeline and benchmarks to measure any progress made in relation to the final conclusions put forth in the Berlin Conferences.

- The UN should initiate a transparent internal evaluation of its peace efforts in Libya vis-à-vis human rights standards to assess past efforts and ensure that its continued engagement in Libya is rooted in continuous learning.

- UNSMIL and any other actor supporting Libya’s transition should ensure inclusivity and local ownership of political and transitional processes, including effective information, representation and participation of women, youth, ethnic minorities, victims of human rights violations, and any other vulnerable group, in line with UNSC resolution 1325 and the UN mediation guidelines.

- The UN and its member states should support a victim-centred and human rights-based transitional justice process:
  - UNSMIL should support national actors to develop a clear strategy for transitional justice, in respect of human rights law and standards. Such a strategy should include adequate mechanisms to ensure the meaningful engagement of victims and affected communities; and it should be integrated in any military, political, or economic agreement or intervention;
  - States and relevant UN actors should support the effective implementation of a victim-centred and human rights-based transitional justice strategy, including through the provision of resources, technical assistance, expertise and training to the Reconciliation Committee and any other relevant mechanisms that may be established.
  - UNSMIL, in cooperation with national authorities, should actively encourage the integration of the UN operational guidelines on Vetting Public Employees in Post-conflict Settings in current and future processes for the selection of candidates for public office as well as in future security sector reforms.

V. Promotion and protection of civic space and the work of civil society

- The UN and its members states should work towards the protection of civic space in Libya and the promotion of the work of civil society by:
  - Calling on Libya to reform its legal framework to remove limits on freedom of expression, association and assembly to ensure that Libyan civil society can work effectively and safely;
  - Support the work of independent Libyan CSOs by providing funding, capacity-building, networking and expertise through flexible approaches that are tailored to the specific operating context in Libya;
  - Guarantee that members of civil society and human rights defenders have access to adequate protection mechanisms if they are threatened as a consequence of their work; and
  - Facilitate the integration of a free civil society into the Berlin Conference as one of the areas to be monitored by the process.
Lawyers for Justice in Libya

Lawyers for Justice in Libya is a Libyan and international independent non-governmental organisation and UK-registered charity. LFJL works on and in Libya with a growing network of lawyers, activists and grassroots communities across and outside the country. LFJL seeks justice in Libya through advocacy and outreach, accountability, transitional justice initiatives and capacity building, underpinned by independent research, which includes a particular focus on enforced disappearances, the protection of civic space, the rights of women and the rights of migrants and refugees. LFJL’s work is rooted in a rights-based approach: all engagement and policies must be founded on a human rights framework and ensure that individuals and communities can participate fully as a fundamental part of leading dignified lives.

Saferworld

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. We work with people affected by conflict to improve their safety and sense of security and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. Our priority is people – we believe in a world where everyone can lead peaceful, fulfilling lives, free from fear and insecurity. We are a not-for-profit organisation working in Africa, Asia and the Middle East.

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