Statement UPR Info Pre-session on Libya

Excellencies, Civil Society colleagues, Ladies and Gentlemen,

This statement is delivered on behalf of Lawyers for Justice in Libya (LFJL). LFJL is a UK-registered, Libyan organisation working to promote human rights, the rule of law and access to justice in Libya. We work with a network of lawyers, activists and grassroots communities across and outside the country towards achieving justice and restoring the rule of law in Libya. We do so through investigative research, advocacy and outreach, accountability, transitional justice initiatives and capacity building.

This statement addresses three main areas of concern in Libya: (1) the targeting of civilians in conflict, (2) enforced disappearances and (3) the situation of migrants and refugees. Despite our engagement with the Libyan authorities, with whom we have raised our concerns about these topics, the Libyan state did not consult us before submitting their national report for the purpose of the Universal Periodic Review (UPR).

1. Targeting of civilians in conflict

Since the Libyan Arab Armed Forces (LAAF) launched its offensive on the capital Tripoli in April 2019, the ensuing armed conflict has led to the death of hundreds of civilians in clear breach of international humanitarian law, with the death toll exceeding 310 civilians and injured close to 400 according to the UN Support Mission in Libya (UNSMIL).\(^1\) Despite accepting all 14 recommendations related to the respect of international humanitarian law in its 2015 UPR, the Libyan State has taken no measure to protect civilian life.

All parties to the conflict have been responsible for indiscriminate attacks which may amount to war crimes. Bombings and aerial strikes in densely populated areas continue to be carried out. Civilian objects including airports, schools, hospitals and ambulances have also been targeted while medical staff and students have either been killed or injured in the course of this conflict. Despite the UN arms embargo on

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Libya, foreign countries continue to export weapons which are used to either commit or facilitate the commission of serious violations of international humanitarian law in the country.

2. **Enforced disappearances**

Since 2011, enforced disappearances have been used as a tool to silence dissent or to target people based on their real or perceived political opinions or tribal origins in a widespread pattern across Libya. The Libyan State, or militias financed by the Libyan State, routinely abduct individuals from their homes, streets, checkpoints, or places of work. Victims of enforced disappearances are then held in unofficial places of detention with no contact with their families and no access to lawyers or judicial oversight, which places them outside the protection of the law.

Victims of enforced disappearances are usually subjected to torture and other ill-treatment to extract confessions. Periods of enforced disappearance reach up to two years while in other instances victims are extra-judicially killed with their bodies eventually found discarded in streets. UNSMIL estimated that thousands have been subjected to enforced disappearance across Libya since 2011. ²

During its 2015 UPR, Libya accepted all 11 recommendations to address the recurrence of torture and enforced disappearance and committed to investigate allegations of torture and enforced disappearance to bring those responsible to justice. However, enforced disappearances remain widespread, particularly since April 2019, with no accountability for the perpetrators.

Further, despite accepting seven recommendations to ratify the International Convention for the Protection of Persons from Enforced Disappearance (ICPPED) in its 2015 UPR, Libya has yet to do so. Further, laws governing the criminalization of torture and enforced disappearance fail to provide a definition of these crimes in line with international laws and standards. For example, Law 10 of 2013 on the Criminalization of Torture, Forced Disappearances, and Discrimination fails to provide a definition of enforced disappearances and torture in line with the definitions outlined in the ICPPED and the Convention Against Torture (CAT). Moreover, articles 26 and 187 bis (b) of the 1953 Code of Criminal Procedure facilitate enforced disappearances by allowing police and militias to hold detainees for a period reaching up to seven days outside of any judicial oversight.

3. **Human rights of migrants and refugees**

During its 2015 UPR, Libya accepted ten recommendations to protect the human rights of migrants and refugees in Libya. However, since then the situation of migrants and refugees has not improved as Libya has failed to adhere to the international standards guaranteeing their rights.

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Libyan law currently criminalizes irregular entry, stay and exit under Law 19 of 2010 on Combatting Irregular Migration, and remains silent on the right to asylum and refugee protection. Ultimately, migrants entering Libyan territory through irregular routes and/or without documents for identification are all considered criminal. This affects 654,081 migrants and refugees in Libya.³

Despite accepting recommendations to end the arbitrary detention of migrants in its 2015 UPR, Libya has maintained its system of automatic detention for those intercepted at sea. Since the resumption of the conflict in April 2019, conditions for migrants and refugees have further deteriorated as they find themselves at the risk of being hit by targeted and indiscriminate shelling. On 3 July 2019, the Tajoura detention centre near Tripoli was bombed by airstrikes, killing at least 53 people.⁴

Detention centres are controlled by armed groups, some of whom are affiliated with the governments in the west and the east. While the centres in the west are nominally under the control of the Directorate for Combatting Illegal Migration (DCIM) of the Government of National Accord (GNA), which falls under the Ministry of Interior, they are in fact run by GNA-affiliated militias operating with near autonomy. Although the DCIM ordered the closure of nine detention centres in 2018 and three more in 2019, none have seen permanent closure and still remain operational despite the continued human rights violations occurring in detention centres.⁵

During its 2015 UPR, Libya accepted six recommendations to improve conditions for all migrants and refugees and to end torture and ill-treatment of all persons detained. However, Libya has made limited progress, if any, in improving the condition of migrants and refugees in detention centres. In these detention centres, LFJL’s partners have documented human rights abuses including arbitrary detention, torture, sexual exploitation and forced labour. They have also reported on horrid physical conditions including overcrowding, a lack of access to running water and poor hygiene, which has resulted in severe malnourishment and the rapid spreading of diseases.

Suggested recommendations

We call on Libya to:

Targeting of civilians in conflict

1. Guarantee the protection of all civilians and civilian objects from attacks and ensure that those responsible for violations of international humanitarian law are held accountable;
2. Support the investigations by the International Criminal Court (ICC) into possible war crimes and crimes against humanity, as required by UN Security Council Resolution 1970 (2011);

⁴ UNSMIL/OHCHR, The airstrikes on the Daman building complex, including the Tajoura Detention Centre, 2 July 2019, p.3.
**Enforced disappearances**

3. Refrain from using enforced disappearances; immediately release all people detained incommunicado and bring those responsible to justice;

4. Amend Law 10 of 2013 to bring it into line with international standards on enforced disappearance and torture;

5. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance; amend laws governing enforced disappearance to bring it in line with international laws and drop all laws paving the way or facilitating enforced disappearance;

**Human rights of migrants**

6. Immediately end the policy of automatic detention for irregular migrants;

7. Decriminalize irregular movement by amending Law 19 of 2010 and review its national migration and asylum policies with a view to bring them in line with the Convention against Torture as well as the Convention on the Rights of the Child, particularly with regard to conditions of detention;