

# Report

## Libya: Judiciary and Security Sector

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## **DISCLAIMER**

This report is written by country analysts from Belgium, the Netherlands, Norway and Sweden. It covers topics that are relevant for status determination of Libyan and non-Libyan citizens whose asylum claims are based on the situation in Libya. The target audience is case workers/officers within the decision-making authorities handling asylum claims as well as policy makers in the four countries.

The report is based on carefully selected and referenced sources of information. To the extent possible and unless otherwise stated, all information presented, except for undisputed or obvious facts, has been cross-checked.

While the information contained in this report has been researched, evaluated and analysed with utmost care, this document does not claim to be exhaustive, neither is it conclusive as to the determination or merit of any particular claim to refugee status or asylum. Terminology used should not be regarded as indicative of a particular legal position.

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The research for this report was finalised in November 2014 and any event or development that has taken place after this date is not included in the report.

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## 1. INTRODUCTION

This report is a result of a cooperation project between the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) in Belgium, the Country of Origin Information Unit of the Ministry of Foreign Affairs in the Netherlands, the Office for Country Information and Language Analysis (OCILA) of the Ministry of Security and Justice in the Netherlands, Landinfo in Norway and Lifos in Sweden.

The purpose of the project is to present information on the current situation in Libya on selected topics, and is intended to serve the information needs for the assessment of asylum and immigration cases, as well as issues concerning the return of rejected applicants to Libya.

The topics in focus are described in six different reports:

- Security Situation
- Vulnerable Groups
- Militias, Tribes and Islamists
- Judiciary and Security Sector
- Nationality, Registration and Documents

Some issues will be covered in more than one report, as they are interrelated and necessary for the context.<sup>1</sup> In the reports we make use of a transcription scheme for words and names from Arabic to English.<sup>2</sup>

Since the end of the former regime, there has been much focus on the political development and the security situation in the country, reflected both in media coverage and reports and commentaries published by think tanks, NGO's, aid agencies and other actors. However, despite a large flow of information coming out of Libya, there is a substantial lack of systematic reporting on most issues. When writing reports on the situation in Libya, the main challenge is to identify patterns in the plethora of anecdotal information. An additional challenge when reporting on issues that concern immigration and asylum authorities in European countries, is that these issues do not necessarily receive a lot of coverage at all, not even from other actors with a focus on the human rights situation.

The project mainly relies on written information from open sources. Additional information was gathered through contact with expert sources on Libya during the autumn of 2014. All quoted sources are provided in the sourced list. Some sources have asked to remain anonymous for reasons of security.

The reporting period is 1 October 2013 until 1 December 2014.

This report will focus on the judiciary and the security sector in Libya. The information was mainly gathered from open sources (see section 7.1, written sources). In addition, interviews were conducted with different kinds of Libya experts. Chapter two focuses on the current Libyan governmental structure and the challenges Libya faces in order to institutionalise a functioning central authority. In chapter three a description is given of Libya's position concerning relevant international human rights treaties and of

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<sup>1</sup> Cross references between the project reports will refer to *Libya: Security Situation*, *Libya: Vulnerable Groups*, *Libya: Militias, Tribes and Islamists*, *Libya: Judiciary and Security Sector* and *Libya: Nationality, Registration and Documents*.

<sup>2</sup> Sada, *Sada transliteration system for Arabic*, no date.

Libya's relevant human rights related legislation. Chapters four and five will go deeper into the judiciary and the security system structures of Libya respectively.

## 2. GOVERNMENT

The judiciary and security sectors in any country are closely related to the functioning or non-functioning of a government and its institutions. Since the ending of the regime of Muammar Qadhafi, Libya has struggled to install an effective governmental structure and properly working institutions. State structures were eroded by Qadhafi by his allocating military and security power outside state institutions and by his marginalising the status of the constitution.<sup>3</sup> In order to give some insight in the difficult governmental and political conditions in which the judiciary and the security sector in Libya will have to develop, the next paragraphs will go further into the current government structure and the governmental challenges Libya faces today.

### 2.1 The Issue of the Current Libyan Government

In August 2012 the National Transitional Council (NTC), the main opposition group during the 2011 uprising and Libya's de facto parliament after the ousting of Colonel Muammar Qadhafi, handed over power to the newly elected transitional parliament, the General National Congress (GNC).<sup>4</sup> In June 2014 elections for a new parliament were held (the House of Representatives – HoR). After a low turn-out during the elections (only 42 % of 1.5 million registered voters actually voted<sup>5</sup>), the liberals defeated the islamists who dominated the former parliament, the GNC.<sup>6</sup> In the following months a coalition of militias under the name of Libya Dawn (Fajr Libya, dominated by militias from Misrata) seized control over Tripoli and proclaimed a continuation of the GNC, the Salvation Government (SG), thus leaving the country with two parliaments: the officially elected HoR, and an unofficial opposing one. The newly and officially elected parliamentarians took refuge in Tubruq, in the eastern part of Libya; in territory controlled by the former general Khalifa Haftar, whose aim it is to rid the country of islamist and terrorist groups.<sup>7</sup> The original plan was to locate the government administration in Benghazi, but that appeared impossible due to the unstable situation and frequent clashes between militias belonging to Haftar and islamist militias.<sup>8</sup>

The two governmental camps are each aligned to armed forces and both claim legitimacy, with their own parliaments, prime ministers and governments. Both governments dispute each other's decisions. Several sources have indicated that both camps need to establish some form of cooperation and negotiation in order to establish

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<sup>3</sup> The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

<sup>4</sup> BBC News, *Libya Profile*, no date.

<sup>5</sup> The total population in Libya is just over 6 million people, cf. CIA, *CIA World Factbook Libya*, 20 June 2014.

<sup>6</sup> Libya Business News, *Liberals Defeat Islamists in Libyan Elections*, 22 July 2014.

<sup>7</sup> New York Times, *Libyan Militias Seize Control as Chaos Rises*, 1 September 2014; UN News Center, *Recent Libya Fighting 'Unprecedented in Gravity' Warns Outgoing UN Envoy*, 27 August 2014; Libya Analysis, *Stalemate or Calm Before the Return of the Storm?*, 9 September 2014.

<sup>8</sup> Aljazeera, *Deadly Fighting Erupts in Libya's Benghazi*, 2 June 2014.

functioning and stable judicial and security structures.<sup>9</sup> However, both sides have up until now pursued a policy of differentiation, rather than a policy of cooperation.<sup>10</sup> The international community has so far predominantly talked with representatives of the HoR. In October 2014 US Secretary of State John Kerry pledged continued support to Libya's elected government after a meeting with Libya's Minister of Foreign Affairs Muhammad al-Dairi.<sup>11</sup> On 6 November, however, the Supreme Court of Libya declared the HoR illegitimate (see section 2.1.1), leaving its international allies hesitant to further express their full support.<sup>12</sup> Since the ruling it has become unclear which government can claim legitimacy.<sup>13</sup>

On 29 September 2014, members of the HoR and members of the opposing SG in Tripoli met to commence peace talks under the surveillance of the United Nations Support Mission in Libya (UNSMIL). The talks were rejected by the Islamist militias of Libya Dawn and by Libya's Grand Mufti, Shaykh Sadiq al-Gharyani. (Gharyani had already sided with the Misrata-based Islamist militias of Libya Dawn). Libya Dawn was not invited to attend the peace talks. The participants called for a general ceasefire, the re-opening of airports and addressing humanitarian needs on both sides as confidence building measures.<sup>14</sup>

A brief outline of both rivaling governmental 'camps' is given below.

### 2.1.1 The Elected Parliament: the House of Representatives

The officially elected Libyan parliament, the House of Representatives (HoR) in Tubruq, struggled to form a cabinet after the elections due to internal disagreements. After several attempts, Prime Minister Abdullah al-Thinni's government was finally approved of by the HoR on 22 September 2014. Al-Thinni had been Prime Minister from March 2014 onwards,<sup>15</sup> but resigned at the end of August to allow for government talks.<sup>16</sup> He was reappointed on 1 September 2014 and asked to form a national government.<sup>17</sup> The new government headed by al-Thinni was sworn in by the HoR on Sunday 28 September 2014.<sup>18</sup> The government in Tubruq is allied with the retired general Khalifa Haftar, whose anti-Islamist mission is called Operation Dignity (Amaliyyat al-Karama). Operation Dignity is carried out by a coalition of eastern tribes, federalists and disaffected military units. The Tubruq government consists partially of supporters of Operation Dignity. While the government in Tubruq is largely recognised

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<sup>9</sup> Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014; Libyan Law Professor, meeting in the Netherlands, 23 September 2014.

<sup>10</sup> Middle East Eye, *Desperately Seeking in Libya: Outside Mediation*, 23 September 2014.

<sup>11</sup> Middle East Eye, *Desperately Seeking in Libya: Outside Mediation*, 23 September 2014; Reuters, *Tripoli's New Rulers Take Over Libya Government, Oil Company Websites*, 14 October 2014.

<sup>12</sup> Libya Analysis, *Post Supreme Court Uncertainty Continues in Divided Libya*, 19 November 2014.

<sup>13</sup> UNSMIL, telephone interview 12 November 2014; Mangan, F., United States Institute of Peace (USIP), telephone interview, 19 November 2014.

<sup>14</sup> Oxford Analytica, *Libya Faces Long Road to a Lasting Political Deal*, 1 October 2014; Al-Arabiya, *Libyan Islamists Reject U.N.-led Peace Talks*, 30 September 2014.

<sup>15</sup> He succeeded Ali Zaydan, who was removed out of office after a vote of non-confidence because he failed to disarm the militias. Zaydan fled the country hours afterwards.

<sup>16</sup> Aljazeera, *Libya's Former PM Zeidan Flees Country*, 12 March 2014.

<sup>17</sup> Reuters, *Libya's Parliament Approves New Government*, 22 September 2014; Reuters, *Libya's Government Resigns to Allow Parliament to Form New Cabinet*, 28 August 2014.

<sup>18</sup> Libya Herald, *Abdullah Al-Thinni's Government Sworn by HoR*, 28 September 2014.

internationally, it has little power in Libya and has hardly any control over the ministries and state institutions in Tripoli.<sup>19</sup> On 6 November 2014 Libya's Supreme Court (see section 4.2.1) declared the HoR unconstitutional. The ruling, which was televised in Libya, stated that the preparatory election law committee had violated Libya's provisional constitution.<sup>20</sup> According to UNSMIL, the HoR felt that the Supreme Court faced pressure from Libya Dawn to rule against the HoR and that the ruling further deepened the gap between the two governing camps.<sup>21</sup> The HoR declared to reject the ruling and continue with its work.<sup>22</sup>

### 2.1.2 Operation Libya Dawn and the 'Salvation Government'

In July 2014 groups, dominated by Islamist militias from Misrata, launched Operation Libya Dawn (Amaliyyat Fajr Libya) in reaction to Haftar's Operation Dignity. After fierce fighting with militias from the western city of Zintan, Libya Dawn seized control over Tripoli's airport and governmental buildings.<sup>23</sup>

According to the Islamist groups of which Operation Dawn is comprised, the goals of the movement are to "correct the path of the Qadhafi regime" and to bolster a stable and secure state. Their implicit goals are to defend the military presence of Islamist groups in Libya linked to the Muslim Brotherhood,<sup>24</sup> to restore the General National Congress, which they see as the only legitimate governing body, and to bolster political Islam in the region.<sup>25</sup>

Consequently, Libya Dawn has set up a self-declared GNC II in Tripoli. This rivaling government, which calls itself the Salvation Government (SG) was sworn in by the GNC II on 6 September 2014 and is headed by Prime Minister Umar al-Hassi.<sup>26</sup> On 18 September 2014, Libya Dawn spokesman Ahmad Hadiya stated that a security branch had been launched in Tripoli to secure Tripoli and its administration buildings and that it would be safe for diplomatic missions and businesses to return.<sup>27</sup> In October 2014, the SG took over the websites of the ministries and state oil company National Oil Corp.<sup>28</sup>

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<sup>19</sup> Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014; Digital Journal, *Libya Has Now Two Competing Governments*, 7 September 2014; Reuters, *Libyan Parliament Reappoints PM as Government Loses Grip on Ministries*, 1 September 2014.

<sup>20</sup> Reuters, *Libya Faces Chaos as Top Court Rejects Elected Assembly*, 6 November 2014; UN News Centre, *Libya: UN Studying Supreme Court Ruling Against Parliament, Calls for Political Consensus*, 6 November 2014.

<sup>21</sup> UNSMIL, telephone interview, 12 November 2014.

<sup>22</sup> Libya Analysis, *Post Supreme Court Uncertainty Continues in Divided Libya*, 19 November 2014; UNSMIL, telephone interview, 12 November 2014.

<sup>23</sup> Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014; Digital Journal, *Libyan Parliament Rejects Prime Minister's Proposed Cabinet*, 20 September 2014; Reuters, *Tripoli's New Rulers Take Over Libya Government, Oil Company Websites*, 14 October 2014.

<sup>24</sup> Since the Muslim Brotherhood was outlawed in Egypt and lost influence in Tunisia, many adherents to the Libya Dawn movement see Libya as the last possible hub for the Brotherhood to exercise influence in the region.

<sup>25</sup> Al-Arabiya Institute for Studies, *Libyan Dawn: Map of Allies and Enemies*, 25 August 2014.

<sup>26</sup> Al-Hassi had been Speaker for the GNC I.

<sup>27</sup> Libya Herald, *Libya Dawn Says Tripoli Secure, Expats Safe to Return*, 19 September 2014.

<sup>28</sup> Reuters, *Tripoli's New Rulers Take Over Libya Government, Oil Company Websites*, 14 October 2014.

### 3. INTERNATIONAL TREATIES AND NATIONAL LEGISLATION

#### 3.1 International Treaties and Protocols

According to the website of the United Nations Office of the High Commissioner for Human Rights (OHCHR), Libya has ratified the following international treaties:<sup>29</sup>

- Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment (CAT, 16 May 1989)<sup>30</sup>
- International Covenant on Civil and Political Rights (CCPR, 15 May 1970)<sup>31</sup>
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 16 May 1989)
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD, 3 July 1968)
- International Covenant on Social, Economic and Cultural Rights (CESCR, 15 May 1970)
- International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (CMW, 18 June 2004)
- Convention on the Rights of the Child (CRC, 15 April 1993).<sup>32</sup>

Libya is also a party to the African Charter on Human and People's Rights and has ratified the Protocol establishing the African Court for Human and People's Rights.<sup>33</sup> Libya has signed (but so far not ratified) the Convention on the Rights of Persons with Disabilities (CRPD, 1 May 2008).<sup>34</sup>

Libya has not signed the 1951 UN Convention Relating to the Status of Refugees.

Libya ratified the African Union Convention Governing Specific Aspects of Refugee Problems in Africa on 25 April 1981.<sup>35</sup>

Libya is not a state party to the UN Rome Statute of the International Criminal Court (ICC). Currently the ICC is dealing with one single Libyan case concerning Qadhafi's son, Sayf al-Islam al-Qadhafi. Sayf al-Islam was charged (as of 27 June 2014) as indirect co-perpetrator of two crimes against humanity: murder and persecution.<sup>36</sup> Sayf al-Islam is currently held in a militia-run prison in the Zintan region.<sup>37</sup>

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<sup>29</sup> OHCHR, *Libya*, no date; UNSMIL/OHCHR, *Overview of Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya*, 4 September 2014.

<sup>30</sup> Libya has not signed or ratified the Optional Protocol (CAT-OP).

<sup>31</sup> Libya has not signed or ratified the second Optional Protocol to the CCPR, aiming at the abolition of the death penalty.

<sup>32</sup> Libya ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (CRC-OP-CP) on 18 June 2004 and on the Involvement of Children in Armed Conflict (CRC-OP-AC) on 29 October 2004.

<sup>33</sup> UNSMIL/OHCHR, *Overview of Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya*, 4 September 2014.

<sup>34</sup> OHCHR, *Libya*, no date.

<sup>35</sup> African Commission on Human and People's Rights (ACHPR), *Ratification table: AU Convention Governing Specific Aspects of Refugee Problems in Africa*, no date.

<sup>36</sup> ICC, *ICC-01/11-01/11/ The Prosecutor v. Saif al-Islam Gaddafi*, no date.

<sup>37</sup> Aljazeera, *Saif al-Islam Appears before Libya Court*, 11 May 2014.

The case of former intelligence colonel of the armed forces during the Qadhafi regime, Abdullah al-Sanussi, was dismissed by the ICC on 24 July 2014,<sup>38</sup> transferring the case back to the Libyan court after al-Sanussi appealed the trial in Tripoli.<sup>39</sup> The declaration of inadmissibility by the Court in The Hague led to concern among human rights organisations because of the weak state of the judiciary in Libya at present, which causes many detainees to be cut off from basic process rights.<sup>40</sup>

## 3.2 National Legislation

It is important to underline that since the ousting of Qadhafi in the fall of 2011, there have been many difficulties with regard to the enactment of legislation due to the unstable situation. Attempts to reform legislation have to a large extent been halted by the violence in many parts of Libya. Most of the legislation which was used during the reign of Qadhafi remains in force. Article 35 of the Constitutional Declaration stipulates that all existing legislation (i.e. legislation of the Qadhafi era) remains valid until amended or abolished, insofar that it is not contradictory to the Constitutional Declaration.<sup>41</sup> Furthermore it should be noted that Libyan legislation in the past has proven to be self-contradictory, and that it is often unclear which legislation is used in practice (a myriad of rules and laws are used in Libya). This is partly caused by the use of traditional mediation practices, which do not take legislation into consideration.

Below, an enumeration is given of relevant current Libyan legislation, chronologically listed by date of adoption.

### 3.2.1 The Constitutional Declaration

The currently valid constitutional document in Libya is the Constitutional Declaration, which was drawn up by the NTC in 2011, after Qadhafi's ousting, and adopted on 3 August 2011. The Declaration describes the process of the rebuilding of the democratic Libyan state. Based on article 34 of the Declaration, all *constitutional* documents and laws which had been adopted prior to the adoption of the Declaration were revoked. Based on the Constitutional Declaration, the successor to the NTC, the General National Congress, was assigned to initialise a Constitutional Committee within 30 days after its first assembly. However, two days before its expiry on 7 July 2012, the NTC adopted an amendment to the Declaration (Amendment no. 3), that the Constitutional Committee should be elected by the Libyan people. Furthermore the Declaration stipulated that the Constitutional Drafting Committee should consist of 60 members: 20 representatives from each of the three major regions in Libya (Tripolitania, Cyrenaica and Fezzan).<sup>42</sup>

According to the Constitutional Declaration, Libya is an independent democratic state based on political pluralism and democratic institutions. According to article 1, Islam is the state religion and Islamic sharia is the main source of legislation.<sup>43</sup> In December

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<sup>38</sup> The ICC declared the case inadmissible because of a pre-existing Libyan case.

<sup>39</sup> *ICC-01/11-01/11 The Prosecutor v. Saif al-Islam Gaddafi*, no date; The Guardian, *International Criminal Court Backs Libyan Trial of Spy Chief Al-Senussi*, 24 July 2014.

<sup>40</sup> Amnesty International, *ICC Decision to Allow Abdallah al-Senussi to Stand Trial in Libya 'Deeply Alarming' Amidst Overwhelming Security Vacuum*, 24 July 2014; Human Rights Watch, *Libya: ICC Judges Reject Sanussi Appeal*, 24 July 2014.

<sup>41</sup> For a translated version, see Constitute Project, *Libya's Constitution of 2011*, no date.

<sup>42</sup> The same procedure was followed during the drafting of the constitution after the independence in 1951. For developments concerning the constitution-drafting committee, see section 3.3.4.

<sup>43</sup> Constitute Project, *Libya's Constitution of 2011*, no date, preamble and article 1.

2013, the GNC voted to make sharia the foundation of all legislation and all state institutions.<sup>44</sup>

### 3.2.2 The Law on Amnesty

On 2 May 2012 the National Transitional Council passed the controversial Law on Amnesty,<sup>45</sup> which granted immunity to anti-Qadhafi forces who committed crimes during the course of the revolution. Those crimes include offences like murder and forced displacement.<sup>46</sup> The law literally states that there shall be no penalty for military, security, or civil actions dictated by the February 17 Revolution that were performed by revolutionaries with the goal of promoting or protecting the revolution.<sup>47</sup> In conjunction with the Law on Amnesty, Law no. 35 was adopted, which stipulates that criminal acts that are punishable under international human rights legislation are not exempt from prosecution. The weakness of the judiciary in Libya, combined with possible contradictions between these laws, resulted during the reporting period in a general lack of governmental legal actions against serious human rights violations, including those committed during the 2011 uprising.<sup>48</sup>

### 3.2.3 The Law on Torture, Enforced Disappearances and Discrimination

In April 2013, the General National Congress adopted a law concerning the criminalisation of torture, enforced disappearances and discrimination.<sup>49</sup> Although the international community welcomed the adoption of a law that addresses these most serious crimes, there were concerns about the alignment of the law with the UN Convention Against Torture and Other Inhuman or Degrading Treatment or Punishment (UNCAT), to which Libya is a state party.<sup>50</sup> In practice the law has not been applied. Torture and abuse were widespread in the reporting period, for instance in detention centres, state-run as well as militia-run (see sections 4.5.3 and 4.7). Enforced disappearances caused by armed groups without government control frequently occurred. Cases of abductions were not properly investigated by the authorities and perpetrators were not brought to justice.<sup>51</sup>

### 3.2.4 The Political Isolation Law

On 5 May 2013 the GNC passed the Political Isolation Law (PIL). The law, which is officially called Law no. 13 of 2013 on Political and Administrative Isolation, aims at preventing anyone who is deemed to have been previously associated with the Qadhafi

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<sup>44</sup> Aljazeera: *Libya Assembly Votes for Sharia Law*, 4 December 2013.

<sup>45</sup> Law no. 38 of 2 May 2012, officially called 'On Some Procedures for the Transitional Period'. The law went into force on 12 May 2012.

<sup>46</sup> Gazzini, C., *Libyan Justice*, East 46, March/April 2013.

<sup>47</sup> Human Rights Watch, *Libya: Amend new Special Procedures Law*, 10 July 2012.

<sup>48</sup> Human Rights Watch, *Libya's Justice Pandemonium*, 14 April 2014; US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>49</sup> Law no. 10 of 2013 on Criminalising Torture, Enforced Disappearances and Discrimination.

<sup>50</sup> Lawyers for Justice in Libya (LFJL), *The New Libyan Law Criminalising Torture, Enforced Disappearances and Discrimination: A First Step, But More Is Needed*, 25 April 2013; UNSMIL/OHCHR, *Overview of Violations of International Human Rights and Humanitarian Law during the Ongoing Violence in Libya*, 4 September 2014.

<sup>51</sup> Alkarama, *Libya: Two Victims of Enforced Disappearance Reappear and Describe the Conditions of Detention and the Torture Practiced in Libyan Prisons*, 26 June 2014; US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

regime and anyone “who took a position against the 17 February Revolution in deed, by incitement or by financial support”<sup>52</sup> from holding public office or posts in government for a period of 10 years.<sup>53</sup> The law came into force on 5 June 2014.<sup>54</sup> By means of an amendment to the PIL,<sup>55</sup> decisions in accordance with the law cannot be appealed to the Supreme Court.<sup>56</sup> In practice, the law can be used by the Libyan authorities as a tool against anyone who can be associated with the former regime, even if they defected earlier and played an important role in the uprising against Qadhafi that followed.<sup>57</sup> Broadly, the law is seen by scholars and think-tanks as an instrument with a divisive effect, while the UN and relevant organisations like Lawyers for Justice in Libya urge Libyan authorities to adopt a reconciliatory approach.<sup>58</sup> According to the European Think tank for Global Action (FRIDE), the law allows for a selective, arbitrary and politically motivated use of it, as the reach of the PIL is not limited to those who committed criminal acts during the Qadhafi era.<sup>59</sup>

On 31 December 2013, the district city court of Tripoli sentenced political commentator Jamal al-Hajji to eight months in prison with labour and to a fine of 400,000 Libyan dinars (more than € 243,000) on a conviction of defamation. Al-Hajji had made critical remarks concerning the PIL on al-Wataniyya, Libya’s state television channel.<sup>60</sup>

The passing of the bill was heavily debated. In April and May 2013, armed militias demonstrated before the Ministry of Justice and the Ministry of Foreign Affairs in favour of the passing of the law. Many militia members consider the current powers in Libya still to bear the legacy of the Qadhafi regime and want everyone who can be related to that regime, however vaguely, to be removed from the political arena.<sup>61</sup>

Even considering the fact that the Supreme Court in Libya has yet to make a final ruling on the constitutionality of the PIL, it still influences judicial processes and casts its shadow over Libyan politics.<sup>62</sup> The law effectively banned influential politicians like Mahmud Jibril (former head of the National Planning Council of Libya and of the

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<sup>52</sup> PIL article 18, see Libya Herald, *Political Isolation Law: the full text*, 14 May 2014.

<sup>53</sup> Lawyers for Justice in Libya, *Political isolation which violates human rights must be applied with restraint*, 6 June 2013; PIL article 18, see Libya Herald, *Political Isolation Law: the full text*, 14 May 2014.

<sup>54</sup> Foreign Policy, *Libya’s politicians duke it out with the Supreme Court*, 16 April 2013; Lawyers for Justice in Libya, *Lawyers for Justice in Libya condemns the GNC’s amendments to Libya’s Constitutional Declaration*, 17 April 2013, Human Rights Watch, *Priorities for human rights reform – A human rights roadmap for a new Libya*, 21 January 2014.

<sup>55</sup> Amendment via law no. 28 of 2013.

<sup>56</sup> Appeals to decisions based on the PIL can go as far as the Court of Appeal (UNSMIL unofficial translation of law 28/201, article 1).

<sup>57</sup> The law is broadly categorised under *lustration laws*: laws aiming at purging governments of officials of former, denounced regimes, similar to the de-Ba’athification law in Iraq.

<sup>58</sup> Brookings Doha Center/Stanford University, *Personnel Change or Personal Change? Rethinking Libya’s Political Isolation Law*, March 2014; Justice in Conflict, *Libya’s Political Isolation Law: Politics and Justice, or the Politics of Justice?*, 6 February 2014; Lawyers for Justice in Libya, *Lawyers for Justice in Libya Condemns the GNC’s Amendments to Libya’s Constitutional Declaration*, 17 April 2013.

<sup>59</sup> European Think tank for Global Action (FRIDE), *Truth and Reconciliation? Transitional Justice in Egypt, Libya and Tunisia*, March 2014.

<sup>60</sup> Human Rights Watch, *Libya: UPR Submission September 2014*, 16 September 2014.

<sup>61</sup> Human Rights Watch, *Priorities for Human Rights Reform – A Human Rights Roadmap for a New Libya*, January 2014; Brookings Doha Center/Stanford University, *Personnel Change or Personal Change? Rethinking Libya’s Political Isolation Law*, March, 2014.

<sup>62</sup> Libyan Insider, *Libya: The final nail*, 6 November 2014.

National Economic Development Board of Libya), Mustafa Abd al-Jalil (a former minister of justice under Qadhafi) and Muhammad Maqarif (a former ambassador to India and former president of the General National Council) from public office, although they defected from the Qadhafi regime at early stages and in fact played important roles in the uprising of 2011.<sup>63</sup> Mahmud Jibril warned after the passage of the law that the PIL would affect almost half a million people in Libya, mainly in government employment, which would destroy governing structures in Libya.<sup>64</sup>

### 3.2.5 The Transitional Justice Law

On 22 September 2013, the GNC adopted a Law on Transitional Justice (LTJ).<sup>65</sup> The law was meant as a replacement for the Law on Transitional Justice, issued by the National Transitional Council on 26 February 2012.<sup>66</sup> Despite its passing, the LTJ has so far not been implemented in practice. The volatile situation in Libya and the existence of two rivaling parliaments (see section 2.1) caused a halt to almost all judicial developments in Libya and prevented transitional legislation from being implemented.<sup>67</sup> An important provision in the LTJ is that the law requires all detainees that are held without judicial process to be handed over to the central authorities within 90 days of the promulgation of the law.<sup>68</sup> Coinciding with the promulgation, four senior members of the Warfalla tribe who were held custody without charge or trial in Zawiyah were released, but most prisoners are still in detention facilities spread over Libya without being screened considering the legal basis for their arrest.<sup>69</sup> The LTJ envisions a Fact Finding and Reconciliation Commission and a Compensation Fund for victims of the Qadhafi regime and of the 2011 uprising (see sections 3.3.1 and 3.3.2).<sup>70</sup>

## 3.3 Relevant Legislative Developments

### 3.3.1 The Fact Finding and Reconciliation Commission

The Fact Finding and Reconciliation Commission (FFRC) will be tasked with the collection of information on severe and systematic human rights violations committed under the former regime and since its fall. The work of the Commission will, among other issues, focus on the provision of concrete support for victims of human rights violations and on monitoring the situation of hundreds of thousands internally

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<sup>63</sup> Justice in Conflict, *Libya's Political Isolation Law: Politics and Justice, Or the Politics of Justice?*, 6 February 2014.

<sup>64</sup> Brookings Doha Center, *Reconstructing Libya: Stability Through National Reconciliation*, December 2013.

<sup>65</sup> Law no. 29 of 2013 'On Transitional Justice'.

<sup>66</sup> Human Rights Watch, *Priorities for Human Rights Reform – A Human Rights Roadmap for a New Libya*, January 2014.

<sup>67</sup> United States Institute of Peace (USIP), *Security and Justice in Post-revolution Libya: Where to Turn?*, September 2014; Libyan Law Professor, meeting in the Netherlands, 23 September 2014.

<sup>68</sup> The law was de facto promulgated (published, proclaimed) in the week of 8 December 2013.

<sup>69</sup> Reliefweb, *Zawiyah Releases, Transitional Justice Law Important Steps in Path Towards Justice and Reconciliation*, 8 December 2013; UNSMIL/OHCHR, *Torture and Deaths in detention in Libya*, October 2013; Libyan law professor, meeting in the Netherlands, 23 September 2014; Mangan, F., USIP, telephone interview, 19 November 2014.

<sup>70</sup> The FFRC is envisioned within the scope of the LTJ. No Peace Without Justice, *Libya: NPWJ Organises a Meeting on the Transitional Justice Law and its Mechanisms*, 30 April 2014.

displaced persons in Libya.<sup>71</sup> The application process of the commissioners for the Reconciliation Commission was well underway, but work was left uncompleted just before the election of the House of Representatives in June 2014. UNSMIL assists the newly elected HoR in the completion of Commission. According to UNSMIL, the FFRC is not operational at the time of writing.<sup>72</sup>

### 3.3.2 The Compensation Fund

The Transitional Justice Law also provides for a Compensation Fund for victims of the Qadhafi regime and the conflict. In February 2014 then Minister of Justice, Salah al-Marghani, stated that rape victims of the Qadhafi regime will be compensated and that benefits for other war victims may include medical care and financial assistance among other things.<sup>73</sup> It is not clear, however, when in practice compensation will be granted and if the Minister referred to the compensation provision as described in the LTJ. According to UNSMIL, the Compensation Fund for victims is not functioning at the time of writing.<sup>74</sup>

### 3.3.3 Legislation Review Committee

Since December 2013, a Tripoli based Review Committee, under the supervision of the Ministry of Justice, is entrusted with the task of reviewing Libyan legislation, identifying any contradictions to sharia's basic rules, and providing suggestions as to how such contradictions could be dealt with. This committee will review all existing laws in order to make them comply with Islamic law.<sup>75</sup>

### 3.3.4 Constitution-Drafting Committee

In April 2014 47 elected committee members started out in the city of al-Bayda (east of Benghazi) with the task to draw up a new Libyan constitution.<sup>76</sup> It appeared impossible to reach the full 60 members as stipulated in the Constitutional Declaration because of violence in Darna (an islamist hotspot) and several southern areas where no elections could be held. Furthermore, the elections were boycotted by the Amazigh community as a means to demand more rights.<sup>77</sup> In February 2014 the committee was elected in an election that was marred by security threats and by the Amazigh community boycott. Still, on 21 April 2014 the Committee held its first session in al-Bayda where the Chair, Deputy Chair and Rapporteur were chosen and rules of procedure were adopted. The committee's spokesman al-Sadiq al-Sarsi declared in September 2014 that a popular

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<sup>71</sup> No Peace Without Justice, *Libya: NPWJ raises awareness and promotes participation for the Transitional Justice Law*, 16 January 2014; OHCHR, *Technical assistance for Libya in the field of human rights*, 13 January 2014.

<sup>72</sup> UN Security Council, *Report of the Secretary-general on the United Nations Support Mission in Libya*, 5 September 2014; UNSMIL, telephone interview, 12 November 2014.

<sup>73</sup> New York Times, *Libya: Justice Minister Details Plan for Compensation for Rape Victims*, 19 February 2014.

<sup>74</sup> UNSMIL, telephone interview, 12 November 2014.

<sup>75</sup> Aljazeera, *Libya Assembly Votes for Sharia Law*, 4 December 2013.

<sup>76</sup> Libya has been without a constitution since Qadhafi in 1969 – shortly after he seized power – abolished the constitution of 1951, which entered into force during the reign of King Muhammad Idris al Sanusi.

<sup>77</sup> The Amazigh (Berbers) feared that the conflict and turmoil would affect their position particularly and wanted to ensure that their position in the Libyan society was taken into account. Reuters, *Libya's constitution drafting body starts work*, 21 April 2014.

referendum on the first draft of the constitution was scheduled to be held in December 2014.<sup>78</sup>

## 4. JUDICIARY

### 4.1 Legal Structure

To be able to understand the present situation of Libya's legal structure, it is useful to have some understanding of Libya's legal heritage. Below, a brief overview is given.

#### 4.1.1 Historical Background of Libya's Legal Structure

Libya's legal structure is rooted in Ottoman, French, Italian and Egyptian civil law. In the 19<sup>th</sup> century, the Ottoman rulers in Libya divided the legal system in Libya in a secular and a religious branch. Personal status cases such as marriage and inheritance were regulated through religious courts which applied the sharia. Secular matters such as criminal, civil and commercial cases were tried in secular courts which were influenced by western law, in particular the Napoleonic Code.<sup>79</sup> After Libya was colonised by Italy in 1912, after a brief war with the Ottoman rulers, this division was maintained by the Italian occupiers. After Libya gained independence in 1951, attempts were made to merge religious and secular legal systems into one, resulting in a briefly lived uniform system between 1954 and 1958. By popular demand, the two legal systems were separated again after 1958.<sup>80</sup>

When Qadhafi seized power in 1969, Libya's judiciary was made subject to the constitutional declaration, adopted in the same year. The newly installed Revolutionary Command Council (RCC) was given overall power to alter or annul laws by decree and to declare amnesties. Gradually, the judicial system was taken out of the state's structure and into the hands of revolutionary committees. In the course of Qadhafi's reign, the separation of religious and secular law was debated again. A Libyan legal experts panel, the Legislative Review and Amendment Committee (created in 1971), was tasked with bringing legislation in line with sharia, because Qadhafi and other members of the RCC believed that the separation of state and religion put sharia in secondary place. Until then, Islamic law had applied predominantly in personal matters, and the aim of the committee was to ensure Islamic influence in civil, criminal and commercial law as well.<sup>81</sup> In 1977 the RCC promulgated the Declaration of People's Power, which superseded the constitutional declaration and stated that the Qur'an was the source of legislation for Libya. However, throughout the late 1970s and 1980s Qadhafi would emphasise on various occasions that traditional views on Islamic law were insufficient to manage a modern state.<sup>82</sup>

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<sup>78</sup> Reuters, *Despite Chaos, Libya Hopes to Hold Constitution Vote in December*, 11 September 2014; Reuters, *Libya's Constitution Drafting Body Starts Work*, 21 April 2014; UN Security Council, *Report of the Secretary-general on the United Nations Support Mission in Libya*, 5 September 2014.

<sup>79</sup> The Napoleonic Code is the French Civil Code of 1804. The Napoleonic Code was the first modern European Civil Code with a pan-European scope and gained following in many European countries, cf. US Library of Congress, *A Country Study: Libya - Law and the judiciary*, 22 March 2011.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

<sup>82</sup> US Library of Congress, *A Country Study: Libya - Islam in Revolutionary Libya*, 22 March 2011.

In 1971 a people's court was established to try members of the former royal family (Sanusi), among others. In the years that followed, more people's courts were installed to try people who allegedly committed crimes against the post-revolutionary state. In the 1980s a parallel judicial system of revolutionary courts was created, which disabled many procedures and rights ensured by the traditional court system. These special tribunals (military courts, the people's courts and so called revolutionary committees and courts) were instituted by Qadhafi to try political offences against the state and its leader. These parallel courts served as a control mechanism for Qadhafi, they undermined the supremacy of official court decisions, and undercut the authority of the formal judiciary.<sup>83</sup>

#### 4.1.2 Developments after the February 2011 Uprising

After the ousting of Qadhafi in 2011, the judicial system as it was in place before the 2011 uprising was kept intact by the National Transitional Council (the transitional authority after the uprising), apart from the Qadhafi era special tribunals, which were all abolished.<sup>84</sup>

The overall governing body, the Supreme Judicial Council, was formally given more independence from the government. This independence, however, appeared to be a paper construction in practice rather than a practical reality. Since the 2011 armed conflict, the legal structure in Libya has been in a constant state of flux, despite the fact that most of its formal structure was kept in place.<sup>85</sup> Various state and non-state actors exercise influence and power in various parts of the country. In many parts of the country, people have little to no opportunity of recourse to state institutions, and are therefore not able to seek and find justice and protection from abuses through legal procedures. Many courts have been closed in Libya, especially primary courts and summary courts (see below), making it difficult for Libyans to get access to judicial processes.<sup>86</sup> In varying degrees people are taking refuge in more traditional clan-based structures like *shura* councils (traditional consultative councils), neighbourhood structures, local communities and tribes.<sup>87</sup>

Given the insecure situation and unsafe environment in many parts of Libya, there has been little to no security for personnel of the judiciary.<sup>88</sup> This resulted in difficulties for judges to take care of cases at hand, especially criminal cases. Although personnel of the judiciary was not regarded as impartial and independent by the public during the Qadhafi era, the formal impartiality of judges has been even more compromised because of threats and violence used against them by militias, tribes and families, which have seen a dramatic rise in the period following the February 2011 uprising.<sup>89</sup>

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<sup>83</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; US Library of Congress, *A Country Study: Libya - Law and the judiciary*, 22 March 2011.

<sup>84</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Crisis Group, *Trial by Error: Justice in Post-Qadhafi Libya*, 17 April 2013.

<sup>85</sup> CIA, *CIA World Factbook: Libya*, 20 June 2014.

<sup>86</sup> Amnesty International, *Public execution in football stadium shows Libya's descend into lawlessness*, 22 August 2014.

<sup>87</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014.

<sup>88</sup> See *Libya: Vulnerable Groups*.

<sup>89</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; UNSMIL, telephone interview, 12 November 2014.

## 4.2 Court System

The court system in Libya dates to 1973 when Muammar Qadhafi merged the secular and religious dual law system into one hybrid civil law judicial system.<sup>90</sup> The new system was laid down in the Judicial Organisation Law of 1973, which provided for a four-stage court system that is still in use today in Libya. Although the outlined court structure below is still valid in Libya today, the unstable political and security situation led in the reporting period to a large degree of inaccessibility of courts and judicial institutions.<sup>91</sup>

The four stages of Libya's court structure are (in descendant order):<sup>92</sup>

### 4.2.1 The Supreme Court (al-Mahkama al-Ulya)

The Supreme Court (SC) is based in Tripoli and is Libya's highest court. The SC has appellate jurisdiction over all lower courts. Cases are heard by a five-judge panel. A ruling can only be made by a majority in decision. The main task of the court is to ensure that laws are applied and interpreted in a uniform manner throughout the country.

The Supreme Court is the court of first instance for the following:

- Claims of the unconstitutionality of any legislation brought before the court by anyone, who has a direct, personal interest
- Any legally essential matter concerning the Constitution or its interpretation, which arises in any case being heard by any court
- Conflicts of jurisdiction between courts and any exceptional judicial authority
- Any dispute concerning the execution of two conflicting final judgements issued by a court and an exceptional judicial authority
- Changing of one of the Supreme Court's principles
- Any challenge against rulings of lower courts concerning civil, commercial, personal status, administrative, and criminal matters

### 4.2.2 Courts of Appeal (Mahakim al-Isti'naf)

Courts of Appeal are Libya's second highest court level. A majority in decision of a three-judge panel is required for a ruling. They have appellate jurisdiction over Primary Courts, and are courts of first instance for matters concerning high crime and felony. Rulings of the Courts of Appeal are final. Decisions can be challenged through the Supreme Court.

### 4.2.3 Primary Courts/Courts of First Instance (Mahakim Ibtidaiyya)

Primary Courts have appellate jurisdiction over Summary Courts and are the courts of first instance for civil and commercial disputes which are valued at 1,000 Libyan dinars or higher. They also deal with personal and religious cases, where they apply sharia law. In the capacity as a court of first instance, Primary Courts do not hear criminal cases and comprise of a single judge. As an appeals court, Primary Courts comprise of a

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<sup>90</sup> Qadhafi declared at the time that the merger served the purpose of mainstreaming secular civil law with Islamic law, whereas in fact the merger mainly aimed at gaining more control over religious courts. USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014.

<sup>91</sup> Ibid.

<sup>92</sup> Algeitta, N. & Ibrahim, S., *Additional Report: Libya's Court Structure*, in Otto, J.M., Carlisle, J. & Ibrahim, S. (Eds.), *Searching for Justice in Post-Gaddafi Libya*, Leiden: Van Vollenhoven Institute, Leiden University, 2013.

three-judge panel. A majority in decision is required for a ruling. Primary Courts can be found in each city or district in Libya.

#### **4.2.4 Summary Courts/District Courts (Mahakim Juz'iyya).**

The jurisdiction of Summary Courts is limited to small, civil, commercial, administrative disputes which are valued up to and including 1,000 Libyan dinars. In criminal cases the court is responsible for misdemeanors and contraventions ("minor" crimes). Courts have a one-judge chamber and rulings of 20 dinars or less are final, without the possibility to appeal. Other rulings are subject to appeal before the Primary Courts.

### **4.3 Supervision and Protection by the Authorities**

#### **4.3.1 Rule of Law**

The Constitutional Declaration in theory provides for an independent judiciary and free passage to a court of law. In practice however, rule of law in Libya appears almost absent. In the three years after the fall of Qadhafi the criminal justice system has proven itself unable to handle most of the ordinary criminal cases. The state security system is weak and many people in Libya do not know where to turn for protection or a just judicial process if they have been subjected to threats or violence.<sup>93</sup>

#### **4.3.2 Access to Justice and Police**

Access to justice in general has become quite difficult for Libyans, since many of the judicial institutions in Libya have either collapsed or do not fully function anymore. According to a Libyan law professor, many courts have closed in recent times. In Darna, Benghazi and Sirt, courts were suspended as of March 2014 with minor exceptions on low level cases. People who seek access to justice have no other option than revert to courts in other areas where there's still court activity. The last Primary Court in Benghazi, for example, closed in May 2014, forcing people who seek justice to address to a court in al-Marj.<sup>94</sup> Courts in Tripoli effectively stopped working in mid-July 2014, because of violent attacks and heavy shelling of courts and judicial offices. Since the ending of Operation Dignity on 23 August 2014, the security situation in Tripoli has stabilised,<sup>95</sup> but it is unclear to what extent courts in Tripoli have been able to function properly since then.

Access to justice is an issue for most Libyans, but for some members of Libyan society it is especially difficult. Protection and access to justice in Libya are closely linked to personal belonging and connection to societal structures like tribes and communities, but also to regional background or political affiliation. This contributes to the fact that justice and security are not evenly provided to all people. People living outside protection spheres, like migrants, minorities, and people who live in areas they do not originate from, are therefore more often blocked from justice and security systems. In areas where tribe-related militias are dominant, for instance in Misrata, these groups

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<sup>93</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014.

<sup>94</sup> Libyan Law Professor, meeting in the Netherlands, 23 September 2014; UNSMIL/OHCHR, *Overview of Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya*, 4 September 2014; UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 5 September 2014.

<sup>95</sup> The security situation in Tripoli in the reporting period is described in *Libya: Security Situation*.

are sometimes discriminated or even targeted. Access to justice was particularly difficult for forcibly displaced persons in the reporting period.<sup>96</sup>

According to UNSMIL, it's possible to file complaints with the police in Tripoli, but their legitimacy is doubtful as militias operate as the *de facto* police.<sup>97</sup> According to a Libya expert connected to Crisis Group, generally it is possible to file complaints with the police for minor cases like civil suits with a chance of result. Bigger issues like criminal cases were in general not followed up in the reporting period.<sup>98</sup> According to a Libya expert at USIP, many police stations are open, but in most cases they are not functioning properly.<sup>99</sup> According to the experts at Crisis Group and USIP, people file cases but without much expectancy of a direct result. Filing cases is perceived by the Libyan people as a way of compiling evidence for later purposes.<sup>100</sup>

#### 4.4 Judicial Process

##### 4.4.1 Criminal Proceedings

Criminal proceedings in Libya are regulated in the Penal Code and the Code of Criminal Procedure (both adopted shortly after Libya's independence in 1951 and still in force) and in the Law on the Judiciary.<sup>101</sup> In 2008 a new Penal Code was drafted, but due to resistance of legal activists and some politicians, it was never enacted. The draft of the never enacted 2008 law comprised, among other subjects, the abolition of the death penalty, except for murder.<sup>102</sup> Today, the death penalty can still be issued in Libya, although, as far as known, death penalties were not executed in the reporting period (see section 4.10).

The current Penal Code is based on French and Italian law as well as Islamic law (sharia). It was amended several times during the reign of Qadhafi. The code was expanded over the years with laws governing financial and political crimes, and later on laws governing terrorist acts. Some sections of the code, like for instance the law on defamation of government officials and the law prohibiting the establishment of certain organisations, constitute serious infringements of the rights of free speech and freedom of assembly and association. Punishments stipulated by the code are severe and include corporal punishment and the death penalty. In March 2014, the law was amended to make it possible for seven former Qadhafi loyalists (among them Sayf al-Islam al-Qadhafi) to be heard in a court hearing via video link. It was argued by human rights organisations like Amnesty International that the amendments put the right to a fair trial under pressure. In particular Sayf al-Islam al-Qadhafi's case was mentioned, as he

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<sup>96</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Human Rights Watch, *Libya Country Summary*, January 2014; UNSMIL, telephone interview, 12 November 2014.

<sup>97</sup> UNSMIL, telephone interview, 12 November 2014.

<sup>98</sup> Gazzini, C., Crisis Group, telephone interview, 18 November 2014.

<sup>99</sup> Mangan, F., USIP, telephone interview, 19 November 2014.

<sup>100</sup> Gazzini, C., Crisis Group, telephone interview, 18 November 2014; Mangan, F., USIP, telephone interview, 19 November 2014.

<sup>101</sup> Law No. 6 of 2005; Algeitta, N., *The Role of Criminal Defence Lawyers in the Administration of Justice in Libya: Challenges and Prospects*, in Otto, J.M., Carlisle, J. & Ibrahim, S. (Eds.), *Searching for Justice in Post-Gaddafi Libya*, Leiden: Van Vollenhoven Institute, Leiden University.

<sup>102</sup> Law Library of Congress, *Libya: New Penal Code Opposed*, 2 June 2008.

remains in an unofficial detention facility in Zintan run by a militia.<sup>103</sup> Criminal trials of 37 former Qadhafi regime officials (including the 7 loyalists mentioned above) began on 24 March 2014.<sup>104</sup>

According to the Criminal Procedure Code, the Public Prosecution has the exclusive responsibility for bringing and conducting criminal cases and is by law the only competent body to do so, unless stipulated otherwise by law.<sup>105</sup> Criminal complaints can be brought before the prosecutor or a judicial investigation officer<sup>106</sup> only on the basis of an oral or written statement. This must be done by the victim himself or by his personal representative. A complaint must be filed within three months of the offence, otherwise it will not be taken into account.<sup>107</sup>

Few cases have actually been tried in the reporting period, mainly because of the collapsed judicial system, with few courts functioning, and because of the risks judges encounter while doing their jobs. Even though many cases against detainees who were considered war criminals by the public lacked proper evidence, acquittals of the concerning detainees would likely result in violence against employees of the judiciary. Therefore only a few cases have been investigated. In general the public was torn over the judiciary, with a low percentage of the population rating judges as trustworthy.<sup>108</sup>

#### 4.4.2 Judicial Reform

The Supreme Judicial Council is Libya's highest judicial authority. UNSMIL worked closely with the Council during the reporting period to advocate for adopting a judicial reform strategy. Following an amendment to the Law on the Status of the Judiciary in 2013, 11 out of 13 members of the Supreme Judicial Council can be elected by peers, which strengthened the independence of the Council. UNDP, in coordination with UNSMIL, organised meetings for the Council with counterparts in Italy and the Netherlands in the sphere of administration of justice. Capacity-building initiatives were initiated by UNSMIL as well, targeting some 900 judicial members in Libya in close collaboration with the High Judicial Institute in Libya and with, among others, the Tripoli Bar Association and prosecutors and judges from major cities in Libya. In October 2013 a workshop was organised by the Bar Association and the High Judicial Institute in collaboration with the NGO No Peace Without Justice (NPWJ) to boost trial monitoring capacities among the Libyan judicial staff. Shortly after, NPWJ organised another workshop on awareness of Libya's obligations towards international humanitarian law, and the prosecution of war crimes and human rights violations.<sup>109</sup>

Despite the above mentioned efforts to reform and strengthen the judiciary, progress in practice was severely hindered by flaring violence and by continuous threats, assaults

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<sup>103</sup> Amnesty International, *Libya: Trial of former Al-Gadaffi officials by video link a farce*, 14 April 2014; Human Rights Watch, *Priorities for legislative reform: A human rights roadmap for a new Libya*, 21 January 2014.

<sup>104</sup> UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 5 September 2014.

<sup>105</sup> Criminal Procedure Code (UNSMIL unofficial English translation), article 1 and 2.

<sup>106</sup> Judicial investigation officers are for example police, customs guards, municipal guards or prison officers, cf. Criminal Procedure Code, article 13.

<sup>107</sup> Criminal Procedure Code, article 3.

<sup>108</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>109</sup> Libya Herald, *Judicial reform Boosted by Training on Trial Monitoring*, 13 October 2013, UK Foreign & Commonwealth Office, *Libya: Country of Concern*, October 2014.

and murders of members of the judiciary. Attacks on judges and prosecutors continued to impede judicial developments.<sup>110</sup> On 9 November 2013 for instance, the Attorney-General of the Green Mountain Appeal District, Muhammad Khalifa al-Naas, was killed when a bomb blew up under his car in Darna (eastern Libya). The ruling of the International Criminal Court in The Hague to hand back judicial proceeding in the case of Qadhafi's former intelligence chief, Abdallah al-Sanussi to Libya in July 2014, greatly concerned human rights activists because the weak state of the judiciary and the attacks on judges, lawyers and courts by armed militias.<sup>111</sup>

## 4.5 Arrest and Detention

### 4.5.1 Arrest

The Criminal Code prohibits arbitrary arrest and detention, but in general this provision was not upheld by the various arresting parties. For instance, many armed groups throughout Libya were engaged in arresting persons, in most cases without legal authority. Arbitrary arrests were conducted also by militias<sup>112</sup> that operate under nominal government control.<sup>113</sup> In cases where militias and brigades conduct arrests, regular procedures are often not followed and proper documentation is often not issued, according to a Libya expert at USIP.<sup>114</sup>

The Code on Criminal Procedure stipulates that an arrest cannot be made without a warrant and that a detainee must be informed of the charges against him. The authorities, however, can detain prisoners without any official accusation for a maximum of eight days.<sup>115</sup> According to the law, arrest can only be done by order of legally competent authorities.<sup>116</sup>

The Constitutional Declaration ensures theoretically the presumption of innocence and the right to legal counsel. The Criminal Procedure Code stipulates that an arrested person must be questioned within twenty-four hours after the police transferred him to the Public Prosecution. Within those twenty-four hours, the arrested person must either be charged with a crime or be released.<sup>117</sup> In practice, many detainees were held longer without being given notice of the reasons for their arrest and without any access to a lawyer. UNSMIL reported in October 2013 that it occurred that the whereabouts of

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<sup>110</sup> UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 5 September 2014; Magharebia, *Libya Urges Judicial Protection*, 15 November 2013; Amnesty International, *ICC Decision to Allow Abdallah Al-Senussi to Stand Trial in Libya 'Deeply Alarming' Amidst Overwhelming Security Vacuum*, 24 July 2014.

<sup>111</sup> Magharebia, *Libya Urges Judicial Protection*, 15 November 2013; Amnesty International, *ICC Decision to Allow Abdallah Al-Senussi to Stand Trial in Libya 'Deeply Alarming' Amidst Overwhelming Security Vacuum*, 24 July 2014.

<sup>112</sup> In cases where militias and brigades conduct arrests, regular procedures are often not followed and proper documentation is often not issued.

<sup>113</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Human Rights Watch, *Libya Country Summary*, January 2014.

<sup>114</sup> Mangan, F., USIP, telephone interview, 19 November 2014.

<sup>115</sup> US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>116</sup> Criminal Procedure Code, article 30.

<sup>117</sup> Criminal Procedure Code, article 26.

persons being arrested were kept hidden for the family, sometimes for months. It also occurred that the whereabouts of an arrested person remained unknown.<sup>118</sup>

Law 38 of 2012<sup>119</sup> gives the authorities jurisdiction to detain people for up to two months if they are considered a threat to public security or stability, based on their affiliation with the former (Qadhafi) regime. In theory, persons can appeal a measure taken under law 38.<sup>120</sup> In practice, however, it is difficult for individuals to get access to a court.

#### 4.5.2 Arrest Warrants

According to information obtained from a Libyan legal expert,<sup>121</sup> arrest warrants are issued by the police, the public prosecutor or by courts, in accordance with the law.<sup>122</sup> In practice, other agencies such as security services, custom and border agencies, but also revolutionary militias and military councils, may detain individuals as well. An arrest warrant that is issued has to be signed by the person in charge within the issuing organisation and has to bear the stamp of that organization. Usually this is the court or the public prosecutor's office. Officially the warrant should bear a case number as a reference to a specific case file. It occurs that a warrant does not bear a case number when issued by the police when a specific case has not been given a case number yet.<sup>123</sup>

According to the source, the warrants or summons do not mention specific law articles or case facts. Court judgements or implementation documents of court judgements, however, do mention applicable law articles, case facts and charges.

Arrest warrants are, according to the legal expert, usually not given to the persons concerned, but are shown to them. Summonses are given to the persons concerned or their family. It is possible for a convict or his lawyer to obtain a copy of the verdict.

According to the same source, the police in theory do not need to present a warrant in order to arrest a person suspected of having committed a crime. But they should have opened an inquiry concerning that person before he is arrested. If a warrant is requested by the public prosecution, it will be sent to the police in writing and signed and stamped by the public prosecutor's office. It is arbitrary whether the police actually show the warrant to the person concerned upon the arrest.<sup>124</sup>

#### 4.5.3 Prison and Detention Centre Conditions

Prisons and detention centres in Libya are under the control of various actors that played a role in and after the 2011 uprising. After the ousting of Qadhafi, most detention facilities were under the control of armed militias. The detention centres controlled by state authorities were mostly located in the east of Libya, where members of the Judicial Police (see also section 5.2.2) joined the revolution from the beginning. In the course of the following years some members of armed militias joined the state

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<sup>118</sup> UNSMIL/OHCHR: *Torture and Deaths in Detention in Libya*, October 2013; US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>119</sup> Law 38 of 2 May 2012 'On Some Procedures for the Transitional Period'. This law is also called the 'Law on Amnesty', see section 3.2.2.

<sup>120</sup> US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>121</sup> Algehitta, N., Libyan legal expert, e-mail, 23 August 2014.

<sup>122</sup> Arrest warrants are mentioned in article 25 of the Criminal Procedure Code.

<sup>123</sup> Algehitta, N., Libyan legal expert, e-mail, 23 August 2014.

<sup>124</sup> Ibid.

police forces, whereas in other cases militias kept control over the facilities, thus leaving a somewhat scattered landscape of control patterns with regard to the detention facilities. Officially prisons and detention centres are governed by means of a 2005 law on Correctional and Rehabilitation Institutions (law no. 5, 2005). The theoretically 10,000 persons strong Judicial Police force, which is to uphold this law, in practice consists of far less employees, because many officers still fail to report to work after the revolution.<sup>125</sup>

In general the command of the detention facilities can be divided into the following categories:<sup>126</sup> Detention facilities under the authority of the state; the Judicial Police or the Military Police who were already in state service before the revolution, plus recruited armed forces from within or outside the militias. This concerns mainly (state) prisons such as Kuwayfiyya prison in Benghazi and Jdayda prison in Tripoli.

Detention facilities fully or partially under the control of armed militias, which have been brought under the Ministry of Justice, Ministry of Defence or Ministry of the Interior. These facilities are largely accessible for UNSMIL monitoring personnel. Examples of these detention centres are Mitiga Airport Military Base in Tripoli, the correction and rehabilitation institution in Tumina, Misrata and the Majr correction and rehabilitation institution in Zlitan. It occurs that a collaboration between militias and the police takes place with regard to managing the facility. For instance, militias provide external security while the police are responsible for the internal management. Sometimes the management of the facility is shared between state forces and militias. In other cases however, the militias remain in full control, despite the fact that the detention facility has been formally handed over to the state.<sup>127</sup>

Thirdly there are detention centres that are fully under the control of armed militias. These centres have no formal connection to the state whatsoever. Detention facilities fully run by armed groups are often makeshift and improvised, like apartments, farms or former administrative buildings.

Theoretically, approximately half of the detention facilities are under some form of government control, but in practice most detention centres are run by militias.<sup>128</sup>

Conditions in detention centres in Libya are harsh and sometimes life-threatening. Amnesty International stated in March 2014 that torture and ill-treatment were widespread in detention facilities, state-run as well as militia-run. UNSMIL stated in October 2013 that torture was predominantly practiced by militias, either in militia-run facilities or in state facilities under actual control of militias. State police (for instance Judicial Police) and militia members are both among the perpetrators.<sup>129</sup>

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<sup>125</sup> UNSMIL/OHCHR, *Torture and deaths in detention in Libya*, October 2013; US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>126</sup> UNSMIL/OHCHR, *Torture and deaths in detention in Libya*, October 2013.

<sup>127</sup> Ibid.

<sup>128</sup> UK Foreign & Commonwealth Office, *Libya - Country of Concern: latest updates, 30 June 2014*, 17 October 2014.

<sup>129</sup> Amnesty International, *Teetering on the edge: Ongoing human rights violations and abuses in Libya*, 3 March 2014; UK Foreign & Commonwealth Office: *Libya - Country of Concern: Latest Updates, 30 June 2014*, 17 October 2014; UNSMIL/OHCHR, *Torture and deaths in detention in Libya*, October 2013.

Amnesty and Human Rights Watch specifically mention the torture of migrants and asylum seekers in detention.<sup>130</sup> The detention centres where migrants are detained, are officially run by the Department for Combatting Irregular Migrants. Human Rights Watch mentions the use of torture practices like whipping, beating and electro shocks in a report of June 2014.<sup>131</sup> According to the IOM regional office in Cairo, some of the migrant detention facilities are in fact run by militias, conditions are bad and the migrants are forced to do hard labour.<sup>132</sup> According to a Libya expert at USIP, the conditions in migrant detention facilities are considerably worse than conditions in the detention centres under the Judicial Police.<sup>133</sup>

There are no exact figures of the total number of detainees in Libya. Estimates vary roughly around 8,000 prisoners, related to the conflict. 4,000 approximately under the jurisdiction of the Judicial Police (around 6,400 in total, including detainees held for common crimes). The remaining 4,000 are in the custody of the Military Police under the Ministry of Defence, are being held by the Supreme Security Council (SSC) and the Combatting Crime Department, mainly composed of armed militias officially operating under the Ministry of the Interior and by armed militias not affiliated to any state institution.<sup>134</sup> UNSMIL received a list of the judicial police containing information charges, status of the investigation and the period of detention of over 6,200 inmates, including 10 minors in March 2014. The list showed that only 10 % of the inmates had been tried.<sup>135</sup> Screening of detainees, in order to establish their prosecution or release, is being done at a very slow pace, as is the transfer of detainees from various detention centres to state custody.<sup>136</sup> According to a Libya expert at USIP, one of the biggest problems within the penal system is the lack of screening of detainees, and even basic criminal offences were often not progressing within the reporting period.<sup>137</sup>

#### 4.6 Corruption

Corruption is endemic in Libya. Transparency International's (TI) Corruption Perception 2013 Index ranks Libya 172<sup>nd</sup> out of 175 countries, only leaving Somalia, North Korea, Afghanistan, Sudan and South Sudan below.<sup>138</sup> According to TI's 2013 Global Corruption Barometer, 35 % of the Libyan respondents felt that the judiciary in Libya was corrupt or extremely corrupt, 36 % felt that the military was corrupt or extremely corrupt and 48 % felt that police was corrupt or extremely corrupt. The

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<sup>130</sup> Human Rights Watch, *Libya: Whipped, beaten and hung from trees: Detained migrants, asylum seekers describe torture, other abuse in detention*, 22 June 2014; Amnesty International, *Teetering on the edge: Ongoing human rights violations and abuses in Libya*, 3 March 2014.

<sup>131</sup> Human Rights Watch, *Whipped, beaten and hung from trees: Detained migrants, asylum seekers describe torture, other abuse in detention*, 22 June 2014.

<sup>132</sup> IOM regional office, Cairo, interview, 30 October 2014.

<sup>133</sup> Mangan, F., USIP, telephone interview, 19 November 2014.

<sup>134</sup> Chatham House, *Libya: Establishing the rule of law*, May 2012; Human Rights Watch, *Libya Country Summary*, January 2014.

<sup>135</sup> UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 5 September 2014.

<sup>136</sup> Human Rights Watch, *Libya Country Summary*, January 2014; US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>137</sup> Mangan, F., USIP, telephone interview, 19 November 2014.

<sup>138</sup> Transparency International, *Corruption Perception Index 2013*, no date.

police were perceived by the public to be among the most corrupt institutions in Libya (alongside public officials and civil servants).<sup>139</sup>

After the fall of Qadhafi, there was some hope that corruption, which was pervasive in both Libya's judicial and security sector under his rule, would decline. The law provides for penalties for corruption by officials. During the reporting period, however, corruption rates were still high, mainly caused by the absence of reliable and effective judicial institutions.<sup>140</sup> According to the US Department of State, government officials in 2013 often engaged in corrupt practices with impunity.<sup>141</sup> According to UNSMIL, corruption is rampant in Libya, mainly at top levels. It's unclear what the scale of corruption is at lower levels like individual civil servants, lawyers and judges.<sup>142</sup> According to a Libya expert working for Crisis Group, it is difficult to measure the amount of corruption, as few cases reach the courts.<sup>143</sup>

A report by the Libya based think tank Sadeq Institute argues that financial corruption peaked after the ousting of Qadhafi, caused by the absence of a judicial authority. According to the think tank, nepotism is one of the most problematic issues in Libya today, alongside the weak security situation. This is enhanced by bribery, making it relatively easy for Libyans to avoid legal penalties.<sup>144</sup> So far, government efforts to eradicate corruption have failed.

#### 4.7 Maltreatment and Torture

According to the Constitutional Declaration, no punishment may be implemented outside the law. In April 2013, the GNC adopted a law on the criminalisation of torture, enforced disappearances and discrimination (see section 3.2.3). However, torture was widespread in detention facilities under the control of groups nominally under the authority of the government and under the control of illegal armed factions. The government to a large degree relied on militias to govern detention centres due to a lack of capacity. Very low levels of central control over these centres resulted in widespread torture and abuse. According to UNSMIL, 27 deaths occurred during 2013 all of them in detention centres under control of armed militias, albeit some nominally under government control.<sup>145</sup>

Torture was practiced predominantly upon arrest. According to UNSMIL, torture and maltreatment was at its worst in detention facilities run by militias or facilities under nominal governmental control, but de facto still under militia control. On most occasions the reported torture cases concerned detainees in militia-run facilities who were accused by militias of being loyal to the former regime. There has been little to no

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<sup>139</sup> Transparency International, *Global Corruption Barometer 2013 – Libya*, no date.

<sup>140</sup> Sadeq Institute, *Libya's other war: Fighting corruption for sustainable stability*, 23 October 2014; Freedom House, *Freedom in the World 2014 – Libya*, 21 August 2014; US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>141</sup> US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>142</sup> UNSMIL, telephone interview, 12 November 2014.

<sup>143</sup> Gazzini, C., Crisis Group, telephone interview, 18 November 2014.

<sup>144</sup> Sadeq Institute, *Libya's other war: Fighting corruption for sustainable stability*, 23 October 2014.

<sup>145</sup> US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014; UNSMIL/OHCHR, *Torture and deaths in detention in Libya*, October 2013.

accountability for acts of torture committed by militias because of the state's inability or unwillingness to address those crimes.<sup>146</sup>

#### 4.8 Disappearances

Although a law on criminalizing torture, enforced disappearances and discrimination went into force on 9 April 2013 (see section 3.2.3), UNSMIL received reports of abductions of fighters and civilians by armed groups during the reporting period. In particular, there were reports of abductions of civilians in Tripoli and Benghazi during the fighting there, sometimes solely on the basis of their actual or suspected tribal, family or religious affiliation. Abductions were apparently carried out by fighters belonging to Operation Dignity as well as by fighters belonging to Operation Dawn, operating with almost complete impunity.<sup>147</sup>

#### 4.9 Extrajudicial Executions

Extrajudicial executions occurred in Libya during the reporting period. Apparently most of them were committed either by government forces or security forces only nominally under the control of the Ministry of Defence or the Ministry of the Interior. Given the weak state of the judiciary in Libya, the perpetrators of extrajudicial executions generally were not brought to trial.<sup>148</sup>

#### 4.10 Death Penalty

According to Libyan law, death sentences can be given and executed. Capital punishment is laid down in at least 30 articles of the 1953 Libyan Penal Code, which is still in force.<sup>149</sup> Death sentences are predominantly given for crimes committed in relation to the 2011 uprising, for instance to former Qadhafi loyalists, or for murder crimes. A number of those sentences are issued *in absentia*. Since Qadhafi's fall in October 2011, military and civil courts have imposed at least 28 death sentences. In October 2013, the Supreme Court suspended the death sentences of a former Qadhafi official and a pro-Qadhafi fighter, because of concerns that they had not received a fair trial. Both were sentenced to death by firing squad for crimes committed during the 2011 uprising, including murder and kidnapping. As far as known, no actual executions of death sentences have taken place during the reporting period. This is partially caused by the fact that Libya's Supreme Court was yet to approve the majority of the death sentences that are imposed by courts.<sup>150</sup>

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<sup>146</sup> US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014; UNSMIL/OHCHR, *Torture and deaths in detention in Libya*, October 2013; Crisis Group, *Trial by error: Justice in post-Qadhafi Libya*, 17 April 2013.

<sup>147</sup> UNSMIL/OHCHR, *Overview of violations of international human rights and humanitarian law during the ongoing violence in Libya*, 4 September 2014; US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014. See also *Libya: Vulnerable groups*.

<sup>148</sup> US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014. See also *Libya: Vulnerable groups*.

<sup>149</sup> Human Rights Watch, *Priorities for legislative reform: A human rights roadmap for a new Libya*, 21 January 2014; Hands Off Cain, *Libya*, no date.

<sup>150</sup> Human Rights Watch, *Libya Country Summary*, January 2014; Human Rights Watch, *Libya: Suspend death sentences against Gaddafi loyalists*, 4 October 2013; UK Foreign & Commonwealth Office, *Libya – Country of Concern*, 17 October 2014.

#### 4.11 Traditional Mediation Systems and Customary Law

Libyan tribal mechanisms have since long been the most common structures for protection and justice. Traditional dispute resolution and conflict mitigation mechanisms have their own dynamics in Libya and operate almost independently from the official judicial system. They address conflicts within tribes but also between tribes, which are often settled by councils of elders (*shuras*, or consultative councils). During the early phases of the Qadhafi era, the mechanisms of tribal conflict resolution were repressed, but were widely used again by the 1990s. During the uprising in 2011, and in the course of the transitional period afterwards, the role of the tribes and the reliance on clans and families were largely reinstated. To a large extent, Libyans view tribal leaders as more trustworthy than official institutions like police and army, with regard to violence and crime prevention. Official judicial institutions have as of yet not made serious attempts to integrate traditional mechanisms into the formal judicial structures. This is for a large part caused by the fact that judicial institutions in Libya at the moment cannot cope with justice demands. The state has neglected non-state judicial mechanisms because of the enormous task at hand of developing a fully functioning judiciary.<sup>151</sup> According to a Libya expert at USIP, tribal leaders have been pushed beyond their traditional role as mediators in tribal and family matters. They have been forced to deal with issues normally dealt with by state authorities, such as murder cases, because of the dysfunctional judiciary in Libya.<sup>152</sup>

On issues like marriage, divorce, inheritance and so forth, Libyans often turn to religious leaders like imams or mullas. Although Libyans can officially have recourse to official organisations like courts when it comes to these types of family matters, many people place trust in their religious leaders rather than in state institutions.<sup>153</sup> According to a Libyan law professor, in Benghazi a council of tribal leaders was composed to provide solutions to disputes where the official judicial institutions often could not because of the deteriorating security situation. To ensure that the negotiated solutions via traditional mediation are followed up by the negotiating parties, the agreements are often recorded and signed by the tribal leaders and witnesses as proof. Furthermore, tribes offer necessary protection to people, according to the same source.<sup>154</sup>

##### 4.11.1 Blood Feuds

There's little to no information available concerning blood feuds in Libya. According to a Libyan law professor, blood feuds are largely kept between the families concerned. They are regarded by society and by the authorities as private matters. In the event that a court order was issued, the current judicial situation in Libya would likely prevent it from being implemented.<sup>155</sup>

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<sup>151</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Human Rights Watch, *Libya Country Summary*, January 2014.

<sup>152</sup> Mangan, F., USIP, telephone interview, 19 November 2014.

<sup>153</sup> Ibid.

<sup>154</sup> Libyan law professor, meeting in the Netherlands, 23 September 2014.

<sup>155</sup> Ibid.

## 5. SECURITY SECTOR

### 5.1 Security Gap after the 2011 February Revolution

During the Qadhafi era, the Libyan security system mainly concentrated on the protection of the regime and general crime-fighting, by means of an elaborate network of security and intelligence services (see also section 5.2.5). After Qadhafi was gone, the remainders of the state police and army were kept in place, although many police and army employees deserted and the general level of skill was low.<sup>156</sup> This led to a security vacuum that was gradually filled by the militias that played an important role in Colonel Qadhafi's overthrow.<sup>157</sup> The security sector in Libya is extremely fragmented and, according to a Libya expert working for Crisis Group, it has fragmented even further in the past year.<sup>158</sup>

Since Qadhafi's overthrow, the security sector has been marked by the presence of non-state and semi-official armed groups and by a widespread existence of small arms among the Libyan population. Disarmament and reconciliation of the various armed groups with state-security structures are therefore seen as quintessential for a successful rebuilding of the Libyan security sector.<sup>159</sup>

Today the Libyan population is waiting anxiously for the national government in Tubruq to incorporate "revolutionary" militia members (*thuwwar*) into the national security system. In fact, the dismissal of former Prime Minister Ali Zaydan in March 2014 had much to do with his failing attempts to disarm the militias and incorporate them into state service.<sup>160</sup>

Thuwwar were used by the authorities to operate as security forces because of the lack of capacity within the official security structures, and have been connected to state structures in some way since 2011/2012. The then governing body, the NTC, tried to get a grip on the plethora of armed groups by adding them to the state payroll. National police and army were much too weak to keep order, therefore armed groups were hired to do the job for them. This led to today's situation in Libya, where the official police and army are extremely weak, poorly trained and ill-equipped. The militias that were hired were often better paid than the state forces, eliminating an important incentive for the *thuwwar* to join the national police or the army. In fact, militia-members were often paid multiple salaries because of the diffuse structure of the security system. It occurred that a militia member was paid one salary by a larger militia structure like the Shield Force or the Supreme Security Committee, another by the militia he belonged to, and yet another by the state.

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<sup>156</sup> Many police officers feared the widespread denunciation of 'all things Qadhafi' and therefore refused to resume service, cf. USIP, *Security and justice in post-revolution Libya – Where to turn?*, 17 September 2014.

<sup>157</sup> US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>158</sup> Gazzini, C., Crisis Group, telephone interview, 18 November 2014.

<sup>159</sup> Security Sector Reform Resource Centre, *Libya: Dealing with the militias and advancing security sector reform – E-seminar summary report*, January 2014.

<sup>160</sup> Aljazeera, *Libya's former PM Zeidan flees country*, 12 March 2014; Al Arabiya, *Libyan prime minister Ali Zeidan ousted*, 11 March 2014.

## 5.2 Structure of Libyan Security Forces

### 5.2.1 Police

The police in Libya suffer from a decimated force because of the many police officers that did not return to work after the uprising. The state has undertaken attempts to strengthen the force with *thuwwar*, mainly through the Supreme Security Committee and the Libya Shield Force, but without much success (see section 5.2.6). Furthermore, during the fighting, many police stations and material were burned and looted, resulting in an underequipped and understaffed police structure.<sup>161</sup>

The law enforcement services are regulated by the Libyan National Police Force (NPF), which is part of the Ministry of the Interior. Police headquarters are in Tripoli with regional security directorate branches throughout Libya.<sup>162</sup> Although on paper the NPF is responsible for all law enforcement, protection and crime prevention activities, in practice the Libyan police force is weak and not up for the task of providing security for the Libyan population. According to a Libya expert connected to Crisis Group, the police are perceived by the public as often doing nothing to solve cases and prevent crimes.<sup>163</sup> The police have, furthermore, suffered from an increase in (deadly) attacks on its personnel since mid-2013. On 12 August 2014, for example, the head of the Tripoli police, Colonel Muhammad Suwaysi, was shot dead by unknown gunmen while leaving a meeting in Tajura, a suburb of Tripoli.<sup>164</sup>

Police in Libya are weak in comparison to the armed militias operating throughout the country. Members of the police force are regularly targeted by armed men belonging to militias. Police in Libya are to a great extent seen by revolutionary militias as corrupt and bearing the legacy of the Qadhafi regime.<sup>165</sup> The official state police force has difficulties exercising law enforcement throughout the country because of capacity issues and because of constant security threats. Police officers not only run the risk of being targeted by militia men, but are also in danger of encountering violence from civilians.<sup>166</sup> According to a Libyan law professor, many Libyans carry weapons and sometimes policemen are hesitant in confronting a person because of the possibility that the person is armed.<sup>167</sup> After Qadhafi's downfall, former members of the security service did not resume their policing tasks, although an official police force and army force were still operative. This, combined with low skill level of the remaining policemen, resulted in an eroded police force, leaving ample room for armed groups to

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<sup>161</sup> Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014; USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Human Rights Watch, *Libya Country Summary*, January 2014.

<sup>162</sup> Interpol, *Libya*, no date.

<sup>163</sup> Gazzini, C., Crisis Group, telephone interview, 18 November 2014.

<sup>164</sup> Human Rights Watch, *Libya's Justice Pandemonium*, 14 April 2014; USIP, *Security and Justice in Postrevolution Libya; Where to Turn*, September 2014; BBC News, *Libya Crisis: Head of Tripoli Police 'Assassinated'*, 12 August 2014.

<sup>165</sup> Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014.

<sup>166</sup> BBC News, *Libya Crisis: Head of Tripoli Police 'Assassinated'*, 12 August 2014; USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Human Rights Watch, *Libya Country Summary*, January 2014, Libyan Law Professor, meeting in the Netherlands, 23 September 2014.

<sup>167</sup> Libyan Law Professor, meeting in the Netherlands, 23 September 2014.

fill the void. To varying degrees security related police work was done by militias, in many cases with little to no accountability to central authorities.<sup>168</sup>

According to the Libyan law professor, the exact status of the police is unclear. The functioning level of the police varies throughout the country and depends on which city or region the police are located. According to the source, the police in Benghazi and Darna are not functioning, whereas in Tubruq and al-Bayda the police are strong and stable enough to be functioning normally, at least to a certain degree. The functioning level of the police in Tripoli is rather unclear since the outbreak of violence in mid-2014.<sup>169</sup>

The United Nations Support Mission in Libya (UNSMIL) provides assistance to the Libyan Ministry of Interior in order to strengthen the NPF.<sup>170</sup>

## 5.2.2 Judicial Police

The Judicial Police fall under the Ministry of Justice (MoJ) and are officially responsible for managing the prison system, maintaining court security, enforcing the appearance of suspects at hearings and tracking down fugitives. As is the case with the NPF, the Judicial Police suffered during the reporting period from failing integration of *thuwwar* in the force (section 5.2.6). Powerless in itself and heavily relying on militiamen, the Judicial Police were unable to exercise command over militias that regard state police institutions as corrupt and bearing the legacy of the Qadhafi regime. The administration of prisons and detention centres, which is regulated by law no. 5 of 2005, is officially the responsibility of the Judicial Police. However, less than a quarter of the approximately 10,000 officers of the Judicial Police reported for work after the uprising of February 2011. Those who returned were in general poorly trained and under-equipped.<sup>171</sup> According to a Libya expert at USIP, Judicial Police control seemed to be improving slightly before the flare-up of violence in mid-2014.<sup>172</sup> According to the source, it is unclear what the present status is of the Judicial Police given the security situation and the governmental crisis at hand.<sup>173</sup>

## 5.2.3 Diplomatic Police

A recently instituted police department is the Diplomatic Police in Tripoli. Their task is to secure safety for diplomatic personnel, the Ministry of Foreign Affairs and embassies, as well as guest houses and hotels. The Diplomatic Police struggled to fulfill its duty during the reporting period, as the number of attacks and kidnappings targeting ambassadors, hotels and ministry buildings increased, rather than decreased, since the formation of this special force.<sup>174</sup> Because of the lack of security, most Western diplomatic missions have been evacuated.

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<sup>168</sup> US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>169</sup> Libyan Law Professor, meeting in the Netherlands, 23 September 2014.

<sup>170</sup> UNSMIL: *Police*, no date.

<sup>171</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Human Rights Watch, *Libya Country Summary*, January 2014; US Department of State, *Country Report on Human Rights Practices for 2013 – Libya*, 27 February 2014.

<sup>172</sup> This was under MoJ Salah al-Marghani who was known for his relative independence from tribes and militias. The current MoJ in the HoR is al-Mabruk Ghrayra Umran.

<sup>173</sup> Mangan, F., USIP, telephone interview, 19 November 2014.

<sup>174</sup> USIP, *Security and justice in post-revolution Libya – Where to turn?*, September 2014.

## 5.2.4 Army

The Libyan Army is formally under the control of the chief of general staff, colonel Abdarrazzaq Nazuri.<sup>175</sup> The Libyan army shifted its priority in the post-Qadhafi years from protecting Libya from outside threats to threats from within Libya. As many former army personnel returned to their hometowns during the revolution, armed militias consisting of former military personnel started to act as local security providers in cities and towns, and even at village and neighbourhood level. Therefore the role of the different military brigades differs from region to region. For example, the military in the eastern part of Libya – Benghazi, Darna – is mainly focused on combatting islamists and fighting militias adherent to Ansar al-Sharia or al-Qa'ida, while in other parts of the country the military is more engaged in crime prevention, riot combatting or border control. New units within the army were established with a specific local, tribal or political affiliation after the 2011 uprising. The boundaries between the army and the so called hybrid security organisations (see section 5.2.6) became unclear as a result.<sup>176</sup> According to two sources, the status of the army is very unclear as some regard Khalifa Haftar's armed group or brigades of the Libya Shield as the *de facto* army. Neither of those groups however, have an official army status.<sup>177</sup>

### 5.2.4.1 Khalifa Haftar's Militia "the National Army"

The armed group that calls itself the National Army consists of the militias belonging to the retired general Khalifa Haftar. Haftar began his military campaign (Operation Dignity – Amaliyyat al-Karama) in Benghazi in May 2014, stating that he wanted to rid the country of extremist influences. Shortly after, Libyan special military forces joined Haftar, who claimed that the then central authority, the GNC, backed islamists.<sup>178</sup> After the June 2014 parliamentary elections, Haftar sided with the newly elected government, currently residing in Tubruq (see section 2.1.1).

## 5.2.5 Security and Intelligence Services

During the Qadhafi era, the system of security and intelligence services in Libya was diverse and complex. There was a plethora of secret services with mandates to use force against anyone opposed to the regime and its leader. The National Security Council (Majlis al-Amn al-Qawmi), the Military Intelligence (al-Istikhbarat al-Askariyya) and several security brigades (*katibas*) were among the many services used by Qadhafi. The Central Information Bureau (CIB, Maktab al-Ma'lumat al-Markazi), also called the Intelligence Bureau of the Leader (Maktab Ma'lumat al-Qa'id), was the main security service under Qadhafi reign. The CIB, created in 1970 with the assistance of the East-German Ministry for State Security, functioned as headquarters for the other secret and intelligence services and was located in the Bab al-Aziziyya barracks in Tripoli (as was Qadhafi's residence).<sup>179</sup>

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<sup>175</sup> Nazuri replaced Major-General Abdussalam Jadallah Ubaydi in August 2014.

<sup>176</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Human Rights Watch, *Libya Country Summary*, January 2014; The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

<sup>177</sup> UNSMIL, telephone interview, 12 November 2014; Gazzini, C., Crisis Group, telephone interview, 18 November 2014.

<sup>178</sup> Aljazeera, *Libya special forces to join renegade general*, 20 May 2014; BBC News, *Guide to key Libyan militias*, 20 May 2014.

<sup>179</sup> Geneva Center for the Democratic Control of Armed Forces (DCAF), *Challenges to Security Sector Governance: The Libyan Case (Conference Paper)*, July 2004.

After the 2011 uprising, the structure of Libya's security and intelligence service as it was under Qadhafi was shattered, and the intelligence services' infrastructure was largely destroyed. In the aftermath of the uprising, several armed umbrella organisations, more or less operating within the legal framework of the official security sector, but not operating as state services as such, emerged. The two largest bodies are the Supreme Security Committee (SSC) and the Libya Shield Force (LSF). Other organisations of this sort are the National Guard (Third Force) and the Libya Revolutionaries Operations Room (LROR).<sup>180</sup> Although officially linked to the government, these hybrid <sup>181</sup> security bodies often worsened the security situation in parts of Libya by being involved in criminal activities – backed by their privileged status as security keepers – or by engaging in fighting in conflicts they were supposed to solve.<sup>182</sup>

## 5.2.6 Hybrid Security Forces

Below, a brief outline is given of Libya's main hybrid security services.

### 5.2.6.1 The Supreme Security Committee (SSC)

The SSC was founded shortly after the revolution in October 2011, by decree no. 20, issued by the National Transitional Council. The SSC was placed under the surveillance of the Ministry of the Interior (MoI) and was based in Tripoli. Initially the SSC was tasked with overseeing the many militia councils in the region of Tripoli which emerged in the power vacuum after the 2011 uprising.<sup>183</sup> Eventually, the SSC had branches in all Libyan cities. The SSC in practice functioned as a police force, filling the void that the NPF left. The SSC was *de facto* the first security body after the revolution to operate parallel to the state security system. Officially placed under the authority of the MoI, the SSC operated largely independently. As time progressed the main task of the SSC was to integrate *thuwwar* into the NPF. Though operating as police, SSC units lacked proper training and were widely known for their violent behavior. SSC members exercised illegal and arbitrary detention, forced confessions during interrogations and followed incorrect arrest procedures.<sup>184</sup>

The SSC at this point has a somewhat unclear status. They were officially due for dismantling twice, first in December 2012 and later on in June 2014. An unknown number of SSC members are now placed somewhere within the structures of the MoI. A dysfunctional police structure prevented the integration of SSC members into the

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<sup>180</sup> These militia based hybrid security organisations are also described in *Libya: Militias, Tribes and Islamists*.

<sup>181</sup> The term 'hybrid organisation' is used by scholars within the scope of security sector reform to indicate state institutions that rely on the interaction between formal state bodies and informal bodies such as militias. See for example the Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means*, October 2014 and Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014.

<sup>182</sup> POMED, *Libya's Turbulent Transition*, December 2013; USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014.

<sup>183</sup> The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

<sup>184</sup> The SSC were formally authorised by the Minister of the Interior to execute security investigations and arrests in 2011. Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014; USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

National Police, even though officially some 80,000 SSC members have been transferred to the NPF. In Tripoli, the SSC currently still exercises security services. Some factions of the SCC played a role in the Libya Dawn offensive in mid-2014.<sup>185</sup> The SSC has been lifted from the task of integrating *thuwwar* into the state security services, but integration is still far from complete.<sup>186</sup>

#### 5.2.6.2 The Libya Shield Force (LSF)

Whereas the SSC was formed top down by the NTC, the LSF was erected from the bottom up by uniting *thuwwar* leaders in early 2012 to counter ethnic and tribal clashes in the country. In the course of 2012, the LSF developed into an unofficial army that gained strength and power that surpassed the regular army forces. In February 2012, the defence minister Usama Juwayli agreed on a proposal from revolutionary armed groups from Benghazi to form a stabilisation force in cooperation with the Libyan army.<sup>187</sup>

The original allocation of the Shield Brigades into a western, eastern and central front still remained intact during the reporting period. On a more detailed level, LSF is divided into various divisions.<sup>188</sup> Officially the LSF falls under the authority of the Libyan MoD, but in practice they operate relatively independently, much like the SSC operates independently from the MoI. The integration of militia from the LSF into the regular state security forces was to a large extent unsuccessful.<sup>189</sup> Although the LSF was officially linked to the MoD, in practice they acted based on their own agenda, mainly driven by tribal, community and individual interests.<sup>190</sup> Furthermore, Shield members are paid far higher salaries<sup>191</sup> than regular soldiers and police officers. According to a Libyan law professor, an important reason for the reluctance of Shield members to join the army and the police, was the revolutionaries' insistence on restructuring the army and police and subject both to vetting processes.<sup>192</sup> In the course of the Libya Dawn operation in Tripoli from mid-2014 onwards, large Misratan militias, operating under the umbrella of LSF, joined the offensive.<sup>193</sup>

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<sup>185</sup> The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

<sup>186</sup> Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014; USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

<sup>187</sup> The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014; BBC News, *Guide to Key Libyan Militias*, 20 May 2014.

<sup>188</sup> The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

<sup>189</sup> Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014.

<sup>190</sup> *Ibid.*; USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014.

<sup>191</sup> Sometimes double or triple the amount. Shield members sometimes receive salaries from three paying entities: the Shield, the militia and the state. Libyan law professor, meeting in the Netherlands, 23 September 2014.

<sup>192</sup> Libyan law professor, meeting in the Netherlands, 23 September 2014.

<sup>193</sup> The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

### 5.2.6.3 The National Guard (NG) and the Third Force (TF)

The NG was originally set up in late 2011 as an umbrella group for revolutionary militias. In December 2011 NG leader Khalid al-Sharif, a former commander of the Libyan Islamic Fighting Group, announced that his guard would be subordinate to the MoD.<sup>194</sup> In mid-2013, then Prime Minister Ali Zaydan launched an attempt to use the NG as a vehicle to bring the Libya Shield under closer control of the government. The NG initiative was conceived as a two-year-program during which members of the LSF and also the SSC would gradually move into the structures of the state security forces or be given alternative employment. Due to political opposition and quarrelling, the NG-project took off with a false start. With the departure of Zaydan as prime minister in March 2014, the idea of a NG (modelled after similar internal structures in the US, the UK and Denmark) was still not fully rejected. In 2014, the city of Misrata resurrected the plan of a NG, under the name of the Third Force (TF). TF now apparently operates as a security force in some parts of Libya (as part of the Libya Shield Force), mainly addressing tribal and communal clashes. In May 2014 members of the force clashed with insurgents from the al-Gurda district in Sabha (central Libya). In February 2014 TF and the Misrata Shura Council managed to reach a peace agreement between the Tebu and Awlad Sulayman tribes who were fighting over strategic areas around Misrata.<sup>195</sup>

### 5.2.6.4 The Libya Revolutionaries Operations Room (LROR)

The LROR is an umbrella group of predominantly Islamist militias. The LROR was established by the GNC in 2013 to perform police activities in Tripoli. After LROR militias were accused of kidnapping then Prime Minister Ali Zaydan in October 2013, the organisation was dismissed of its tasks of protecting the capital. GNC Chairman Nuri Abu Sahmayn, who set up the LROR, was dismissed as well. A branch of the LROR was set up in Benghazi to take care of the deteriorating security situation. LROR returned to Tripoli in November 2013.<sup>196</sup>

## 5.3 Security Sector Reform (SSR)

### 5.3.1 Attempts

Within the scope of the reporting period, many attempts have been made to mould the structure of the Libyan security sector into a functioning state security structure. Up to now, no such attempt has been successful – mainly due to the political and security situation, the polarisation of the various actors in the security sector (state and non-state) and the lack of functioning state institutions, like fully operating ministries and governmental institutions which are able to enforce structural change in the security sector.<sup>197</sup> According to two Libya experts writing for Small Arms Survey, there is no plan for security sector reform, nor has there been work done on building the political

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<sup>194</sup> WAL/BBC Monitoring, *Libya-National Guard Forces Rally under Libyan Defence Ministry Umbrella*, 9 December 2011; Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

<sup>195</sup> POMED, *Libya's Turbulent Transition*, December 2013; Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014; Libya Herald, *Sebha Petrol Queue result in one dead and 12 wounded*, 15 May 2014.

<sup>196</sup> Terrorism Research and Analysis Consortium (TRAC), *Libya Revolutionaries Joint Operations Room (LROR)*, no date; BBC News, *Guide to key Libyan militias*, 20 May 2014.

<sup>197</sup> POMED, *Libya's Turbulent Transition*, December 2013; Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014.

consensus that is necessary to begin such a process.<sup>198</sup> According to a senior Libya analyst at Crisis Group, the status of the security sector in Libya has taken a turn for the worse since the outbreak of violence in mid-2014 and the emergence of two competing governments, which polarised the political and security landscape.<sup>199</sup>

### 5.3.2 Disarmament

Disarmament of the many armed factions and groups operating in Libya is closely connected to attempts to reintegrate militia members into state service. In early 2012 the Warriors Affairs Commission for Rehabilitation and Development (WAC) started registering *thuwwar*, to try to integrate them into the state security structures and to register their arms.<sup>200</sup> After a promising start, the WAC gained little support from major armed groups and from the responsible ministries. Up until now, most (members of) militias refused to hand over their weapons, among other reasons because they felt that the state security services still bear the legacy of the old regime. They demanded that regular security forces first get rid of the Qadhafi era personnel.<sup>201</sup>

No large scale disarmament of civilians took place during the reporting period. Many people felt at risk, and given the difficult security situation in Libya at time of writing, most of them held on to their firearms. The authorities launched programs meant to register and collect firearms, but many people were not aware of the existence of these programs. According to a Libyan law professor, many people in Libya today still possess weapons, making it hard for the police and other law enforcement and security forces to do their job without running the risk of getting hurt.<sup>202</sup>

### 5.3.3 International Assistance

To help Libya increase the efficiency of its security and justice sector, a number of countries, including the US, Italy and the UK, have offered training courses in their respective countries for Libyan army and security personnel. European Union countries have allocated funds to strengthen Libya's security sector reform and rule of law programme, among other initiatives.<sup>203</sup> Interpol has aided Libya in restructuring its security sector via an EU sponsored project to strengthen Libyan capacity to identify and fight regional security threats, the so called RELINC-project,<sup>204</sup> which lasted from 1 September 2012 to 1 March 2014.<sup>205</sup>

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<sup>198</sup> The Small Arms Survey/Security Assessment in North Africa Project, *Politics by Other Means. Conflicting Interests in Libya's Security Sector*, October 2014.

<sup>199</sup> Gazzini, C., Crisis Group, telephone interview, 18 November 2014.

<sup>200</sup> After the registration the arms were returned to the *thuwwar* that chose to register.

<sup>201</sup> Carnegie Endowment for International Peace, *Ending Libya's Civil War: Reconciling Politics, Rebuilding Security*, 24 September 2014.

<sup>202</sup> USIP, *Security and Justice in Post-revolution Libya; Where to turn?*, September 2014; Libyan law professor, meeting in the Netherlands, 23 September 2014; Libya Herald, *Sebha Petrol Queue result in one dead and 12 wounded*, 15 May 2014.

<sup>203</sup> Gov.uk, *Libyan Armed Forces to be Trained in UK*, 9 July 2013; POMED, *Libya's Turbulent Transition*, 4 December 2014.

<sup>204</sup> Restructuring Libya's Investigative Capacities (RELINC).

<sup>205</sup> Interpol, *Libya*, no date.

In the second half of 2013, plans for creating a General Purpose Force were developed. At the request of then PM Ali Zaydan<sup>206</sup> several partner nations from the G8 and others (including the US, the UK, Italy and Turkey) agreed to train a Libyan military force that potentially could number 20,000.<sup>207</sup> In an official statement on 26 June 2014, the US Department of Defense renewed its commitment to this initiative.<sup>208</sup> According to a political analyst in Cairo, Egypt is also training 2,000 to 3,000 Libyan soldiers.<sup>209</sup> In 2012, Jordan and Turkey offered the possibility for Libyan police trainees and army recruits to finish their training in academies in those countries.<sup>210</sup>

UNSMIL provides support in the sphere of disarmament, demobilisation and reintegration (DDR) programmes. In this respect, UNSMIL advises Libyan authorities<sup>211</sup> on organisational structures, staffing requirements and public information and outreach campaigns. UNSMIL further tries to promote dialogue between armed groups and the Libyan authorities concerning the integration and reintegration of militias and armed battalions into state service and society.<sup>212</sup> After the ruling of the Supreme Court in November 2014, by which the election of the HoR was deemed illegal (see section 2.1), the UN took a waiting stance towards the HoR.<sup>213</sup>

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<sup>206</sup> Zaydan made his request at the G8 summits in June and September 2013, to help restore security, stem the flow of small arms and rebuild security and judicial institutions.

<sup>207</sup> Carnegie Endowment for International Peace, *Pitfalls for Libya's General Purpose Force*, 10 October 2013; Centre for Security Governance, *Libya: Dealing with the Militias and Advancing Security Sector Reform (eSeminar summary report)*, January 2014.

<sup>208</sup> US Department of Defense, *Official: US Committed to Training Libyan Security Force*, 26 June 2014.

<sup>209</sup> Political analyst, interview in Cairo, 27 October 2014.

<sup>210</sup> Today's Zaman, *Libyan Police Forces to be Trained in Turkish Academies*, 16 January 2012; BBC News, *Jordan Begins Libya Police Training Programme*, 25 April 2012.

<sup>211</sup> The Tubruq-based HoR.

<sup>212</sup> UN Security Council, *Report of the Secretary-General on the United Nations Support Mission in Libya*, 5 September 2014.

<sup>213</sup> UNSMIL, telephone interview, 12 November 2014.

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