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Technical assistance and capacity-building

Technical assistance and capacity-building to improve human rights in Libya

Report of the Office of the United Nations High Commissioner for Human Rights*

Summary

The present report is submitted pursuant to Human Rights Council resolution 52/41 and provides an overview of the technical assistance and capacity-building that the Office of the United Nations High Commissioner for Human Rights carried out from April 2023 to March 2024, through engagement with the Libyan authorities. The report presents some human rights challenges in Libya in the context of the implementation of Council resolution 52/41. The report concludes with a set of recommendations addressed to the Libyan authorities and the international community.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 52/41, on technical assistance and capacity-building to improve human rights in Libya. In that resolution, the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR), in close consultation with the Libyan authorities, to provide technical assistance and capacity-building, with a view to improving further the situation of human rights in Libya, to assist the country in the implementation of its international human rights obligations and commitments, taking into account the work done by the Independent Fact-Finding Mission on Libya, its reports and recommendations, where applicable, and to support Libya in promoting and protecting human rights, preventing violations and ensuring accountability for violations and abuses of human rights, in accordance with a national plan. The Council also requested OHCHR to present a report at its fifty-sixth session on the implementation of the resolution, to be followed by an interactive dialogue.

2. The report covers the period from April 2023 to March 2024 and outlines the technical assistance and capacity-building support provided to the Libyan authorities by OHCHR, in cooperation with the Human Rights, Rule of Law and Transitional Justice Service of the United Nations Support Mission in Libya (UNSMIL). The report presents the main human rights challenges in Libya in the context of the implementation of Human Rights Council resolution 52/41. It contains recommendations for the Libyan authorities and the international community aimed at strengthening the promotion and protection of human rights in Libya.

II. Main achievements in technical cooperation and capacity-building to improve human rights in Libya

3. Pursuant to Human Rights Council resolution 52/41, OHCHR, in close cooperation with UNSMIL, provided technical assistance and capacity-building support to the Libyan authorities and other stakeholders. Notwithstanding the potential impact of these activities through sustained efforts, the implementation of the Council resolution was severely affected by various factors. These included the volatile security situation and sporadic clashes between armed groups and militias across Libya, which limited the access of OHCHR and UNSMIL to the eastern and southern parts of the country. This was coupled with denial of access to critical locations, including detention facilities, across the country and security concerns related to the arrest and detention of United Nations staff in eastern Libya. Furthermore, since July 2023, the liquidity situation in relation to the regular budget of the United Nations Secretariat has limited the regular budget funds of OHCHR and restricted its ability to hire new staff. This directly affected the capacity of OHCHR and UNSMIL to provide the full technical assistance envisaged in the resolution; in particular, it necessitated the scaling back of the scope of work initially envisaged. In view of the above challenges, it was not possible to implement in full the tasks mandated by the Council.

4. The implementation of the resolution was carried out against the background of persistent human rights challenges in Libya, including arbitrary detention, enforced disappearances and human rights violations in the context of deprivation of liberty; gross and widespread human rights violations and abuses against migrants, refugees and asylum-seekers; attacks on civic space and participation; deterioration of the rule of law and a lack of accountability; and persistent obstacles in the transitional justice and reconciliation process, as outlined further below.

5. At the outset of the reporting period, OHCHR, in cooperation with UNSMIL, carried out a mapping exercise to ascertain the technical assistance and capacity-building needs of Libyan institutions and other stakeholders, while taking into account the country's human rights situation and main challenges, as well as the findings and recommendations of the Independent Fact-Finding Mission on Libya. On the basis of this mapping, the areas of intervention identified for technical assistance and capacity-building support included strengthening the rule of law, enhancing accountability and expanding civic space as part of reconciliation and transitional justice; advancing a national human rights action plan and

strengthening national human rights mechanisms; and supporting judicial and institutional reforms, including vetting processes and ongoing criminal justice reform efforts.

6. During the reporting period, OHCHR and the Human Rights, Rule of Law and Transitional Justice Service, in collaboration with other components of UNSMIL, United Nations agencies and other partners, conducted – in cooperation with the Libyan authorities – a total of 13 technical assistance and capacity-building activities in the areas identified. Among the beneficiaries were 312 individuals, of whom 126 were women, and numerous Libyan institutions. Moreover, almost 400 individuals, of whom approximately 120 were women, participated in an additional eight consultations for victims and their representatives. Authorities and other stakeholders were requested to consider gender balance when nominating participants for activities.

A. Strengthening rule of law and accountability as part of transitional justice and reconciliation

7. OHCHR, in cooperation with UNSMIL, supported efforts to strengthen the rule of law and accountability as part of the nascent reconciliation and transitional justice process of Libya, in accordance with the requests of the Human Rights Council to enhance the capacity of the Libyan judiciary to investigate and prosecute human rights violations and improve accountability and enhance the capacity and skills of Libyan institutions to monitor, investigate and collect evidence on human rights violations.¹ Considering the importance of promoting a victim-centred approach that amplifies the voices of victims, while also strengthening national ownership by enhancing the capacity of local institutions to drive efforts towards reconciliation, these efforts were focused on empowering victims to advocate for their rights through future mechanisms and strengthening the capacity of, and cooperation between, Libyan institutions to overcome challenges related to justice and accountability.

8. In May 2023, OHCHR, in cooperation with UNSMIL, organized a series of inclusive consultations in Benghazi and Tripoli with over 400 victims of human rights violations, including approximately 120 women, from Tawurghah, Gharyan, Murzuq, Tripoli, Benghazi and Tarhunah, among other locations. The consultations were aimed at gathering victims' views on accountability, truth-seeking and reparation. Building on earlier capacity-building efforts with victims' groups, they provided a safe space for victims to learn about ongoing reconciliation and transitional justice initiatives and their rights and built community capacity to engage with future processes. Victims' views, needs and demands later fed into advocacy efforts with relevant authorities and technical assistance by UNSMIL to the Presidency Council, including on the draft reconciliation law mentioned in paragraph 55 below.

9. Securing accountability for gross violations of human rights and serious violations of international humanitarian law relies significantly on the capacity and readiness of national authorities to investigate and prosecute such crimes. From 13 to 15 June 2023, OHCHR, in cooperation with UNSMIL, the International Commission on Missing Persons and the International Centre for Transitional Justice, organized a workshop during which 10 participants, including two women, exchanged best practices for investigating gross violations and abuses of human rights in Tarhunah, where reasonable grounds exist to believe that crimes under international law were committed between 2013 and 2022. The workshop, which was aimed at enhancing cooperation between criminal justice actors, brought together victims' representatives, the special prosecution team on Tarhunah, the military prosecutor's office and the General Authority for the Search and Identification of Missing Persons. Recommendations were made to address challenges such as victims' distrust of the justice system and lack of access to legal, administrative and mental health support, as well as the lack of coordination between forensic agencies owing to competition relating to overlapping mandates. The workshop helped increase knowledge and improve coordination on mass grave investigations and provided a safe space for victims' representatives to engage with authorities on ongoing investigation processes, thus contributing to rebuilding institutional trust.

¹ Council resolution 52/41, para. 1 (b) and (c).

10. The workshop also laid the groundwork for future training in specific priority areas, including best practices and standards in the collection and preservation of evidence for the purpose of the identification of human remains. On 28 and 29 February 2024, two subsequent workshops were organized for 32 representatives, including 16 women, from the Ministry of Interior, the Attorney General's Office, the Criminal Investigation Department, the General Authority for the Search and Identification of Missing Persons and the Judicial Expertise and Research Centre of the Ministry of Justice. Owing to tensions between forensic authorities, OHCHR, in cooperation with UNSMIL, held separate discussions for each. The workshops, carried out in partnership with the United Nations Development Programme (UNDP) and the Forensic Anthropology Foundation of Guatemala, sought to support authorities in identifying missing and disappeared persons in different scenarios, including in the contexts of atrocity crimes, migration and disasters. Participants increased their knowledge of and reached consensus on the need for a common methodology for collecting and transporting various types of evidence crucial for the identification of human remains, informed by forensic archaeology, anthropology, genetics and evidence collection practices.

11. Such a multidisciplinary methodology holds particular importance in the context of the ongoing mass grave investigations in Tarhunah, in eastern Libya, following Storm Daniel, and in the migration context in south-western Libya. This methodology can foster cooperation and coordination among relevant bodies involved in large-scale efforts to identify human remains. It is key that these bodies work constructively towards resolving institutional divides related to overlapping mandates that currently hamper coordination. This aspect is and will be essential for realizing the potential impact of capacity-building efforts delivered pursuant to Human Rights Council resolution 52/41.

B. Strengthening civic space to create an enabling environment for transitional justice and reconciliation

12. In addition to the above-mentioned efforts to strengthen the role of accountability in the reconciliation and transitional justice process, and in accordance with the request of the Human Rights Council to determine possible ways to strengthen the role of civil society and local communities in achieving reconciliation and transitional justice, and promoting human rights,² OHCHR, in cooperation with UNSMIL, further focused on strengthening civic space to allow for dialogue, foster transparency and empower communities and victims to participate effectively and meaningfully in future mechanisms.

13. On 13 January 2024, an inclusive consultation was organized in Tripoli with 31 representatives, including six women, from human rights organizations working with victims across Libya, including migrants and internally displaced persons. The discussion was focused on the ongoing efforts led by the Presidency Council and the draft reconciliation law of the House of Representatives and identified barriers to civil society participation considering the current security environment and attacks on civic space. The participants formulated recommendations for including the voices and needs of civil society organizations, victims and marginalized communities in current efforts.

14. Feedback from the participants informed the legal analysis submitted by UNSMIL to the House of Representatives on its draft reconciliation law, which was viewed as not fully consistent with international transitional justice norms and standards and eventually rejected by the Justice and Reconciliation Committee of the House of Representatives. The consultations thereby enabled civil society organizations to advocate for a reconciliation and transitional justice process that serves the interests, needs and expectations of victims and broader Libyan society. By informing representatives about ongoing State-led initiatives to address victims' rights and providing a safe space for them to express their views, the consultations also empowered civil society organizations to advocate more effectively at the local and national levels to shape future initiatives. To support the House of Representatives in adopting a unified law on transitional justice and reconciliation that is in line with international norms and standards, OHCHR, in cooperation with UNSMIL, led further advocacy efforts to reconcile the draft laws of the Presidency Council and the House of

² Ibid., para. 1 (a).

Representatives, as further detailed in paragraph 55 below. These efforts culminated in the adoption of a unified draft law that has been transmitted to the Justice and Reconciliation Committee of the House of Representatives but has yet to be presented to the parliament.

15. A consultation for civil society organizations that had been due to be held in Sabha was cancelled because of logistical constraints, while another, due to be held in Benghazi, could not be held because access was denied by the eastern authorities.

16. The efforts of OHCHR, in cooperation with UNSMIL, aimed at strengthening civic space in order to create an enabling environment for transitional justice and reconciliation have been complemented by recent initiatives of the Special Rapporteur on the rights to freedom of peaceful assembly and of association focused on the adoption of a legislative framework enabling the right to freedom of association, in compliance with the 2011 Constitutional Declaration and the country's international human rights obligations. In February 2024, the Special Rapporteur convened, with the support of UNSMIL, a technical round table on the subject with Libyan authorities and civil society organizations.

C. National human rights action plan and mechanisms

17. The human rights architecture in Libya consists of three interministerial committees led by the Ministry of Justice, namely, a national human rights committee, a committee for drafting human rights reports and an international humanitarian law committee, along with subcommittees of the House of Representatives and the High Council of State. There is also a national human rights institution, the National Council for Civil Liberties and Human Rights. During the reporting period, in accordance with the requests of the Human Rights Council to determine the short- and long-term capacity-building needs of Libyan national institutions and support Libya in promoting and protecting human rights, preventing violations thereof and ensuring accountability for violations and abuses of human rights, in accordance with a national plan,³ OHCHR, in cooperation with UNSMIL, worked with the above-mentioned committees to determine their capacity-building needs and devise a national plan for the implementation of the international human rights obligations and commitments of Libya. Other Libyan authorities and civil society organizations were also among the beneficiaries; however, due to ongoing attacks on civic space and risks of reprisals, separate meetings were held with civil society actors to ensure their protection.

18. On 4 and 5 October 2023, the first workshop for State institutions was organized. It was attended by 37 participants, including four women, from the three human rights committees mentioned above, the Attorney General's Office and the military prosecutor. The Minister of Justice and the Minister of Foreign Affairs also attended. Participants agreed to develop a national human rights action plan addressing a series of recommendations of the Independent Fact-Finding Mission on Libya, including those related to disarmament, demobilization and reintegration, internal displacement, enforced disappearance, sexual violence, military trials of civilians, criminalization of migration, detention conditions and the closure of unofficial and secret detention centres.⁴ An additional outcome of the workshop was an agreement on success indicators to measure progress, which entities are responsible for implementation, and a timeline. The State institutions resolved to meet regularly to provide updates on implementation.

19. During a second workshop, on 2 and 3 March 2024, 35 participants, including seven women, from the three interministerial committees (see para. 17 above), as well as the subcommittees of the High Council of State and the House of Representatives, met to discuss progress and challenges in developing a national action plan, along with the law reforms necessary to achieve the priority recommendations of the Independent Fact-Finding Mission on Libya. At the end of the Mission's mandate, authorities had committed to forming a senior committee to study its recommendations. During the meeting, participants agreed to form such a committee, composed of one representative of each interministerial human rights committee and of the subcommittees of the House of Representatives and the High Council

³ *Ibid.*, para. 1.

⁴ [A/HRC/52/83](#), paras. 101 and 102.

of State. On 17 March 2024, a meeting was held at the Ministry of Justice to formalize its creation. The new body would be tasked with following up on a national action plan, initiating relevant legal reforms and monitoring progress, but requires a formal decision of the Ministry to be created. Additional, sustained advocacy is required to ensure that the new body is operationalized and can achieve its purpose of activating a national action plan to further the implementation of the recommendations of the Independent Fact-Finding Mission on Libya.

20. Separate workshops with civil society actors enabled OHCHR, in cooperation with UNSMIL, to amalgamate recommendations of Libyan civil society and authorities and bring together ongoing national efforts to develop a national action plan addressing the recommendations of the Independent Fact-Finding Mission on Libya. On 18 and 19 December 2023, a workshop was convened in Tunis with 33 civil society actors from across Libya, including five women, to achieve consensus on the most critical recommendations for implementation, and the role of civil society in that process. Those discussions laid the groundwork for the subsequent meeting with authorities to assess progress in developing a national action plan.

21. On 5 and 6 March 2024, OHCHR, in cooperation with UNSMIL, carried out a follow-up workshop in Tunis, which was attended in person and online by 17 participants, including six women, from 25 civil society organizations from across Libya. Expert facilitators supported participants in discussing the steps taken by authorities to develop a national action plan and to develop strategies for overcoming challenges to implementing the recommendations of the Independent Fact-Finding Mission on Libya. The workshops strengthened collaboration and coordination among civil society organizations to effectively advocate for human rights priorities in Libya. Additional support is, however, required for such organizations to work on developing their own plans for advocacy, outreach and the monitoring of implementation, as well as to continue to provide safe spaces for exchanges with authorities.

D. Judicial and institutional reforms and vetting processes

22. Following successive civil wars and extensive discussions on the subject, Libya is yet to embark on security sector reform, justice sector reform and disarmament, demobilization and reintegration, as outlined further in paragraphs 51–55 below. During the reporting period, OHCHR, in cooperation with UNSMIL, carried out three activities aimed at supporting authorities to develop a human rights-based framework for vetting personnel in the security and justice sectors. Due to the current security environment and tensions between security and judicial actors, separate, targeted discussions were held for each.

23. On 24 and 25 October 2023, OHCHR, in cooperation with UNSMIL, organized a workshop on security sector reform, focusing on the experiences of institutions in western Libya and bringing together 31 participants, including seven women, from various sectors, such as the training, human resources and recruitment departments of the Ministry of Defence and the Ministry of the Interior, the Judicial Police and civil society, to identify priorities, needs and recommendations for vetting personnel as part of security sector reform and transitional justice. Participants identified key needs for security sector reform and agreed on a framework for increasing integrity and accountability and coordinating efforts to that end. They also prepared a draft vetting questionnaire to be completed by applicants to security institutions and recommended preparing a national strategic plan for training security personnel on human rights, as well as mechanisms for addressing the current integrity deficit and increasing internal and external oversight of personnel, including by civil society. OHCHR, in cooperation with UNSMIL, held several meetings to follow up on those recommendations, in cooperation with the UNSMIL Security Institutions Service, with an emphasis on human rights capacity-building and developing the vetting questionnaire and a code of conduct. Comments on the vetting and institutional reforms mechanism proposed in the draft reconciliation law of the Presidency Council were also shared with the Presidency Council, the Military Prosecutor, the Ministry of Interior, the Ministry of Defence and the Attorney General's Office.

24. At a workshop organized in Tripoli on 26 and 27 November 2023, 20 participants, including two women, from the recruitment and training departments of the Ministry of Justice, the Attorney General's Office, the Military Prosecutor, the Administrative Control Authority and the Judicial Police, as well as members of the House of Representatives, discussed the need for initiating targeted vetting in the justice sector to increase the competencies, professionalism and integrity of judicial actors. The meeting increased awareness of international vetting standards and rights-based frameworks for justice sector reforms. Participants agreed to draft a code of conduct for judicial actors and discussed other measures to build the sector's competence and integrity, including a personnel register and a national vetting database. During subsequent meetings with the Attorney General's Office and the Ministry of Justice, OHCHR, in cooperation with UNSMIL, offered technical support in developing the code of conduct.

25. While denial of access by the authorities prevented the holding of vetting workshops in eastern Libya, OHCHR, in cooperation with the Human Rights, Rule of Law and Transitional Justice Service and the Security Institutions Service of UNSMIL and the Geneva Centre for Security Sector Governance, organized a workshop on 8 and 9 December 2023 in Tripoli on a community-based approach to security sector reform in southern Libya. The emphasis on community engagement stemmed from the difficulties in convening discussions with security actors in southern Libya and in bringing them to Tripoli. The meeting was attended by 19 representatives from southern Libya, including nine women. The participants included notables, tribal elders, civil society actors and representatives of ethnic minorities, all of whom were active in local dialogue and reconciliation initiatives. Participants raised their awareness about the role of vetting and security sector reform in transitional justice, considered conflict dynamics and the security needs of local communities and formulated recommendations for programmes to prevent armed conflict, support the political and reconciliation processes and help build a secure environment conducive to sustainable peace in southern Libya.

26. These activities promoted dialogue and cooperation among diverse stakeholders on sensitive, security-related topics and achieved agreement on related proposals that can contribute to an effective reform of the justice and security sectors in Libya. To achieve that end, additional, concerted, sustained coordination and collaboration among Libyan authorities, local stakeholders and international actors are needed.

E. Criminal justice reform

27. As highlighted in the recommendations of the Independent Fact-Finding Mission on Libya, criminal justice reform is needed in Libya, including to end human rights violations and abuses in the context of deprivation of liberty, and to bring the country's legal framework into line with its international human rights obligations.⁵ From 12 to 14 September 2023, OHCHR, in cooperation with UNSMIL, organized a workshop in Tripoli on addressing human rights violations and abuses in the context of deprivation of liberty. The workshop, which was attended by 30 participants, including four women, from the Attorney General's Office, the Ministry of Interior, the Ministry of Defence, the Ministry of Justice, the Military Prosecutor's office, the Judicial Police, the Bar Association, detention centres and civil society organizations, enabled discussion on the main legislative challenges and practices for addressing human rights violations in the context of deprivation of liberty. Participants drafted an interministerial agreement addressing legislative gaps concerning migration detention, outlining the mandate of a new coordination mechanism that would increase oversight of judicial officers' work and enable regular monitoring of places of detention, including by civil society, and mandating accurate statistical reporting from authorities, in particular for juvenile and women's detention centres.

28. OHCHR, in cooperation with UNSMIL, shared the above-mentioned agreement with relevant authorities and continues to advocate for its adoption by decree. The proposed

⁵ [A/HRC/50/63](#), paras. 111 (h) and (k); and [A/HRC/52/83](#), paras. 102 (f), (g), (l), (m), (p) and (r).

mechanism would bear a resemblance to a national preventive mechanism,⁶ thus contributing to addressing a gap in the legal framework of Libya owing to the fact that it has not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Further efforts from relevant authorities are needed to establish this mechanism and ensure its impact. OHCHR, in cooperation with UNSMIL, continues to follow up and advocate with relevant actors for its operationalization.

29. Reform of the criminal justice system was also at the heart of an initiative aimed at revising the penal and criminal procedure codes of Libya, with a view to bringing them into line with international standards. On 24 and 25 February 2024, OHCHR, in cooperation with UNSMIL, UNDP and the United Nations Office on Drugs and Crime, held a seminar in Tunis with 17 participants, including three women, from across the legal system of Libya, including the Public Prosecution Office, the Ministry of Justice and the judicial authority, as well as university law faculties. The participants addressed critical challenges within the criminal justice system in Libya and produced a set of recommendations, including on measures to protect victims, witnesses and judicial actors, reactivating the role of the public prosecution service to divert criminal cases, creating legal limits for pretrial detention, implementing restorative justice principles and alternatives to detention and polling citizens' views on legislative amendments. Participants reached consensus on supporting an ongoing reform initiative of the public prosecution service, including by revising the penal and criminal procedure codes through a series of workshops, to be followed by a national conference in June 2024, to finalize a reform strategy. The Attorney General's endorsement of this road map underscores commitment to those efforts and their potential impact.

III. Human rights challenges in the context of the implementation of Human Rights Council resolution 52/41

30. In line with Human Rights Council resolution 52/41 and the Council's request to OHCHR to improve further the human rights situation in Libya and to support Libya in promoting and protecting human rights and preventing violations thereof, the Office, in cooperation with UNSMIL, tailored its technical assistance and capacity-building support to respond to the prevailing human rights situation in Libya. The situation is characterized by the main human rights challenges set out in the following sections, information on which was gathered and verified by UNSMIL in accordance with OHCHR methodology. Addressing these human rights challenges will be instrumental to the sustainability of continued technical cooperation and capacity-building that will lead to the protection and promotion of human rights in Libya.

31. The overview of human rights challenges is not exhaustive, given the focus of the mandate on technical assistance and capacity-building, as well as challenges encountered in monitoring and reporting on violations and abuses of international human rights law and violations of international humanitarian law in Libya.

A. Arbitrary detention, enforced disappearances and human rights violations in the context of deprivation of liberty

32. In its final report, in March 2023, the Independent Fact-Finding Mission on Libya noted that it had found reasonable grounds to believe that crimes against humanity had been committed against Libyans and migrants throughout Libya since the beginning of 2016 in the context of deprivation of liberty.⁷ It documented numerous cases of arbitrary detention, enforced disappearance and human rights violations in the context of deprivation of liberty, including sexual violence, verifying the widespread practice thereof in Libya.

33. Since the publication of the final report of the Independent Fact-Finding Mission on Libya, an increase in human rights violations and abuses by security services and militias

⁶ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 3.

⁷ [A/HRC/52/83](#), paras. 2, 4, 41, 42, 55, 57 and 61.

affiliated with the western Libya-based Government of National Unity and authorities in eastern and southern Libya, including arbitrary arrests and detentions and enforced disappearances of actual or perceived political opponents and their family members, was reported. While the figure is likely to be higher and arrests continue, OHCHR, in cooperation with UNSMIL, has verified 60 cases of arbitrary detention, including of at least four women, and some family members of those implicated, for the peaceful expression of political views. Detention-related violations were also documented in some of these cases, including torture, ill-treatment and extrajudicial killings.

34. In several such cases, OHCHR, in cooperation with UNSMIL, sent letters to authorities in the eastern and western parts of the country, including the Attorney-General, the Tripoli branch of the Internal Security Agency and the Office of the Military Prosecutor in Benghazi, to address alleged violations, seek information on missing persons and request access to detainees, with little or no response. Judicial authorities falling under the authority of the Attorney General likewise took no action when presented with information about violations.

35. Detention centres in Libya continue to be marked by overcrowding, with many detainees in pretrial detention awaiting trials for prolonged periods, sometimes years. Detainees experience a chronic lack of access to food, water, health care and social and rehabilitation programmes and endure poor sanitation conditions. During the reporting period, the Ministry of Justice continued to deny UNSMIL access to all detention facilities under its control in both eastern and western Libya, except for two highly negotiated partial visits and a visit to the Judaydah women's detention centre in Tripoli. Engagement with the Attorney General on access to detainees, including arbitrarily detained persons, was unsuccessful. UNSMIL repeatedly requested access to Mitiga detention facility, from where numerous reports of violations have emerged. The Deterrence Apparatus for Combating Organized Crime and Terrorism, which controls the facility, continued to deny access, with requests by UNSMIL to meet also remaining unanswered at the time of writing the present report.

B. Situation of migrants, refugees and asylum-seekers

36. Migrants, refugees and asylum-seekers continued to experience gross and widespread human rights violations and abuses at the hands of State and non-State actors across Libya, in particular at borders and in arbitrary detention. Libya serves as a point of destination and transit for migrants, with 706,509 present in the country as at December 2023, the majority of whom had entered through Chad, Egypt, the Niger or the Sudan.⁸

37. Since April 2023, security agencies in Libya have carried out a series of mass arrests and collective expulsions of thousands of people, including individuals with valid visas and those registered with the Office of the United Nations High Commissioner for Refugees. The mass expulsions came amid mounting pressure from the European Union and its member States to stem migration across the Mediterranean Sea, as well as a rise in hate speech and racism against migrants in Libya, including online misinformation campaigns calling for the expulsion of all sub-Saharan Africans from the country.

38. Mass arrests and expulsions from Libya have coincided with the arbitrary detention of thousands of migrants and asylum-seekers in Libya since June 2023 after their collective expulsion from Tunisia, facilitated by the Tunisian and Libyan authorities. In August 2023, at least 28 migrants reportedly died in the militarized desert area at the border between Libya and Tunisia, while over 80 individuals remain missing following the expulsion from Tunisia of hundreds of migrants, including women and children, with no or limited access to food, water or shelter. In March 2024, at least 65 bodies, presumed to be migrants, were discovered in a mass grave in south-western Libya.

39. Throughout the reporting period, OHCHR, in cooperation with UNSMIL, documented a consistent pattern of armed interceptions on land and at sea, forced returns

⁸ International Organization for Migration, "Migrant report round 50: October–December 2023" (Tripoli, 2024).

without due process, and transfers from border areas to detention facilities in western Libya, including Bi'r al-Ghanam and Ghawt al-Sha'al detention facilities, which are under the control of the Directorate for Combating Illegal Migration, and the al-Assa detention facility, which is managed by the Libyan Border Guard under the jurisdiction of the Ministry of Interior. In the Bi'r al-Ghanam and al-Assa facilities, OHCHR, in cooperation with UNSMIL, verified cases of torture and ill-treatment, extrajudicial killings, trafficking in persons, forced labour, extortion and other forms of ill-treatment.

40. In the absence of safe and regular migration pathways, migrants and refugees continued to undertake perilous sea journeys from Libya, resulting in situations of distress and drownings. According to the International Organization for Migration, 947 individuals were found dead and 1,256 went missing at sea after departing from Libya between 1 January and 25 November 2023. On 14 June 2023, 79 migrants drowned off the coast of Greece after travelling from Tubruq on an overcrowded, dilapidated fishing vessel. As many as 500 more migrants also aboard the vessel were presumed dead, many of whom were women and children, making it the deadliest shipwreck on the central Mediterranean route in 2023. On 16 December 2023, a vessel capsized off the coast of Libya, killing 61 migrants, after it had departed from Zuwarah. In a welcome development, on 18 February 2024, the highest court in Italy ruled that the facilitation of the interception of migrants and refugees by the Libyan Coast Guard was unlawful and might amount to collective refoulement, in violation of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), on the basis that Libya is not a safe port of return.

C. Civic space and participation

41. As highlighted by inclusive consultations with civil society held by OHCHR, in cooperation with UNSMIL, civic space in Libya continued to erode during the reporting period. In western Libya, security actors positioned themselves as the moral police to justify campaigns against civil society organizations, humanitarian actors and women, while in the eastern region, criticism of military leadership was met with widespread surveillance and control, in violation of freedoms of expression, opinion, association and assembly. Hate speech, including gendered hate speech and incitement to violence, continued to threaten the lives and undermine the activities of women human rights defenders, activists and journalists.

42. In April 2023, the western branch of the Internal Security Agency introduced a manifestly discriminatory procedure, under which Libyan women travelling alone and departing from airports in western Libya were required to fill out a form to provide information on their reasons for travelling abroad without a male companion. Women who refused to fill out the form, which the Agency claimed was aimed at protecting underage girls, were denied boarding. During the reporting period, women candidates running in municipal elections, including in Ajdabiya, Benghazi and Darnah, experienced severe harassment, including online gendered hate speech and death threats, forcing them to flee to other locations in Libya.

43. Since March 2023, Libyan authorities have increasingly invoked Act No. 19/2001, a repressive law from the era of Muammar Al-Qadhafi's presidency, as the main legal source for regulating civil society organizations, despite the law violating the 2011 Constitutional Declaration and having been repealed under Act No. 29/2013, which abolished all repressive laws enacted before 2011. Following a legal opinion issued by the Law Department of the Supreme Judicial Council in March 2023, which rendered any organizations not formed in accordance with Act No. 19/2001 null and void, OHCHR, in cooperation with UNSMIL, received reports of arbitrary arrests and detentions of civil society actors, raids on their offices and closures of their bank accounts. In March 2023, the Government of National Unity issued a circular allowing organizations to continue working until registered under the 2001 law. In May 2023, it issued decision No. 312/2023, establishing a committee to regulate civil society organizations and reinforcing the executive's control over civil society activities. While efforts continue to draft a new law to regulate civil society organizations, this decision established that Act No. 19/2001 will continue to regulate such organizations for the time being.

44. After Storm Daniel hit eastern Libya in September 2023, OHCHR, in cooperation with UNSMIL, documented several crackdowns on civic space by the authorities in eastern Libya, including arbitrary arrests of journalists, intellectuals and activists, and restrictions on access to information and freedom of movement, expression and assembly. On 18 September 2023, communication channels in Darnah went down, sparking concerns that they had been deliberately cut, following growing criticism of the authorities' neglect of vital infrastructure and handling of the flood response, including mass burials of storm victims, mismanagement of funds, and arbitrary and bureaucratic impediments to humanitarian aid. On the same day, as protesters gathered, the Libyan National Army requested media organizations and journalists to leave the city, claiming that the large number of journalists was complicating the work of rescue teams.

D. Deterioration of the rule of law and lack of accountability

45. Libya continued to experience a deepening accountability deficit, marked by indications of a deepening erosion of the rule of law, including attacks on judges, prosecutors and lawyers, due process concerns, and legislative enactments undermining the independence of the judiciary. Throughout the reporting period, armed actors and security agencies continued to engage in armed clashes with impunity, exacerbating the country's instability. Nine clashes took place in populated areas in 2023, including two attacks striking hospitals. At least three civilians, including two children, were killed during these clashes, which left 25 others injured. Justice and accountability remained elusive for victims of gross human rights violations and abuses, including those committed in Murzuq in 2019 and in Tarhunah from 2013 to 2022.

46. During the reporting period, security forces based in western Libya reportedly interfered in the work of the military prosecution by coercing prosecutors to prosecute specific cases or halt legal procedures against certain individuals. Courts in western Libya faced challenges in determining sensitive cases as judicial police and security agencies failed to execute court orders to transfer defendants to court, resulting in delays lasting from months to more than a year. Security entities, such as the Deterrence Apparatus for Combating Organized Crime and Terrorism, continued to arbitrarily detain or keep in detention individuals without charge, including those who had completed their sentences and those with release orders issued by the judiciary.

47. In February 2024, the Supreme Court, in the context of Appeal No. 69/1578 concerning the Abu Salim prison mass killing, again annulled the verdict of the second criminal court of Tripoli, intervening for the second time since 2021, and referred the case to a new panel of the Tripoli Court of Appeal for a third retrial. The court rendered its decision on jurisdictional grounds, ruling that the case fell within the purview of civil courts, since Abu Salim prison had not been under military control during the mass killing. Furthermore, among the 82 defendants from the former regime's political, police, correctional and security bodies, it noted that over half were civilians. The proceedings began in 2014 and this was the second appeal since December 2019, when the Tripoli Court of Appeal acquitted the accused based on the statute of limitations, a decision that was overturned in May 2021. This case underscores the challenges of accessing justice for mass atrocity crimes in Libya.

48. Since 2021, the House of Representatives has enacted several laws and decrees related to the judicial system that alter the structure and functioning of key judicial organs, blurring the lines between the executive and the judiciary and undermining the separation of powers. In July 2023, the Supreme Court ruled, in appeal No. 5/69, that amendments to Act No. 6/2006, which dissolved the High Judicial Council and established the Supreme Judicial Council, were unconstitutional. Under those amendments, the head of the Judicial Inspection Department had been appointed as president of the Supreme Judicial Council and the Attorney General as its deputy head. Subsequently, in December 2023, the House of Representatives expanded the membership of the Supreme Judicial Council by means of Act No. 32/2023 to include further government appointees, prompting a constitutional challenge in January 2024 regarding the appointment of the head of a non-judicial body to a judicial body.

49. On 9 January 2024, the House of Representatives passed a law criminalizing witchcraft, sorcery and fortune-telling, with some offences punishable by death. Although the law is yet to appear in the Official Gazette, it would be in violation of article 6 of the International Covenant on Civil and Political Rights, according to which States that are not abolitionist may only apply the death penalty for the most serious crimes, namely crimes of extreme gravity directly and intentionally resulting in death. Concerns have also been raised about the potential use of the law to arbitrarily target religious minorities, women human rights defenders, activists and civil society, including with the death penalty.

50. In a positive legal development related to women's rights, the legislative committee of the House of Representatives endorsed a draft law aimed at protecting women from violence. The draft, which was developed with the support of OHCHR, UNSMIL, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the Team of Experts on the Rule of Law and Sexual Violence in Conflict, marks a positive step forward in the legislative process, but its adoption remains pending.

51. As a symptom of the deepening accountability deficit in Libya, including the failure to address past violations, ongoing violations of economic, social, and cultural rights, such as housing, land and property rights, continued with impunity across Libya during the reporting period. In September 2023, special procedure mandate holders of the Human Rights Council called upon brigades of the Libyan National Army and the House of Representatives to cease the forcible eviction of residents and the demolition of homes in Benghazi, preserve cultural heritage sites and end reprisals against those protesting the evictions.⁹ Following the catastrophic loss of life and civilian infrastructure in the wake of Storm Daniel in eastern Libya in September 2023, OHCHR, in cooperation with UNSMIL, verified reports of forced evictions of residents and the demolition of homes not affected by the flooding in Darnah, with minimal or no compensation and without relocation. During the reporting period, OHCHR, in cooperation with UNSMIL, also documented the forced eviction of 350 internally displaced families from the Abu Salim neighbourhood in Tripoli.

E. Transitional justice and reconciliation

52. The absence of a comprehensive human rights-based national reconciliation and transitional justice process in Libya has allowed cycles of violence and impunity to persist, exacerbated by the ongoing mobilization of State-funded armed groups, which undermine efforts to promote unified and legitimate institutions, the rule of law and human rights. The failure to uphold victims' rights and ensure accountability has led to the emergence of new grievances, further fuelling division among "cultural components"¹⁰ and communities, as exemplified by the continued systematic persecution of Sufi communities. Meanwhile, the recent escalation in arbitrary arrests and detentions, including of civil society and political actors, and the use of repressive laws to curb civic space seriously jeopardize a conducive environment for rights-based reconciliation.

53. The transitional justice and reconciliation process requires a safe and open environment in which all actors can operate without fear of harassment, violence or reprisals. Its success depends on the ability to foster an approach based on transitional justice principles and human rights and to promote unified and legitimate institutions. The meaningful participation of women, victims and other marginalized groups is also essential if the process is to address the root causes of conflict and achieve legitimacy. However, women, cultural components, youth, civil society and victims' representatives have been largely absent from the reconciliation process thus far. During consultations with stakeholders by OHCHR, in cooperation with UNSMIL, the majority asserted that they had not been informed about efforts led by the Presidency Council, which they deemed to be largely a political exercise unrelated to transitional justice.

⁹ See communication OTH 63/2023, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28133>.

¹⁰ See Act No. 18 of 2013 on the Rights of Cultural and Linguistic Components; and 2011 Constitutional Declaration, art. 1.

54. Pursuant to the Roadmap for the Preparatory Phase of a Comprehensive Solution, adopted by the Libyan Political Dialogue Forum in November 2020, the Presidency Council was entrusted with launching a comprehensive national reconciliation process based on the principles of transitional justice and promoting a culture of amnesty and tolerance, in parallel with truth-seeking and reparation. A strategic vision proposal for the national reconciliation project was published in June 2022.

55. In January 2024, the Presidency Council submitted a draft reconciliation law to the House of Representatives. It provides for a national reconciliation commission, committees on truth, reparations and institutional reform, chambers of transitional justice cases, a reparation committee and a victim compensation fund. The draft law was perceived to be in line with international standards. However, a conflicting draft law from the House of Representatives, viewed by OHCHR and UNSMIL as inconsistent with fundamental human rights norms, has stymied the process, and it remains to be seen whether a national reconciliation conference, agreed upon in January 2023, will take place.

IV. Conclusions

56. **The technical assistance and capacity-building provided by OHCHR, in close cooperation with UNSMIL, have identified the capacity-building needs of Libyan institutions, civil society and local communities so that they may work to promote transitional justice and reconciliation in Libya, as well as key entry points for human rights in such a process. The support delivered went beyond identifying needs to strengthening the capacities of, and coordination among, various Libyan authorities and other stakeholders to investigate and prosecute human rights violations in accordance with transitional justice principles and standards and providing safe spaces for the participation of civil society, victims and local communities in the design of future processes and mechanisms. Other achievements included facilitating the development of a national human rights action plan targeting a series of recommendations of the Independent Fact-Finding Mission on Libya, formulating rights-based frameworks and recommendations for vetting in the security and justice sectors, and advancing key criminal justice legislative and institutional reforms.**

57. **These efforts all contributed to promoting dialogue and cooperation among diverse stakeholders whose contributions are essential to laying the groundwork for sustainable reforms and a rights-based and people-centred reconciliation and transitional justice process in Libya. However, to achieve lasting impact, they must be built upon thorough sustained engagement and follow-up with stakeholders. This is particularly important given that the delivery of the mandate was seriously impeded by the security situation in Libya and the lack of access to the eastern and southern regions of the country and detention facilities and other critical sites in the western region of the country. While authorities in western Libya engaged constructively with OHCHR and UNSMIL on activities pursuant to Human Rights Council resolution 52/41, cooperation was lacking or, in some cases, absent when seeking to deliver support pursuant to the resolution in eastern and southern Libya.**

58. **The potential impact of the work mandated by the Human Rights Council in its resolution 52/41 was also hindered by the current political situation in Libya, which is characterized by the absence of unified, legitimate institutions and the lack of political will to move towards elections and a meaningful transitional justice and reconciliation process. Continuing deadlock and fragmentation not only empower armed groups and other actors to perpetrate human rights violations and abuses but also present a significant obstacle to implementing a coherent and sustainable approach to technical assistance and capacity-building across the country. Authorities have so far failed to ensure accountability for violations and abuses, and ongoing attacks on civic space and the rule of law, the arbitrary arrest and detention of political opponents and dissenting voices and the marginalization of women, cultural components, youth and victims also point to the limitations of improving the human rights situation through technical assistance and capacity-building.**

59. The support delivered by OHCHR, in cooperation with UNSMIL, highlighted that achieving lasting peace and stability in Libya continues to depend on the country's ability to design and implement a rights-based and people-centred transitional justice and reconciliation process, achieve a sustainable political settlement, restore a functioning rule of law, ensure accountability for human rights violations and build unified, fair and legitimate institutions. The reconciliation process currently faces several roadblocks, as highlighted above, resulting in persistent setbacks in adopting a reconciliation law and road map. These must be overcome if the process is to achieve legitimacy and if meaningful progress is to be made towards addressing the root causes of the conflict, preventing further conflicts and violations, and pursuing sustainable stability and peace. Sustained technical assistance and capacity-building can support authorities to overcome such roadblocks and achieve a meaningful rights-based process that serves the needs of the Libyan people if supported by enhanced cooperation with Libyan authorities to improve the situation of human rights in Libya.

V. Recommendations

60. With a view to strengthening the effectiveness and impact of technical assistance and capacity-building support and improving the situation of human rights in Libya, OHCHR makes the recommendations set out below.

61. OHCHR recommends that the Libyan authorities:

(a) Continue to work towards the implementation of all the recommendations of the Independent Fact-Finding Mission on Libya, including through increased cooperation with OHCHR and UNSMIL;

(b) Grant OHCHR and UNSMIL unhindered access to all locations and critical sites, including detention facilities;

(c) Ensure accountability and justice for violations and abuses of international human rights law and violations of international humanitarian law through investigating and prosecuting alleged perpetrators in accordance with fair trial rights and due process guarantees and providing effective remedies for victims, building on the support delivered pursuant to Human Rights Council resolution 52/41;

(d) Continue building the capacity of, and strengthening cooperation and coordination between, bodies involved in investigating and prosecuting human rights violations;

(e) Operationalize the interministerial committee to monitor violations in places of detention, as agreed by authorities in the context of technical assistance on criminal justice reform delivered pursuant to Human Rights Council resolution 52/41, while taking steps to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to establish a national preventive mechanism;

(f) Support the revision of the Penal and Criminal Procedure Codes in alignment with international standards through the ongoing criminal justice reform initiative of the Public Prosecution Office;

(g) Take immediate steps to protect and promote the rights of women, human rights defenders, civil society actors, journalists, intellectuals and other persons at heightened risk of human rights violations and abuses;

(h) Adopt a new legislative framework for ensuring civic space and protection of freedom of association, in line with the international human rights obligations of Libya, and for allowing an enabling and safe environment for civic space;

(i) Intensify efforts to adopt a unified national reconciliation law, based on international transitional justice principles and standards, to establish a comprehensive rights-based and people-centred national reconciliation process in Libya;

(j) Ensure the effective, meaningful participation of women, minorities, youth, civil society and victims in such a process;

(k) Ensure comprehensive vetting in the security and justice sectors that is undertaken in line with due process standards and with recommendations emerging from the institutional reform initiatives undertaken pursuant to Human Rights Council resolution 52/41;

(l) End the criminalization of irregular entry, stay and exit, establish a presumption against immigration detention, improve life-saving search and rescue in accordance with international law and human rights obligations, investigate and ensure accountability for human rights violations and abuses such as deaths and cases of missing migrants and increase cooperation with the United Nations and civil society to promote the human rights of migrants, including through addressing discrimination, racism and xenophobia.

62. OHCHR recommends that the international community:

(a) Continue providing technical assistance and capacity-building to Libyan authorities on a targeted basis, in line with human rights due diligence policies, focused on strengthening existing national capacities to implement the recommendations of the Independent Fact-Finding Mission on Libya and responding to the short- and long-term capacity-building needs of Libyan institutions identified pursuant to Human Rights Council resolution 52/41;

(b) Support the strengthening of the monitoring capacity of OHCHR in the context of Libya through additional resources to ensure tailored technical assistance and capacity-building to effectively respond to the prevailing human rights challenges;

(c) Provide support for the establishment of a comprehensive, rights-based and people-centred national transitional justice and reconciliation process in Libya, prioritizing security sector reform and disarmament, demobilization and reintegration in compliance with international standards and the meaningful participation of women, cultural components, youth, civil society and victims;

(d) Review and, if necessary, suspend cooperation with Libyan authorities involved in gross human rights violations, including against migrants, support Libyan efforts to decriminalize migration and provide safe alternatives to detention and widen safe and regular pathways for migration.