

## Libya, Report of the Office of the UN High Commissioner for Human Rights (2014/15)

Case prepared by Alexandra Hansen, BLaw, student at the Universities of Basel and Geneva (Switzerland), under the supervision of Professor Marco Sassòli and Ms. Yvette Issar, research assistant, both at the University of Geneva.

**N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents.** Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

### Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya, Report of the Office of the United Nations High Commissioner for Human Rights

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[...]

### **Summary**

The present report, submitted pursuant to Human Rights Council resolution 28/30, has been prepared on the basis of an investigation carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR). It describes widespread violations of international human rights law and international humanitarian law, and abuses of human rights, perpetrated by all parties to the conflict in Libya throughout 2014 and 2015.

[...]

[...]

### III. Context

7. Still recovering from the Qadhafi period and the armed conflict of 2011, Libya experienced a dramatic decline in its political and security situation in 2014 and 2015, amidst competing legislatures, divided State security institutions and forces, and multiple armed groups, with devastating effects for the population.

8. In the east, in May 2014, retired General Khalifa Haftar launched *Al Karamah* (“Operation Dignity”), reportedly to eradicate “radical terrorist” groups from eastern Libya. An alliance of groups, including Ansar al-Sharia, joined the Benghazi Revolutionaries Shura Council to fight forces deployed under Operation Dignity. As at December 2015, hostilities were still ongoing. In the west, heavy fighting erupted in Tripoli in July 2014. Originally focused on control of Tripoli international airport, Misrata-based armed groups together with armed groups from Tripoli, Al-Zawiya, Zuwara and other towns launched the *Fajr Libya* (“Libya Dawn”) campaign against armed groups affiliated with Zintan. Thereafter, Libya Dawn gained control of Tripoli as armed groups from Zintan withdrew. Libya Dawn expanded to the Warshafana region, and launched counter-offensives in the Nafusa Mountains area. Ceasefire agreements in 2015 have since reduced the intensity of clashes in the west.

9. In 2014 and 2015, tribal armed groups engaged in localized hostilities in the south, particularly in Sabha, Awbari and Al-Kufra. Armed conflicts in the north also spilled over to the south, with some groups allying with Operation Dignity or Libya Dawn.

10. In the meantime, groups pledging allegiance to Islamic State in Iraq and the Levant (ISIL) further emerged as a force, particularly in Derna, Sirte and Benghazi. In addition to prompting responses by the Libyan National Army aligned with Operation Dignity and a number of armed groups, Egypt and the United States of America engaged in air strikes targeting these groups.

11. Political divisions deepened in Libya in 2014 and 2015, resulting in the formation of administrations in both the east and the west. In June 2014, elections were held for a new legislature, the House of Representatives, which confirmed the established Government. Owing to the precarious security situation in Tripoli, in August 2014, the Government, led by Prime Minister Abdullah Al-Thani, moved to Al-Baida. The House of Representatives commenced its sittings in Tobruk. The previously established legislature, the General National Congress, then re-convened, and parallel ministries were established in Tripoli. The House of Representatives endorsed Operation Dignity, while the General National Congress supports the Libya Dawn campaign. Following a year-long political dialogue, the Libyan Political Agreement to establish a Government of National Accord was signed on 17 December 2015.

### IV. Armed actors in Libya

12. The current situation should be considered against the background of the rise of “revolutionary” armed groups during the 2011 armed conflict, and the lack of progress in vetting and integrating those groups into formal security forces. Many groups were placed under the nominal authority of the Ministries of Defence, the Interior or Justice, received salaries from the State and, in some cases, given law enforcement and custodial functions. Armed groups appear, however, to have continued to operate with significant autonomy, including by maintaining their own command structure. The number and membership of such groups have increased substantially. They have consolidated effective control over large territorial areas, strategic installations and State institutions. In particular, armed groups are in control of many detention facilities. The already fragmented Libyan National Army has been further divided, with opposing authorities recognizing different commanders.

13. The major armed actors active in Libya include Operation Dignity (comprising the Libyan National Army and armed groups aligned with General Haftar); Shura Councils, including Ansar al-Sharia opposed to Operation Dignity; Libya Dawn (comprising Libya Shield Forces and other armed groups); a coalition of armed groups opposing Libya Dawn; tribal armed groups (particularly in the south); and groups pledging allegiance to ISIL.

## **V. Patterns of violations and abuses**

### **A. Unlawful killings and executions**

14. OHCHR documented a number of unlawful killings, in particular the execution of individuals taken captive or detained/abducted, and assassinations of those voicing dissent. Reports of unlawful killings were documented in all conflict areas and by most major groupings of armed actors.

15. In eastern Libya, OHCHR documented six cases in which individuals alleged to be members or supporters of Ansar al-Sharia were executed after their arrest or capture by forces aligned with Operation Dignity. In five of the cases investigated, the families only became aware of the death of their relatives through photographs posted on social media. One member of the Libyan National Army confirmed having received specific orders from a superior to kill captured Ansar al-Sharia operatives. Some fighters who surrendered were also killed. [...]

16. OHCHR investigated seven cases relating to the assassination of perceived opponents to those exercising power, six of which were committed in Benghazi. Responsibility for the assassinations was most commonly attributed by interviewees to Ansar al-Sharia. Of those targeted, four were human rights defenders, one a judicial actor and two alleged Qadhafi supporters.

17. Groups pledging allegiance to ISIL have engaged in the public execution of civilians and persons placed hors de combat, mainly in Sirte and Derna, though also in other areas. Examples include the beheading of a group of men, including 20 Egyptian Coptic Christians, in early 2015, and the killing of captured fighters in August 2015 whose bodies were subsequently desecrated and publically displayed.

18. Unlawful killings were also reported in Sabha and Awbari in the south, including the shooting of several individuals defending their homes from raids or appropriation by rival tribal armed groups.

## **B. Attacks on civilians and civilian objects, and other protected persons and objects**

19. International humanitarian law requires that parties direct their attacks only against legitimate military objectives, respecting the principles of distinction, proportionality and precaution. Many attacks during the conflict in 2014 and 2015 appear to have been indiscriminate in nature, with a particular impact on highly populated residential areas, including in Benghazi, Tripoli, Warshafana, the Nafusa Mountains areas, and in the south. Measures taken to protect civilians were insufficient. Heavy weaponry, such as Grad rockets, which are not appropriate for use in highly populated residential areas given that they cannot target with sufficient precision, have been employed. OHCHR was unable to determine the parties responsible for many specific attacks owing to the limitations to access and information and the similarity of the weapons being employed by the parties to the conflict in Libya. OHCHR did, however, receive reports of indiscriminate attacks in all conflict areas.

20. In one case investigated by OHCHR, two children were killed when on 26 April 2015 a residential building in the Al-Hada'eq neighbourhood of Benghazi was hit by a rocket. In May 2015, three children were killed and two injured when a shell struck a house in Balo'n, in the Al-Fuweihat neighbourhood of Benghazi. It was reported that there was no fighting in either area at the time of the attacks, nor were there any known military objectives being pursued.

21. Indiscriminate attacks also took place in Tripoli and other areas, such as Warshafana and the Nafusa Mountains, including Kikla. In one case, a rocket said to have been launched by Libya Dawn groups in Al-Hashan, a neighbourhood south of Warshafana, hit a car containing a family seeking to escape the shelling, killing three family members. Armed groups affiliated with Zintan were also reported to be using weaponry unsuited for precise targeting in highly populated residential areas, such as Grad rockets, tanks, anti-aircraft weaponry and mortar shells.

22. Groups pledging allegiance to ISIL have conducted suicide bombings, which have been indiscriminate in their effects. In one case, in Al-Qubba, in February 2015, a vehicle loaded with explosives was used to target a national security directorate. Two explosions caused the death of many civilians nearby.

[...]

24. The conflict witnessed attacks against or otherwise with an impact on other persons and objects given protection under international humanitarian law, including health facilities, ambulances, medical personnel and humanitarian workers. Attacks were documented, for instance, against the Tripoli Medical Centre by the "Al-Tajeen Brigade", an armed group affiliated with Libya Dawn and against the Al-Zawiya hospital by Warshafana armed groups. Shelling struck other facilities, including the Al-Zahraa City hospital. Reports were also received of attacks against ambulances marked with the distinctive Red Crescent symbol in the area around Al-Kufra by Brigade 448. OHCHR documented cases of abduction and hostage-taking of humanitarian workers by members of an Al-Magarha armed group in the south.

25. Private property was appropriated, looted and deliberately destroyed in conflict areas. OHCHR investigated four cases in Benghazi in which individuals of western origin had their property taken or destroyed by armed groups affiliated with Operation Dignity, including the Awliaa al-Damm armed group. Similar reports were received relating to groups affiliated with Libya Dawn in the Warshafana area. Reports were also received of the appropriation and destruction of property by groups pledging allegiance to ISIL.

### **C. Arbitrary detention, abductions and disappearances**

26. It is estimated that more than 9,000 people are currently detained in facilities operated by the Ministry of Justice and the Department for Combating Illegal Migration of the Ministry of the Interior. This figure does not include the significant number of people detained elsewhere, such as in other facilities operated by the Ministry of the Interior, the Ministry of Defence and/or those operated by armed groups.

27. OHCHR interviewed former detainees who had been arbitrarily detained. Few of those arrested were charged with any criminal offence. Some were unaware of the reasons for their arrest or detention. Virtually none had access to rights of due process and most were denied other rights, such as contact with their families. [...]

28. Given the limited functioning of courts, there is little recourse to judicial review of the legality of detentions. Even when recourse is available, court orders for release have not always been effective. In one case investigated by OHCHR, in January 2014, a judge ordered the release of a man in Tripoli. On his way home, however, the man was re-apprehended by the Tripoli Revolutionaries Brigade and returned to the detention facility.

[...]

30. Armed groups in particular also control secret or unrecognized detention facilities. OHCHR investigated a number of disappearances attributed to State forces and armed groups after the launch of Operation Dignity and Libya Dawn. [...]

### **D. Torture and other ill-treatment**

31. OHCHR documented numerous cases of torture and other forms of cruel, inhuman or degrading treatment or punishment, particularly of individuals in detention facilities. Individuals suffered beatings with plastic pipes or electrical cables, prolonged suspension in stress positions, solitary confinement, incommunicado detention and electrocution. Many were also deprived of adequate food or water, were subjected to threats of a sexual nature, or to the extortion of payment in exchange for freedom. Torture was frequently reported by detainees as having been perpetrated at the time of arrest, during apprehension or questioning during interrogations, or during detention in facilities operated by the State and/or armed groups, as well as in makeshift facilities.

32. Torture has resulted in the death of detainees in various facilities [...].

[...]

## **E. Gender-based violence and discrimination against women**

34. There has been a series of attacks by armed groups against women promoting equality, social justice and accountability in Libya. The assassination of activists, [...] and the threats, harassment and assaults suffered by others appear designed to send a broader message that women should not be vocal in the public sphere.

35. OHCHR staff spoke with a number of women who reported that they had been subjected to sexual violence but did not wish to provide detailed accounts or have their stories shared publicly for fear of retaliation, perceived stigma, family pressure or trauma. OHCHR documented the case of one woman who was abducted in Tripoli by an armed group affiliated with Libya Dawn, drugged and raped repeatedly over a period of six months. She also provided information according to which six girls as young as 11 years of age had been subjected to sexual violence by members of the same group.

36. Many women reported greater challenges to their fundamental rights, such as freedom of movement or the right to work, following the armed conflict of 2011. Some drew attention to religious decrees issued by the Mufti of Libya questioning the equality of men and women as evidence of the entrenchment of a rigid ideology that, when implemented, is harmful to women's rights. Women in Tripoli and Benghazi experienced difficulties in exercising such rights as freedom of movement owing to the requirement that they be accompanied by "male guardians". Six women reported difficulties in obtaining basic civil services in Tripoli, such as identification documents, and 12 women described restrictions placed upon their ability to work.

37. In areas controlled by groups pledging allegiance to ISIL, some women reported having been confined to their home owing to the fear of being exposed to harassment, abduction and servitude. Older girls and women were not allowed to leave their house without being fully covered up, including covering their face (*niqab*). Some women reported that they were no longer able to work or to be seen without a male guardian for fear of reprisals by groups pledging allegiance to ISIL or Ansar al-Sharia.

[...]

## **F. Economic, social and cultural rights**

39. Enjoyment of economic, social and cultural rights further declined in Libya in 2014 and 2015. Most of the causes related to the conflict, although the situation appears to have been compounded by the economic situation and specific budgetary and planning decisions made by the Government. Women, internally displaced persons, children and migrants were particularly affected. Fighting in and around urban areas has led to the destruction of homes and triggered large-scale displacement; according to UNHCR, the number of internally displaced persons increased sharply from 80,000 in May 2014 to 435,000 in May 2015.

40. According to the Office for the Coordination of Humanitarian Affairs, as at September 2015, 1.9 million

people in Libya required essential humanitarian aid in order to meet basic health-care needs. The security situation, including attacks against or with an impact on health facilities, health-care and humanitarian workers, and the departure of foreign medical personnel owing to the violence have been the dominant causes of disruption to health care. [...]

41. Access to education has been significantly curtailed, particularly in the east; for example, the Office for the Coordination of Humanitarian Affairs estimated in September 2015 that 73 per cent of all schools in Benghazi were not functioning. Schools have been either damaged, destroyed, occupied by internally displaced persons, converted into military or detention facilities or are otherwise dangerous to reach. OHCHR investigated the case of a primary school in Benghazi that had been used as a base and detention facility by an armed group. [...]

42. According to the Office for the Coordination of Humanitarian Affairs, food insecurity affects some 1.2 million people in Libya. In addition to the effects of the conflict, the Government's decision to reduce or cut food subsidies in November 2015 had an adverse impact on access to food. Furthermore, major water networks have been disrupted, which has affected access to safe drinking water, sanitation and hygiene. OHCHR investigated one case in Al-Sasiriyah where the water supply was apparently deliberately cut by an armed group.

## **G. Administration of justice**

43. Judges and prosecutors were at risk of murder, court bombings, assaults and abductions throughout 2014 and 2015. At times, attacks were linked to specific demands, such as the detention or release of certain individuals, or to thwart the arrest and prosecution of armed group members. As a result, courts in Derna, Sirte and Benghazi ceased their activities in 2014; some courts in parts of Benghazi reopened, though only to a limited extent, in 2015. Courts in Tripoli temporarily suspended activities during the fighting in mid-2014.

44. On the basis of the information received, OHCHR assesses that the system for providing security for judicial actors through the Judicial Police is inadequate and flawed. The Judicial Police includes in its ranks thousands of members of armed groups integrated without any comprehensive vetting programme. [...] In many facilities, control is effectively exercised by armed groups. In the absence of proper protection, the judiciary cannot deliver justice. [...]

45. Since the armed conflict in 2011, thousands of individuals remain detained. According to the Ministry of Justice, as at March 2014, only 10 per cent of the 6,200 people held in its detention facilities were serving prison sentences following a trial. The vast majority continue to be held without having had their cases properly examined to determine whether sufficient evidence exists for them to be charged or released. [...]

46. Owing to the collapse of the criminal justice system in many parts of Libya, victims have little recourse to protection, or to an effective remedy for violations and abuses. UNSMIL/OHCHR previously reported that little action had been taken to open prompt, thorough, effective, impartial and independent investigations and to bring perpetrators to justice. To date, there have been very few investigations and no prosecution of leaders or members of armed groups relating to the events of 2014 and 2015. [...]

## **H. Human rights defenders and journalists**

47. Human rights defenders have been subjected to particular violations and abuses, including assassination, attempted murder, abduction, threats, surveillance, and raids on their homes and offices. Cases of this type have been witnessed predominantly in Benghazi and Tripoli. The cases that OHCHR documented were most commonly attributed by interviewees to armed groups affiliated with Ansar al-Sharia or Libya Dawn. The fear generated by such actions and the impunity enjoyed by perpetrators have forced many to go into hiding or to flee, and threaten to silence independent voices.

48. Many attacks have targeted high-profile activists, producing a chilling effect on the work of other human rights defenders. Lawyer and human rights activist Salwa Bugaighis was killed in Benghazi on 25 June 2014 (on the same day as elections for the House of Representatives), and her husband was disappeared. The perpetrators remain unidentified; the main witness died in police custody. The Prosecutor initially working on the case was abducted and remains missing. [...]

[...]

50. Journalists have faced serious harassment and death threats; some have been subjected to arbitrary detention, abduction and attempted assassination. Female journalists have also been targeted on the basis of their gender. The deaths of several journalists reported to OHCHR require further investigation. Media offices have been raided and attacked. Journalists also face criminal prosecution for defamation and libel for writing on political matters.

## **I. Migrants**

51. Subject to exploitation and abuse by authorities, armed groups and smugglers, migrants are particularly at risk in Libya. Cases of prolonged arbitrary detention and other deprivation of liberty, torture and ill-treatment, forced labour and exploitative labour practices, extortion, trafficking and sexual violence, were all reported in the interviews conducted by OHCHR. Sub-Saharan Africans are at a heightened risk of abuse and racial discrimination. Migrant women have faced sexual violence and exploitation both in and outside detention facilities.

52. Libya has long had a considerable population of migrant workers. It is also a transit country on the migration routes from East and West Africa to Europe. UNHCR estimate that between January to mid-October 2015, more than 140,000 individuals arrived in Italy by sea, the majority of whom departed from Libya.

53. According to the International Organization for Migration (IOM), 3,770 individuals died in 2015 attempting to cross the Mediterranean. Many of the journeys are undertaken on dangerously overcrowded and ill-equipped boats, often resulting in scores of deaths. In addition to death by drowning, suffocation due to the conditions on board was also reported. [...]

54. A large number of migrants are currently detained in Libya without access to judicial review. According to



UNHCR and IOM, as at 4 May 2015, there were at least 3,245 migrants detained in facilities in western Libya alone, including 329 women and 34 children. Detention conditions are inadequate, often characterized by chronic overcrowding, poor sanitation and health care, and insufficient food. Violence is endemic. A Nigerian man held in a centre in Gheryan reported: “a man spilled his soup. One of the guards took out a gun and shot him dead”. [...]

## **J. Tawerghan community**

55. In addition to the difficulties that internally displaced persons encounter in enjoying their rights, groups perceived as having supported the Qadhafi regime during 2011 are at particular risk of human rights violations and abuses. OHCHR received the greatest number of reports of violations and abuses from members of the Tawerghan community, which has been displaced since the attack by Misrata-based armed groups on Tawergha in August 2011.

56. Although progress was witnessed in 2015 in the dialogue between Misratan and Tawerghan communities to allow for safe returns and reparation (including adoption of a road map in December), OHCHR received reports of difficulties associated with the community’s continuing displacement, including reduced livelihoods, ethnic discrimination and limited access to education and health services. Tawerghans reported being subject to a greater risk of arbitrary detention and ill-treatment, especially by Misrata-based armed groups.

## **K. Children**

57. Besides being exposed to the threats posed by armed conflict, children in Libya face significant challenges in enjoying their rights.

58. Access to education has been limited by the reduced availability of schools. In addition, in many areas where schools remain open, parents refrain from sending their children to school for fear of injury to them during attacks. In areas controlled by Ansar al-Sharia, some parents described being afraid to send their girls to school for fear of abductions. In areas controlled by groups pledging allegiance to ISIL, OHCHR received reports that girls were not allowed to attend school or were permitted only if wearing a full-face veil. OHCHR also received reports of girls being attacked and harassed by armed groups on their way to school in Tripoli.

59. OHCHR received information on the forced recruitment and use of children in hostilities by groups pledging allegiance to ISIL. OHCHR interviewed two boys, aged 10 and 14 years, who had been forcibly taken from their families. They had been forced to undergo religious and military training and to watch videos of beheadings. They were also sexually abused. [...] OHCHR also documented a case in which a child was used to detonate a bomb in a vehicle by a group pledging allegiance to ISIL in Derna, in June 2015.

## **VI. Overall findings**

60. On the basis of the information collected and analysed, there are reasonable grounds to conclude that there were widespread violations of international human rights law and international humanitarian law, and abuses of human rights in Libya throughout 2014 and 2015. These acts, which were committed by all parties to the conflict in Libya, included unlawful killings and executions; indiscriminate attacks, with an impact on

civilians and civilian objects; attacks against and attacks having an impact on persons and objects protected under international humanitarian law; unwarranted destruction, appropriation and looting of private property; cases of arbitrary detention, abduction and disappearances, including enforced disappearances; torture and other cruel, inhuman or degrading treatment or punishment; sexual and gender-based violence, and other forms of gender-based discrimination; and violations of economic, social and cultural rights.

[...]

63. There appears to be no effective oversight or accountability in Libya in relation to the commission of violations and abuses. No party to the conflict appears to have been exercising its responsibilities to address violations or abuses, nor have State authorities exercised their responsibilities to provide effective remedies to victims, to prevent future violations or abuses and to ensure non-repetition.

64. Many of the violations and abuses documented may amount to war crimes and other crimes under international law. With regard to war crimes, they included subjecting persons taking no active part in hostilities to violence to life and person (including murder, mutilation, cruel treatment and torture); the taking of hostages; executions without any prior pronouncement of a judgement by a regularly constituted court; directing attacks against the civilian population; directing attacks against buildings, medical units and transport and personnel bearing distinctly the emblems of the Geneva Convention; intentionally directing attacks against humanitarian personnel; pillaging; rape and other forms of sexual violence; the conscription or enlistment of children under the age of 15 years or using them to participate actively in hostilities; and destroying or seizing the property of an adversary.

65. The above-mentioned acts should be immediately and fully investigated as part of a comprehensive criminal investigation, and those responsible should be brought to justice.

[...]

## Discussion

### I. Classification of the conflict

1. (*Paras 7, 12, 13, 17*) How would you classify the conflict(s) in Libya in 2014 and 2015? Does it matter for IHL who the legitimate government of Lybia is? Are all the situations in the different regions of Libya part of the same conflict? How can a conflict in one country spill over (paragraph 9) within its own territory? What do you think this means for the classification? Does IHL apply only to areas where hostilities are ongoing, or does it apply more broadly?
2. (*Paras 7-13, 62*) Who are the parties to the conflict? Are all armed actors mentioned in paragraphs 12 and 13 parties to the conflict? Are those who are not parties not at all bound by IHL? What role does ISIL play in the conflict? In several paragraphs, the report mentions that the conduct under discussion has been undertaken by “groups pledging allegiance to ISIL”. Does that imply their acts are automatically attributable to ISIL? Is ISIL a non-State actor? Are non-State actors bound by IHL? Are they bound by IHRL?

3. (*Para. 10*) Does the participation of Egypt and the United States of America have an impact on the classification of the conflict?
4. (*Para. 8*) What does the lessening of the violence in certain regions since ceasefire agreements were signed in 2015 mean for the application of IHL? Do the ceasefires mean the end of the conflict? Has IHL stopped applying? (GC I-IV, common Art. 3; AP II, Art. 1 and 2)

## II. Violations of IHL

5. (*Paras 14-18*) Unlawful killings and executions
  - a. (*Para. 15*) Do families have a right to be informed of the death of their relatives under IHL? In every circumstance? In particular circumstances? If so, which ones?
  - b. (*Para. 17*) What IHL rules apply to the treatment of the dead? (GC I, Art. 16-17; P I, Art. 34(1); CIHL, Rule 113)
  - c. (*Para. 18*) May individuals who defend their homes be legitimately targeted?
6. (*Paras 19-25*) Attacks on civilians and civilian objects, and other protected persons and objects
  1. a. (*Para. 19*) What is a legitimate military objective under IHL? What do the principles of distinction, proportionality and precaution entail? Where does IHL provide these principles? (P I, Arts 52(2), (3); CIHL, Rule 8)
  - b. (*Paras 20-21*) Does the information in this paragraph necessarily suggest a violation of IHL? Under what circumstances would the killing of the individuals in the incidents mentioned be a violation of IHL?
  - c. (*Para. 21*) Are there limitations as to what kind of weapons may be used in heavily populated areas? What are these limitations, and where are they laid out in IHL treaties? Did the use of Grad rockets, tanks, anti-aircraft weaponry and mortar shells violate IHL? Why/Why not?
  - d. (*Para. 22*) In the case of the suicide bomb attack mentioned, was the target of the attack a legitimate military objective? Does IHL prohibit suicide bomb attacks per se? What aspects of suicide bomb attacks often run counter to IHL?
  - e. (*Para. 24*) Why are hospitals, health facilities, ambulances, medical personnel and humanitarian workers granted special protection under IHL?
  - f. What is the purpose of the red crescent emblem? What other distinctive emblems are there? If an ambulance that does not carry the distinctive emblem is attacked, is IHL still violated? (GC I, Arts 38, 39; AP II, Art. 12; CIHL, Rule 30)
  - g. (*Para. 25*) What IHL provisions were violated by the conduct reported in paragraph 25? Is it of significance that the groups who destroyed, appropriated and looted private property pledged allegiance to certain parties to the conflict? Would IHL have been violated if the destruction of property had been carried out by criminal gangs, and not persons affiliated with any of the parties?
7. (*Paras 26-30*) Arbitrary detention, abductions and disappearances
  - a. What rights do detainees have under IHL? (CIHL, Rules 87, 99, 100, 118)
  - b. Does IHL of NIAC authorize detentions? Even for armed groups? What does it mean to be arbitrarily detained under IHL of NIAC? What are the grounds and procedures under which a person may be detained under IHL of NIACs? (CIHL, Rule 99)
  - c. Under IHL, is it permissible to detain someone without the prospect of bringing them to trial? In an

IAC? In a NIAC? Under IHRL? Are there any discrepancies between IHL and IHRL? (GC IV, Arts. 41-43, 78(1); ECHR, Art. 5)

- d. (*Para. 28*) Under IHL, must there always be a judicial review of detention? In NIACs? Even by armed groups?
8. (*Paras 31-32*) How would you define torture? Are the IHL and IHRL definitions of torture the same? Does IHL protect people from torture? From other forms of cruel, inhumane or degrading treatment? Does torture always amount to a war crime? Do the acts described in paragraph 31 constitute war crimes? If they result in death? (P II, Art. 4(2)(a); CIHL, Rule 90; United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Art. 1)
9. (*Paras 34-37*) Gender-based violence and discrimination against women
  - a. Does IHL grant women special protection? What does this protection entail?
  - b. What protection does IHL provide against rape and other forms of sexual violence? Does IHL expressly prohibit rape and other forms of sexual violence in international armed conflicts? In non-international armed conflicts? (GC I-IV, Art. 3; GC IV, Art. 27; P I, Arts 75(2) and 76; P II, Art. 4(2)(a) and (e); CIHL, Rules 90, 91 and 93)
  - c. Are rape and sexual violence war crimes? If not committed by someone belonging to a party to the conflict? What additional measures could help put an end to this practice? Would an additional international instrument be useful? What provisions should it contain? (CIHL, Rule 156; GC I, Art. 50; GC II, Art 51; GC III, Art. 130; GC IV, Art. 147; P I, Art. 85; ICC Statute, Art. 8(2)(b)(xxii) and (e)(vi))
  - d. Does IHL impose an obligation on States to investigate allegations of rape and other forms of sexual violence committed in international armed conflicts? In non-international armed conflicts? (CIHL, Rules 93 and 158; GC I, Art. 49; GC II, Art 50; GC III, Art. 129; GC IV, Art. 146; P I, Art 85)
  - e. Does human rights law impose an obligation on States to prevent and repress rape and other forms of sexual violence? To investigate allegations of rape and other forms of sexual violence? If yes, do you think that the obligations imposed on States under IHL and International Human Rights Law (IHRL) are different? If different, which regime is more protective?
  - f. Under IHRL, what are the requirements for an inquiry into an alleged rape? Must the victim be involved? Must the result be made public?
  - g. Does IHL protect women's fundamental rights? Their freedom of movement? Right to work? Religious beliefs? Or are these purely international human rights issues? (CIHL, Rule 88)
10. (*Paras 39-42*) Economic, social and cultural rights
  - a. Are people's economic, social and cultural rights protected during times of war? Under IHL? Under IHRL?
  - b. Does IHL impose obligations on parties to the conflict regarding the provision of healthcare to the general population? Does IHRL?
  - c. (*Paras 41, 56, 58*) Does IHL impose obligations on parties to the conflict regarding the provision of education to the general population? Does IHRL?
  - d. (*Paras 41, 58*) Do schools benefit from special protection under IHL? As civilian objects? Are there any circumstances that may justify an attack on a school? Does the use of a school by an armed group as a base and detention facility (described in para. 41) violate IHL? (GC IV, Arts 24(1), 50; P I, Art. 52; P II, Arts 4(3), 78(2); HR, Art. 56; CIHL, Rules 38(A), 40(A))
11. (*Paras 31, 40, 42*) Is the civilian population entitled to humanitarian aid under IHL? In NIACs? In areas

controlled by armed groups? Did the armed group that deliberately cut off the water supply in Al-Sasiriyah violate IHL? What provisions in particular were violated? (CIHL, Rules 55-56)

12. (*Paras 43-46*) Administration of justice
  - a. Which of the issues described in these paragraphs are regulated by IHL?
  - b. In what ways is the preservation and maintenance of a healthy judicial system relevant to the implementation of IHL?
13. (*Paras 47-50*) Human rights defenders and journalists
  - a. Does IHL grant special protection to human rights defenders? Journalists? Why do you think this is the case? (GC I, Art. 13(4); GC III, Art. 4A(4); P I, Art. 79; CIHL, Rule 34)
  - b. Which IHL provisions were violated by the incidents described in these paragraphs?
14. (*Paras 39, 41, 51-56*) Why are migrants especially at risk in Libya? Does IHL provide them with protection? Are migrants, IDPs and refugees in Libya all protected by IHL in the same manner? Does IHL provide protection from discrimination? IHRL? Under IHL, how are internally displaced persons protected? Is this large-scale displacement a forcible transfer prohibited under IHL? (AP II, Art. 17; CIHL, Rule 129)
15. (*Para. 59*) Are children specially protected under IHL? Are children prohibited from taking part in hostilities? Is the recruitment of children prohibited by IHL? Is the prohibition the same for armed groups and states? (P I, Art. 77; P II, Art. 4(3)(c); Convention on the Rights of the Child, Art. 38; Optional Protocol on the Convention on the Rights of the Child, on the Involvement of Children in Armed Conflict)

### III. Conclusions

16. (*Paras 60, 63-65*) What conclusions does the OHCHR reach?
17. (*Para. 63*) What responsibilities does the OHCHR refer to? Do non-State actors have such responsibilities? Or only State authorities? Do Egypt and the United States have any responsibilities?
18. (*Paras 64-65*) What is a war crime? Which of the crimes committed in Libya in 2014/15 amount to war crimes? How should those responsible be brought to justice? Who should bring them to justice? The Libyan justice system? If the Libyan judicial system is not working? The international community? The ICC?