



Protection Analysis Update

April 2022

Libya



1. REPORT SUMMARY

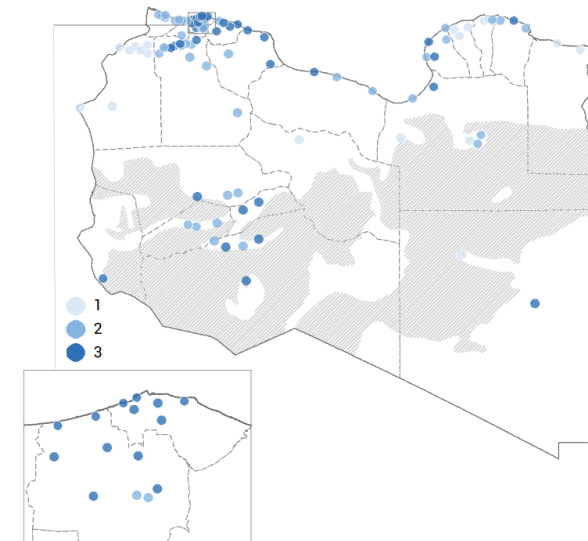
This report has the objective to present an analysis of the protection situation in Libya for the period January-April 2022. The analysis has been carried out by the Protection Sector with the purpose of identifying the most severe protection risks affecting civilian population in Libya.

The protracted instability, uncertainty and conflict in Libya have a remarkable impact on the overall social, cultural and economic fabric. Conflict and tensions, in combination with a complex legal, cultural and institutional environment for migrants, refugees, asylum seekers and also IDPs and returnees, are largely affecting both populations, Libyans and non-Libyans.

Access constraints, in the form of procedural, legal and political impediments, are severely curtailing a relevant and up to scale humanitarian response, the implementation of durable solutions, as well as any structured plan of recovery and reconciliation.

The most severe protection risks identified in the period covered by this report are: (1) Denial of resources, opportunities and services; (2) Unlawful impediments and/or restrictions to freedom of movement; (3) Inhuman, cruel and degrading treatment in detention centers; (4) Evictions and/or destruction of personal property; (5) Trafficking in persons.

Protection Severity Scale



Methodology and Limitations

This analysis has been developed by the Protection Sector in Libya, guided by the Protection Analytical Framework. The Protection Sector has been collating available quantitative and qualitative information and data. Two analysis workshops have been carried out with sector's partners and AoRs to jointly define the protection risks between March and April 2022.

The political and conflict landscape of Libya, described in this analysis, curtails access and the capacity to regularly monitor and track incidents and risks. The shortage of primary data has been offset with expert judgement of the Protection Sector's partners and AoRs. However, this in itself is an indication of limited existing capacities to provide response and remedy to violations and abuse and improve the protective environment for all affected persons.

The Protection Sector would like to recognize and appreciate the support received from partners in the development and review of this document, in particular (and in alphabetical order) IOM, REACH and We World – GVC.

2. CONTEXT OVERVIEW

The fragmentation of the State and the proliferation of weapons and militias, after the fall of Qadhafi in 2011, has severely undermined the rule of law in Libya. This created favorable conditions for State and non-State actors to perpetrate and enjoy impunity for violations of human rights and abuses. The violence has dramatically impacted the economic fabric and civic space, particularly for women and the vulnerable communities and individuals.

In October 2020, a ceasefire was declared, and the installation of the UN-supported Government of National Unity (“GNU”) opened to national dialogue, yet with no improvement on the human rights situation, nor in the ability to hold perpetrators of violations and abuses accountable. The political landscape is still fragile, even though the November 2020 roadmap set the stage for the establishment of the government and the holding of presidential and parliamentary elections in December 2021. Yet, in April 2022, the elections are still to take place, thereby further contributing to the political and institutional uncertainty and accountability vacuum.

Libya is characterized by a variety of ethnic and linguistic groups, such as Amazigh, Tebu, Tuareg, and to an extent Tawerghans, intertwined by a fabric of tribal and geographical relations. Exploiting differences has been often used in the past by repressive regimes to retain power. This was exacerbated in the last days of the Qadhafi regime and has had lasting consequences for entire areas of Libya. The Tawergha population is still displaced from their hometown, after the 2011 conflict with Misratan groups and the following total destruction of the city; the Tuareg community has been subject to large-scale displacement and stigmatized as pro-regime; Tebu communities still face challenges in accessing to services in the areas

of Sebha and Kufra, fearing violence or discrimination. Nomadic groups in the South face obstacles to have their Libyan citizenship recognized, thus remaining at risk of statelessness. The languages of Tebu, Tuareg and other minorities, such the Amazigh, have not been recognized by the state as part of a general denial of their cultural rights, notwithstanding recent positive steps taken by the GNU.

Libya is not a signatory to several important international arms control treaties, including the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention), the 2008 Convention on Cluster Munitions (CCM) and the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons and its Protocols. Neither is it party to the 1951 Refugee Convention and/or 1967 Protocol or the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. Libya is party to the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969 since 1981. However, the status of refugee is not recognised by Libyan laws and policies.

Impact of the conflict and tensions on current national landscape

Since 2011, Libya has been affected by hostilities that amounted to a non-international armed conflict (“NIAC”)¹. Armed conflict, insecurity and human rights violations have weakened the social fabric and socio-economic capacities of the population, while being the main driver of internal displacement². Despite the ceasefire and the Joint Military Commission (5+5 JMC) comprehensive Action Plan for the gradual, balanced, and sequenced withdrawal of mercenaries, foreign fighters, and foreign forces from Libya, little progress has been made thus far. Additionally, as reported by the UN Fact-Finding Mission on Libya Sept-Oct 2021, political considerations appear to

¹ Report of the Independent Fact-Finding Mission on Libya Sept-Oct 2021

² Durable Solution strategy Libya (internal draft)

hamper the enforcement of arrest warrants in respect to violations, abuses and crimes committed since 2016³. The UN Fact-Finding Mission reported as well widespread instances of arbitrary detention and torture, the recruitment of child soldiers and mass killings.

Divisions between governmental and security apparatuses in the West and East, a security vacuum in the South, the presence of various militias and criminal groups throughout the country, and the government's lack of capacity and limited reach outside of western Libya, have severely weakened the judicial system and have inhibited Libya's ability to prosecute human rights violations. Furthermore, Libya is not bound by international commitments as is not a signatory to the Rome Statute of the International Criminal Court.

Although the 2011 Constitutional Declaration provided that each Libyan citizen shall have the right to recourse to the judiciary, the Libyan judicial system still does not have the capacity to provide citizens with access to civil remedies for human rights violations. Libyan authorities have expressed the need of receiving technical assistance and cooperation to increase their capacity to prosecute violations and crimes, yet at the date of this analysis, limited progress has been made⁴.

A complex environment for population in displacement

Libya has experienced several waves of armed conflict and internal displacement since the 2011 events that overthrew the regime of Colonel Muammar Qadhafi. The majority of the population displaced as a result of the civil war were able to return home shortly thereafter. However, further waves of armed conflict in 2014 in Benghazi, Tripoli, Misrata, and between 2019 and 2020 in the Tripoli and Murzuq areas, caused significant civilian deaths and internal displacement.

Against this backdrop, after the cease-fire agreement in October 2020, the cessation of large-scale armed conflict and the subsequent formation of the Government of National Unity (GNU) in March 2021, an increasing number of displaced people spontaneously returned to their areas of origin. While the increasing number of returnees can be a proxy indication of improved security, as this is also mentioned as one of the main pull factors of returns as reported by IOM DTM, intercommunal violence and conflict related insecurity remains a risk in various areas across Libya. In addition, the return of previously displaced populations to their area of origin is likely to provoke tensions in the communities, especially in case of clash of political affiliations between the returnee households and those who remained in the area. Based on the 2021 Multi-sector Needs Assessment (MSNA) data, the highest levels of perceived insecurity were reported by the residents of Sebha and Tarhuna (on average across all population groups), as well as by returnees to Sirt, Alkufra and Algatroun. Among non-Libyans, the civilian population from East Africa, followed by persons originating from Central Africa, have reported high levels of insecurity, with Sebha, Murzuq and Benghazi being the mantikas where non-Libyans have reported the highest levels of insecurity.

Despite the overall perceived improvement of the security situation, many returnees face challenges linked to their initial displacement. Damage to public infrastructure and housing and Explosive Remnants of War contamination remain some of the main obstacles preventing the return of most families displaced in Libya. Approx. 179,000 internally displaced people in Libya are still waiting for a solution in the form of return and reintegration, settlement elsewhere or local integration.

The refugee and migrant populations experienced more challenges in 2021. For people attempting to cross the Mediterranean, the

³ Report of fact-Finding Mission on Libya Sept-Oct 2021, 1st of October 2021.

⁴ Report of fact-Finding Mission on Libya Sept-Oct 2021, 1st of October 2021

number of those intercepted surpassed the total for all of 2020, with associated deaths and missing persons. Migrants who are returned to Libya face a system of arbitrary detention without due process, under inhumane and degrading conditions and are subjected to a range of human rights violations and abuses. Targeted roundups of migrants and refugees residing in Tripoli swelled the population in detention centers despite a lack of adequate space, services and access to life saving humanitarian assistance. Lack of a determined legal status for many migrants, and lack of recognition of refugee status by Libyan authorities reinforces multiple obstacles to protection of migrants, refugees, and asylum seekers. Security operations, targeting migrants and refugees, beginning in early October 2021, resulted in mass arrests with more than 10,000 individuals forced into detention centers managed by the Ministry of Interior's Directorate for Combatting Illegal Migration (DCIM). The number of migrants and refugees held without due process in severely over-crowded detention centers in degrading and inhuman conditions increased significantly over the year. Libyan authorities' restrictions on access by humanitarian partners to detained migrants and refugees remains a serious concern, due to the high risk of human rights violations and impeded delivery of urgently needed life-saving assistance.⁵

There is no legal framework that enables humanitarian actors to provide assistance in a safe and predictable manner to migrants, refugees, and asylum seekers in need, without consideration of the legality of their status in the country. Moreover, the openness of the regional/local authorities towards humanitarian actors varies across locations. While alternative modalities such as home/field visits have been resorted to, to provide lifesaving assistance and for UNHCR and partners to continue serving asylum seekers and refugees within this reduced protection space and with the restrictive legal framework,

humanitarian agencies have not been able to provide consistent, quality humanitarian assistance at scale to all persons in need, including non-Libyans.

As enforcement actions against migrants and refugees are perceived to play well domestically in terms of building political capital, there is a concern that the situation for these groups may worsen as the prospects for free and fair elections in the near future remain largely distant and uncertain.

Protection risks enablers

Access, specifically for the protection sector actors, is challenging. Artificial/man-made constraints increased in the second part of 2021, particularly in Benghazi, Sebha and Tripoli. These included struggles with obtaining registration and visa permits⁶, access to migrants and refugees (specifically in detention centres) and the deliberate hampering of assistance delivery.

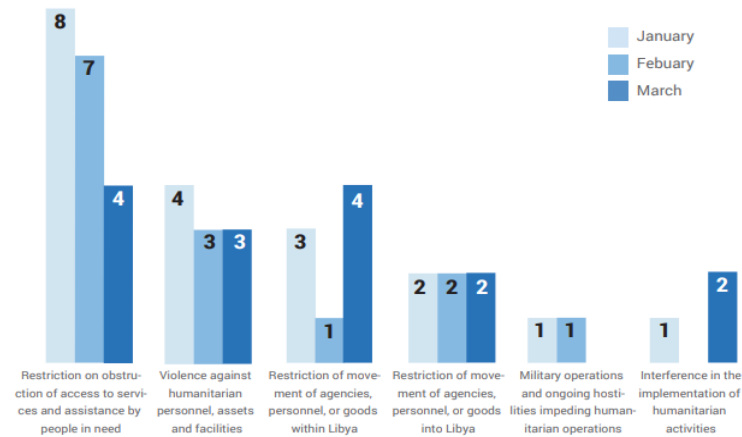
There is increasing scrutiny towards the work of international organizations, in particularly those focusing on protection, and their engagement with Libyan NGOs. The negative impact of these restrictions on the humanitarian community's needed operational presence, which is essential to better identify and reach people in need, is further severely compounded by the fear of arbitrary arrest and/or detention among migrants and refugees.

Indeed, migrants and asylum seekers tend to frequently change their residence and contact details in order to maintain a low profile, thereby preventing them from seeking out assistance, especially in the East and South.

⁵ 2022 HPC | Libya Humanitarian Response Plan (HRP) - [HERE](#)

⁶ Bureaucratic restrictions on movement into and within Libya exceeded 60 per cent of the total reported access constraints in 2021 - Access Monitoring and Reporting Framework (AMRF)

Humanitarian access constraints reported in 2022



This, in turn, creates additional challenges for humanitarian actors in tracing and locating the whereabouts of the persons of concern and their ability to follow up on individual cases, including for the purposes of asylum, resettlement, repatriation and other complementary pathways / durable solutions.

The safeguarding of the rights and needs of non-Libyans irregularly entering the country is mimed by the absence of a regularization framework and the fact that, under Libyan law, irregular entry is a criminal offence (rather than an administrative one)⁷, enabling the endless detention, deportation and forced labor of migrants and refugees in such situations. Libya is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol, and there are no formal bodies to undertake refugee status determination process despite the ratification of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969. Moreover, there is no formal or informal authorities

to protect or respond to the needs of non-Libyans, under the domestic legal framework.

People from nine nationalities⁸ only are eligible to register with UNHCR, thus severely curtailing the asylum space. Even though the extradition of “political refugees” is prohibited⁹, there is no established asylum system. Even for nationalities that can register with UNHCR, the registration has no bearing in terms of regular entry, security, detention or deportation. The non-distinction by the legal system between migrants, refugees, asylum seekers, victims of trafficking, migrants in vulnerable situations, migrant children, or other migrants in need of international (human rights) protection, is a normative impediment to provide redress, remedies or putting a halt to the effects of existing protracted protection risks, let alone identification of durable solutions.

The number of COVID-19 confirmed cases significantly increased in Libya at the beginning of 2022 (164% from December 2021), amounting to a total of 490.000 cumulative cases. An increase was also noted in case incidence, positivity rate (21.9% compared to 13.2% in December, specifically in the East)¹⁰, lab testing capacity and deaths reported in January 2022. The COVID-19 pandemic, together with the 11-month blockade of oil facilities in the country (since April 2019), has impacted the GDP per capita, reducing the purchasing power of the population. The low domestic production, the liquidity crisis (particularly in the East and South) and the reliance of the country on imports, impacts the ability of the population to consistently meet their needs. Multidimensional poverty has increased over the past decade and the social protection systems are still inadequate. Overall, inequality is increasing, with dire effects on the overall population coping capacities and general food security. In January 2021, the foreign exchange tax was abolished, somehow

⁷ Law No. 6 of 1987 Regulating Entry, Residence and Exit of Foreign Nationals
⁸ People from Sudan, S. Sudan, Syria, Eritrea, Ethiopia, Somalia, Palestine, Iraq and Yemen
⁹ Article 10 of the 2011 interim Constitutional Declaration.

¹⁰ According to WHO recommendations, the positivity rates should be kept below 5 per cent in all districts. Libya remains classified under very high community transmission with the Alpha, Beta, Delta, and Omicron Variants of Concern in circulation.

improving macro-economic stability but with no consistent reduction of the cost of the minimum expenditure basket (MEB).

3. PRIORITY PROTECTION RISKS

The Libya Protection Sector is supporting five population subgroups, characterized by their displacement situation - internally displaced persons (IDPs), IDP-returnees, refugees and asylum seekers, migrants, and non-displaced persons affected by the armed conflict. The dominant protection risks in Libya do not always affect all of these groups in the same ways.

RISK 1: Denial of resources, opportunities and services

As a legacy of the Qadhafi regime, Libya has a relatively robust social safety net system, which in parts remains functional despite the over-decade long internal conflict and political divisions. As a result, conflict-affected Libyans, including IDPs, are eligible for support from the Ministry of Social Affairs. Displaced Libyans holding positions in state-owned companies or public administration are still eligible to receive salaries.

Yet, due to the liquidity crisis and other banking impediments, displaced families are unable to receive and access these funds on a regular basis. Many of them are forced to travel to their areas of origin as they can only withdraw money from their local bank branches. This exposes some to violence and persecution, especially if they are perceived as affiliated with a certain political side – a risk which has been the primary driver of displacement. In many cases the real perceived threat of ERW blocks access to housing, basic services, and livelihoods, especially for vulnerable groups such as IDP-returnees and migrant workers.

Similar challenges are faced by some IDPs when trying to obtain or replace civil documentation or birth certificates for their children.

Women, especially widowed, divorced or those married to non-Libyans, face additional obstacles in accessing civil documentation and subsequently government services, if they do not possess the family status document number¹¹. For Libyan nationals, even in the case of having a family number, women are not allowed to register their newborns without a father present. Women and orphans from Tarhouna (West of Libya) whose husbands were killed or disappeared during the war¹² are unable to access assistance from the Ministry of Social Affairs as the local authorities are refusing to issue death certificates of the male heads of household.

Another example is the situation of children with disabilities whose mothers are Libyans, but fathers are non-Libyans. According to the Libyan legal framework, such children are not considered Libyan citizens and thus are officially not eligible for assistance through social security funds. This affects in particular the southern mantikas of Libya and areas along the border where there has been historically a strong presence of migrant workers and cross-border movements.

Migrants, refugees and asylum seekers are generally excluded from accessing any type of government and/or public services, the COVID-19 vaccination campaign conducted through government structures with the support of the international community, being the only exception so far.

The alternative for few people who have the required resources is to rely on private service providers. Protection partners received numerous reports about personal documents, including passports, being taken away from migrants and refugees when trying to access health services in Tripoli. Replacement of personal documents is quite challenging especially if there is no embassy/consulate of the country of origin located in Libya, and impossible for people fleeing their countries due to persecution.

¹¹ Law No. (8) of 2014 on the national ID number - [HERE](#)

¹² <https://www.hrw.org/news/2021/01/07/libya-militia-terrorized-town-leaving-mass-graves>

Provision of humanitarian assistance to persons without a regularized legal status is also severely curtailed, especially when it comes to cash-based interventions and housing/rental support. The humanitarian space was further affected by the mass arrest campaign in Tripoli during the first days of October 2021. As a result, hundreds of people lost access to the rental market as humanitarian actors were unable to provide cash for rent, and private landlords were reluctant to rent accommodation to non-Libyans who do not have a regularized legal status in Libya.

Across Libya, more vulnerable migrants and refugees have been exposed to exploitation, including trafficking, violence, abuse, and homelessness. At the same time, access to services and assistance, including protection support, remains limited for this population group. Indeed, on one hand seeking public services is likely to expose non-Libyans to protection risks, including risk of arrest and detention. On the other hand, humanitarian assistance remains limited, and hampered by access constraints and limitations to access and support to this population group. In such a situation, people tend to rely primarily on community networks, whose strength and capacities vary. Access to services is particularly challenging for those non-Libyans who do not speak Arabic and/or are not Muslims. On numerous occasions racist and xenophobic rhetoric was used against migrants and refugees from sub-Saharan Africa both by municipalities and in social media instigating intercommunal violence.

Despite the difficult situation faced by non-Libyans, the Libyan labor market continues to heavily rely on labor provided by this population group. Limited or lack of legal protection of irregular undocumented migrant workers or workers engaged in the informal economy creates subsequent risks of exploitation and hazardous working environment, where people are usually unable to access any support in case of work-related accidents or justice for any breaches of the labor laws. In the case of non-Libyan women, this notably results in increase risks of harassment and violence at the workplace.

Survivors of SGBV in Libya face specific critical challenges related to accessing justice due to the legal framework in which sexual violence is understood as a crime against the victim's 'honor' (Zina). As a result, a perpetrator can marry his victim to nullify any legal action against him. During the legal action, survivors can also be accused of prostitution. This situation, combined with mandatory reporting of SGBV by health service providers and widespread social stigmatization of survivors, creates additional barriers for survivors to seek assistance. The lack of protective legal mechanisms, lack of capacities in law enforcement and social services to support GBV cases further contributes to widespread impunity of perpetrators.

RISK 2: Unlawful impediments and/or restrictions to freedom of movement and forced displacement

Since the ceasefire in October 2020, the arbitrary restrictions of movement related to the armed conflict have reduced. However, persons without a regularized legal status in Libya or missing documentation face risks of detention and/or extortion at checkpoints. This particularly affects non-Arabic speakers and/or people from sub-Saharan Africa, since the dark skin color appears to be a contributing factor to harassment and discrimination.

According to the MSNA, 72% of migrants, refugees and asylum seekers from East Africa interviewed reported that lack of documents results in movement and/or travel restrictions. Also, Libyans who are perceived to have been affiliated with certain parties, sometimes just due to their area of origin or chosen area of residence following their displacement, face risks of persecution especially while traveling between regions. Insecurity is still one of the key barriers for IDPs to

return, while improved security in areas of origin is a key contributing factor to IDP returns.¹³

According to the MSNA, among the Libyan population, IDP - returnees interviewed were more likely to report being aware of physical safety and security incidents in their area, compared to IDPs and non-displaced groups. Physical safety and security incidents were found to be highest in the Southern region (Murzuq, Sebha, Ubari) as well as Al Jabal al Gharbi and Almargeb. In Tarhouna, the movement restrictions appeared to be caused mainly by conflict- related insecurity, presence of checkpoints and fear of persecution, while similar fears were shared by returnees to Murzuq.

While movement restrictions as such were not mentioned as a concern by a significant ratio of people in the following locations, over 50% of those who experienced them linked movement restrictions to conflict related insecurity in Alkufra, Algatroun, Sebha, Wadi Etba, Swani, Armargeb, Sirt, Hai al Andalus, Tajoura and Tripoli.

With intensification of clearance efforts, ERW-related movement restrictions were also found to be decreasing. Yet, in several areas, ERW contamination creates a risk for potential returnees, primarily in Southern Tripoli.

Movement restrictions due to presence of ERW were reported most often by residents of Abu Salim, Tarhouna and Derna. In Abu Salim, over 44% of IDPs interviewed for the MSNA said that explosive hazards were preventing them from returning home. While the overall exposure is decreasing due to clearance efforts, explosive contamination continues to impede human security and access in many of Libya’s major coastal cities, including Tripoli, Benghazi, Misrata and Sirte.

Between November 2021 and February 2022, a reported number of 1500 migrants of various nationalities were identified upon their

arrival in Niger as having been expelled from Libya. This is indicative of a recent increase in reported mass expulsions from Libya to Niger via the Al-Toum border crossing in Southern Libya and may be linked to the raids on migrants, refugees and asylum seekers dominated neighborhoods in Sebha. Similar concerns on expulsions from Eastern Libya into Sudan were reported by Protection Sector partners, though no figures are available. In both cases, information is limited as there is no systematic monitoring mechanism.

While the international community is working together with the GNU to establish a durable solutions strategy/policy, there is currently no framework in support of durable solutions in place. The majority of the internally displaced people live in rented accommodation, yet there are approximately 14,000 displaced men, women, boys and girls, primarily from Tawergha, living in 24 informal collective sites, located mainly on government land. As the security situation for Libyans is slowly improving and the rate of spontaneous returns increases, there is a growing motivation to close the informal sites and, recover the land for its original purpose, which may result in an intensification of evictions of displaced households.

Libya displacement and return timeline (IOM/DTM)



¹³ IOM DTM

RISK 3: Inhumane, cruel and degrading treatment in detention

The non-Libyan population, in general, faces discrimination, legal insecurity and cycles of violence when they irregularly enter, stay in and exit the country, often becoming victims of human traffickers.

In particular, migrants on the journey to Europe are reportedly exposed to abuses and rights violations, including sexual violence, at the hands of smugglers and traffickers, face violent and reckless interception by the Libyan Coast Guard (resulting at times in deaths) and recently also by the Stability Support Apparatus (SSA), to then be transferred to formal detention centres or informal detention facilities, where they are kept in inhumane conditions.

Between late 2021 and the first half of 2022, several raids resulting in mass arrest of migrants, refugees and asylum seekers occurred across Libya. The largest one took place in early October 2021, when in three days over 5000 persons were arrested and placed in overcrowded detention centres, exposed to inhumane treatment and living conditions far from any standards.

Similar raids, though affecting fewer people, occurred in December 2021 in Sebha, in January 2022 in Tripoli at the UNHCR Community Day Center and between March and April 2022 in Zwara. Persons without a regularized legal status also face risk of arrest and detention when moving in urban areas, including when traveling for work.

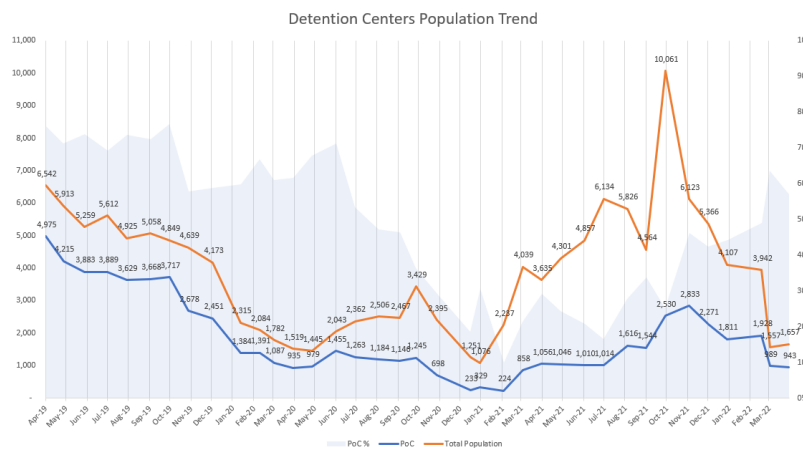


Figure 1 - Number of people in DCIM managed detention centers by month with disaggregation of Persons of Concern to UNHCR (IOM, UNHCR)

According to the 2022 MSNA, non-Libyan men tend to be particularly affected by arrest and detention, with more than twice as many men than women recalling incidents of arbitrary arrest and detention affecting migrants and refugees in their area. Thus, in times of increased security operations, many of the migrants, refugees and asylum seekers restrict their movements at the cost of reducing their income and livelihoods, which has a ripple effect on their food security and access to basic services.

In most of the DCs, there are no dedicated spaces for children and women, nor female guards. Most WASH facilities are not meeting any standards and food ratios are often not sufficient in terms of both quantity and quality, leading to wide-spread malnutrition and in some cases starvation. At the same time humanitarian actors face a complex dilemma related to the engagement in DCs. According to the “Principled Framework for Interventions in Detention”, developed by the Migrant and Refugee Platform (MRP), only life-saving assistance should be provided, which does not contribute to the sustainability of the detention system. The boundaries of what shall be considered as life-saving assistance were described in the HCT Position Paper

endorsed in October 2021, complementing the Principled Framework. Presence of actors in DCs was considered a means of protection by presence.

Torture and sexual violence are prevalent in detention centers. Migrants, refugees and asylum seekers are detained for undefined periods without due process and denied access to judicial remedies to review their detention. In many cases, the only escape is by resorting to re-paying large sums of money to smugglers and traffickers or engaging in hazardous coping mechanisms, such as engaging in forced labour or the provision of sexual favours¹⁴. There are numerous reports about women being raped, sexually abused¹⁵ as well as being trafficked out of the DCs and forced into sexual slavery by armed groups.

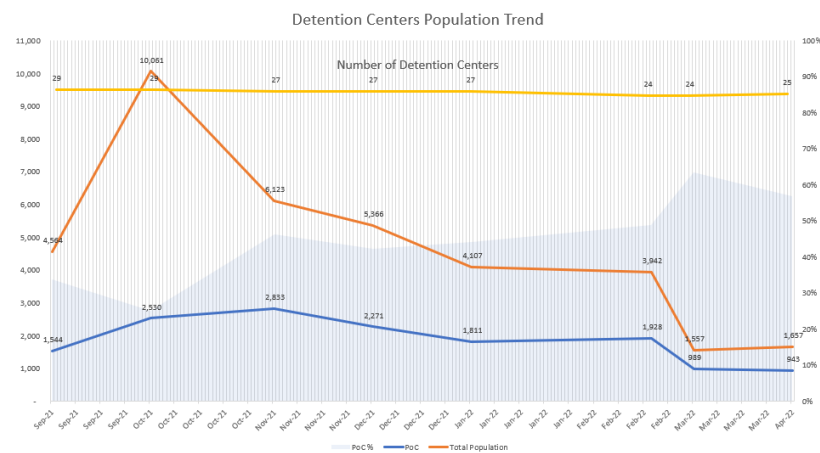


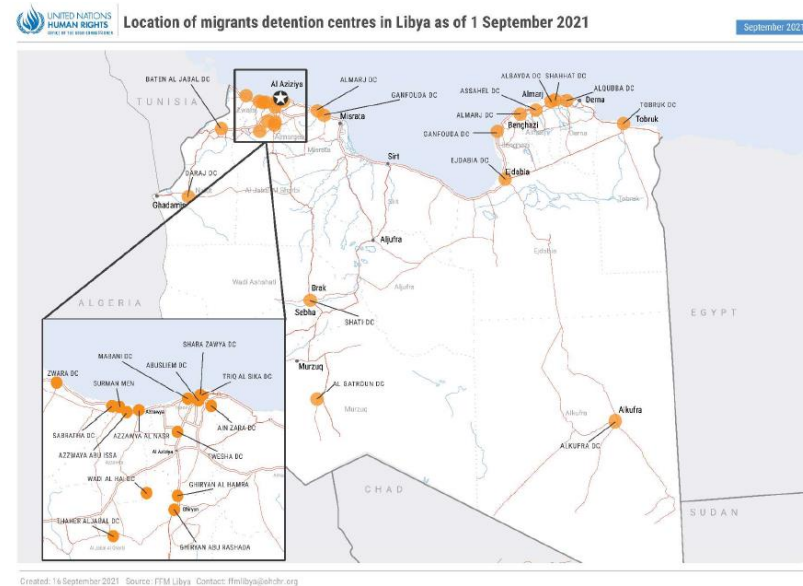
Figure 2 - Number of people in DCIM managed detention centers by week with disaggregation of Persons of Concern to UNHCR (IOM, UNHCR)

The widespread detention of refugees and asylum-seekers, including children, by the Department for Combating Illegal Migration (DCIM) is arbitrary and contrary to international obligations and legal norms,

lacking legal oversight and judicial review, contributing to widespread human rights abuses against migrants and refugees.

However, even health actors are unable to independently assess the needs of detained persons to determine the assistance required. On the other hand, the presence of humanitarian actors does not prevent incidents of severe violence from occurring and access to DCs for humanitarian actors becomes increasingly challenging.

Since the change in the DCIM management in January 2022, the Stability Support Apparatus (SSA) increased their engagement in interception and detention of migrants, refugees and asylum seekers including interceptions at sea, reportedly resorting to use of force.



There are at least three former DCIM – managed facilities currently used to detain non-Libyans, presently managed by SSA – Al-Maya, Al-Zawiya and Al-Zahra. Though no humanitarian actors appear to have access to these facilities, it is estimated that approximately 5500 persons could currently be held there, reportedly without access to

¹⁴ UN fact-Finding Mission, October 2021

¹⁵ UN fact-finding mission report, March 2022

basic services and subjected to grave human rights violations. Deaths resulting from torture were also reported.

The change in management of some DCs should also be considered when interpreting the decrease in the reported number of persons in detention – indeed, this could be linked to the removal of certain facilities from the DCIM management and not only to the release of detained persons. Reports indicate several hundred people might still be kept in one of the closed DCs in inhumane conditions.

RISK 4: Evictions and/or destruction of personal property

The sense of improved security situation, coupled with depleted financial resources is creating favorable conditions for evictions of IDPs from both public land and privately rented accommodation. Since April 2021, 109 incidents of eviction were reported through the Eviction Tracker¹⁶.

Out of those, 18 records were related to large scale expulsions and collective evictions (more than one household), affecting in total 10,728 persons, out of those 4562 IDPs from Tawergha, 6103 Migrants, Refugees and Asylum Seekers and 63 IDP – returnees to Tawergha.

The other reported incidents (91 records) were related to evictions of individual households, affecting 461 people overall, of which 235 were IDPs, 149 were migrants, refugees and asylum seekers (63% of which were Sudanese and 27% Syrians) and 77 were non-displaced households. In total humanitarian actors reported that evictions affected 11,233 people in total, out of those 2010 (17%) with disabilities/chronic illnesses. As these figures are derived from cases of evictions reported by humanitarian actors shared through

the Eviction Tracker only, the actual scale of evictions in Libya is likely to be much larger.

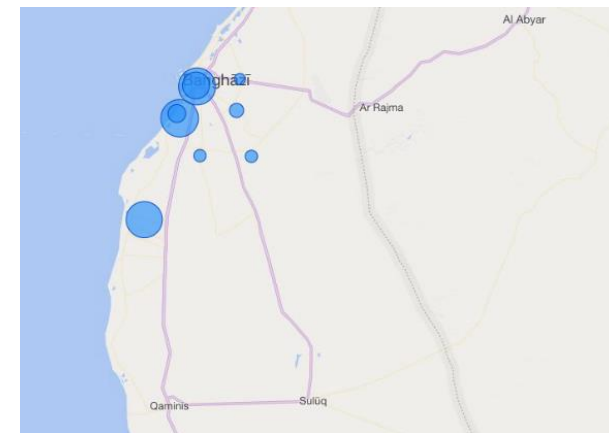
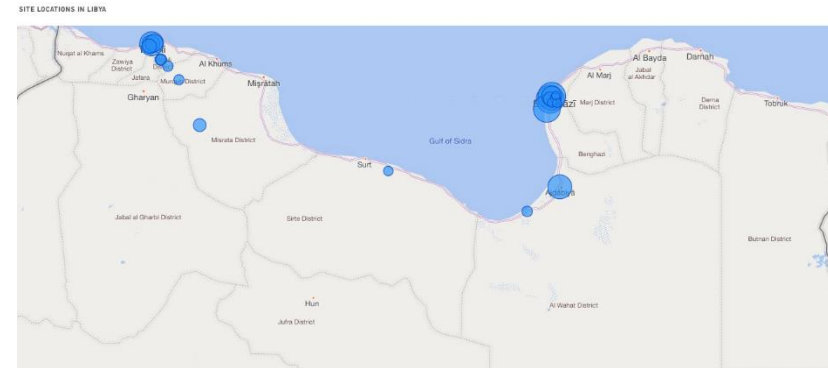


Figure 4 - Collective IDP settlements in Libya identified by the Shelter/NFI Sector in 2021

Figure 3 - Collective IDP settlements in Benghazi identified by the S/NFI Sector in 2021

Approx. 95% of the Libyan population affected by the reported evictions originated from Tawergha or Misrata, 2,2% from Benghazi, slightly over 1% from Tripolitania area and 0,75% from Murzuq.

¹⁶ The Eviction Tracker is a joint initiative of the SNFI and Protection Sectors under the umbrella of the Eviction Task Force launched in September 2021. Its objective is to record, track and trigger response, including through interagency referrals, to cases of evictions and threats thereof affecting individuals and collective sites and strengthen understanding of factors which

put persons at heightened risk. This will also provide an evidence base for advocacy at local and national level to develop a coherent eviction and relocation policy where undue harm and suffering are mitigated in line with international standards.

Regardless of the displacement situation, the vast majority of individual households at risk of eviction was reported to live on privately owned land/property, while almost all collective sites at risk, were located on government-owned land. 2 out of every 3 households affected were found not to have a written contract regulating the terms of their lease. In 70% of individual eviction cases affecting IDPs, the eviction was related to inability to afford rent or utility fees. Interestingly, in the case of migrants, refugees and asylum seekers, for 65% of individual eviction cases, the sole reason for the eviction was the intention by the landlord to repurpose the land and only in 14% of cases was it solely related to inability to pay rent or utility fees.

Only in 24% of cases overall there was confirmed information about tenants attempting to address the issue of eviction. Predominantly, it was an attempt to directly engage with the landlord. Non-displaced people were most likely to try and address the issue (about 50% of individual cases), followed by IDPs (32% of cases), while migrants, refugees and asylum seekers were least likely to attempt to do so (less than 7%). Affected households were more than twice as likely to attempt addressing the issue when it was related to non-payment or late payment of rent, than when it was linked to repurposing of the land.

Based on information obtained from the Ministry of Social Affairs, there are currently 5 IDP settlements at risk of eviction/closure, of which 4 are located on government-owned land, with no clear timeline set. These are al-Fallah 1 and al-Fallah 2 in Tripoli, where 487 families reside, and Sport City 1 and 2 in Benghazi, with estimated 303 households living in their premises. The majority of the families originate from Tawergha. The Ministry of Social Affairs is planning to support affected households in these locations with cash for rent – planning for 12,000 LYD per household, in a one-off installment.

As MoSA does not have a central budget, the Ministry plans to submit a request to the Presidential Council asking for a decree approving

this plan and allocating the necessary resources. Even in case such a decree is issued, it might take a long time for the actual funding to come through, considering liquidity constraints. Should the settlement closure take place, it would affect around 35 % of IDPs living in collective sites.

Forced evictions create a push factor for returns which might not meet international standards of safety, dignity and voluntariness, thus exposing IDPs and returnees to further risks such as GBV, family separation, arbitrary arrest, intimidation by unknown armed groups, homelessness, and discontinuation of access to services, especially health, mental health, and psychosocial support (MHPSS) and education.

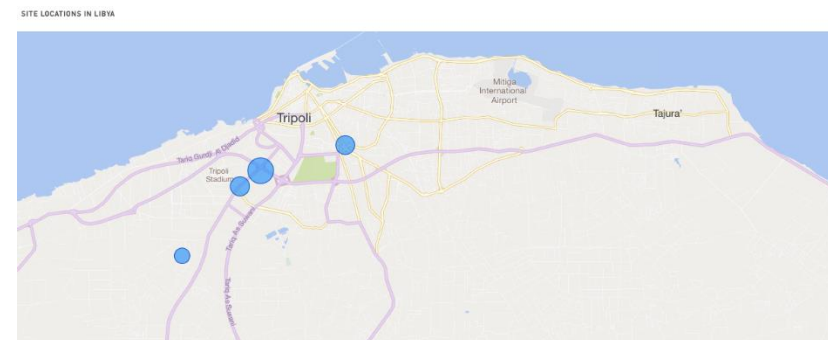


Figure 5 - Collective IDP settlements in Tripoli identified by the S/NFI Sector in 2021

RISK 5: Trafficking in persons

Trafficking in persons remains a critical protection risk in Libya, with migrants and refugees in transient situations finding themselves particularly vulnerable. The lack of a robust legal framework for the protection of victims and the prosecution of perpetrators has led to an atmosphere of impunity.

Libya was designated as a Special Case in the Annual Trafficking in Persons report 2021. Libya lacks any comprehensive legal framework to address Trafficking in Persons or other human rights violations against migrants even though it is a signatory to the United Nations

Convention against Transnational Organized Crime (UNTOC) and its supplementing Protocols. The judicial system is not fully functioning, as courts in major cities throughout the country have not been operational since 2014, affecting both Libyans and non-Libyans alike.

Endemic corruption and militias' control and influence contributes to the Government's inability to effectively address trafficking. Undocumented migrants relying on informal labor arrangements are additionally at high risk of labor exploitation, without any possibility for enforcing minimum labor standards, or access to recourse.

The impact of trafficking on non-Libyans within the country remains unknown. For the more than 620,000 migrants residing in Libya, the risk of trafficking is ever-present. The irregular status of the vast majority of migrants increases their risk of trafficking, as well as their inability to access to protection and assistance. Migrant victims of trafficking currently do not have recourse or are not provided with assistance within the state apparatus. They often face detention, abuse and re-trafficking.

An important information gap remains as to the number of potential victims of trafficking in Libya. IOM Libya identified and assisted 700 VoT in 2021 (12 girls, 142 women, 49 boys, 497 men). Somalia (25%), Nigeria (22%) and Sudan (19%) constituted the main VoT nationalities. These numbers can only be considered the tip of the iceberg, with such data being limited to specific programmes' footprint on the ground.

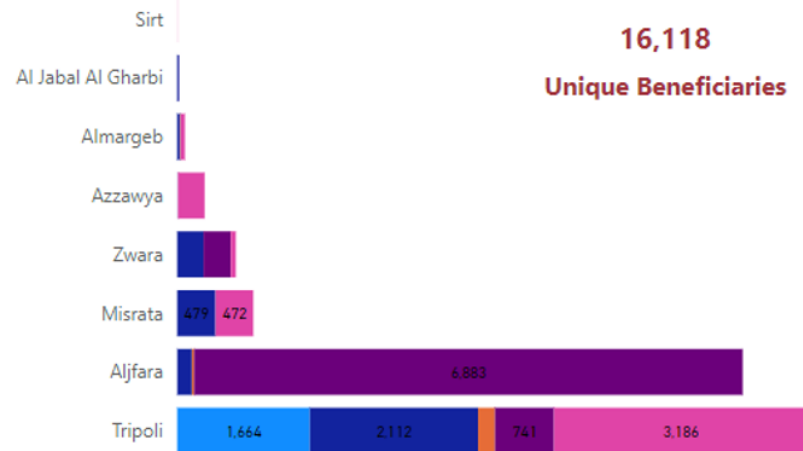
Available information indicates that most cases comprise kidnapping for the purpose of extortion, followed by labor exploitation and sexual exploitation. Victims suffer many forms of abuse including sexual, physical, verbal abuse, denial of food and water (in some cases leading to malnutrition), and torture.

4. PROTECTION RESPONSE¹⁷

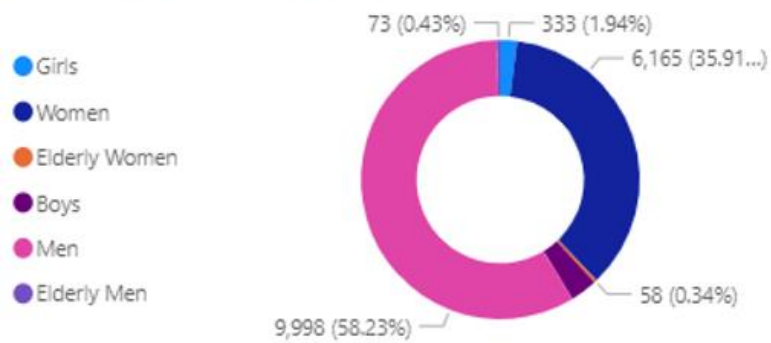
4.1 Operational overview

Reached by Mantika

- IDPs Migrants Non-displaced Refugees Returnees

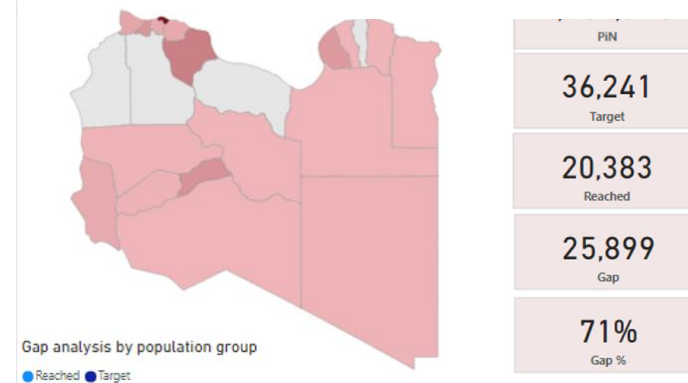


Reached by sex and age group



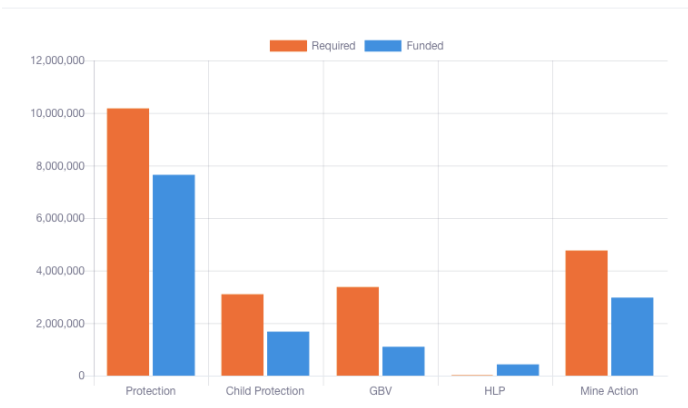
4.2 Response gaps

Gap by Mantika



4.3 Funding data

Funding Progress



Total Funding Required
21,342,790



Total Funded
USD 13,733,030



¹⁷ (Jan-Dec 2022 – source: Activity info)

5. RECOMMENDED ACTIONS

The humanitarian community, under the leadership of the HCT and with the support of key enablers such as UNMSIL, SASG, and other stakeholders, shall take note of the issues raised herein, and engage more proactively the national authorities in Libya in providing protection to all persons in need, including Libyan and non-Libyan populations, as well as creating a conducive protection environment where the physical, legal and material safety of all persons present in Libya are guaranteed, regardless of their status. In addition, Libyan authorities shall:

- a) regularize the presence and operational freedom of humanitarian actors;
- b) grant visas as well as ensure full access for all humanitarian actors at large, to all categories of persons in need, throughout the Libyan territory;
- c) enable all persons of concern and in need of support (both Libyan and non-Libyan) to have an unimpeded access to all services, either public or provided by the humanitarian community; and
- d) implement without further delay, the recommendations deriving from all relevant fact-finding missions, independent reports issued by Special rapporteurs, etc.

RISK 1: Denial of resources, opportunities and services

- The national authorities of Libya (legislative, executive and the judiciary) have the primary responsibility to expedite the development of new legislation and policies governing a) the registration of and issuance of personal documentation for the domicile population and b) regularization of the presence and movement of foreign national in its territory, in line with international standards, as well as c) ensure adequate implementation of the existing legislation, through an affirmative approach to specific categories in need.

- As a matter of priority, and with the view of ensuring an unimpeded access to all public services, the national authorities of Libya, with the support of relevant stakeholders, shall:
 - a) implement the decentralization of the civil registration, thereby guaranteeing issuance of all personal documents throughout Libya, regardless of the current residence of the person in need of;
 - b) expedite the issuance of death certificates for all deceased, in order to ensure access to rights and services for the surviving family members;
 - c) regularize the legal status of all non-domicile persons present in its territory, with a particular emphasis on vulnerable categories such as migrants, refugees and asylum seekers, as well as ensure unimpeded access to labor market, rental market and scheme, etc;
 - d) create a conducive environment for protection of survivors of SGBV, and ensure a meaningful access to services for vulnerable categories, such as children and PWD;

RISK 2: Unlawful impediments and/or restrictions to freedom of movement and forced displacement

- The national authorities of Libya, with the support of humanitarian community led by the RC/C, shall expedite the development and implementation of the policy framework on durable solutions for the displaced population, inclusive of an action plan with concrete timelines. The framework and its action plan shall take into consideration key issues and priorities identified by the Protection actors (see above).
- An equally important and urgent task for the national authorities shall be access to documentation and the regularization of the legal status of Asylum seekers, refugees and migrants, in order to ensure a meaningful freedom of movement for persons present in the territory of Libya.
- National authorities and stakeholders need to urgently create condition conducive for:

- a) unimpeded freedom of movement throughout Libya and full access to services for all persons present in its territory, regardless of their ethnic, religious, political and other characteristics or affiliations;
- b) support the identification and implementation of the adequate durable solutions through an inclusive and participatory processes for IDPs, free of physical, psychological or material coercion to return, and in conditions of safety and with dignity;
- c) full respect of the principle of non-refoulement and ensure due process at international borders and that all migrants, asylum seekers and refugees are treated in accordance with international human right and refugee law, including the principle of non-refoulement.
- The humanitarian community in general, all relevant stakeholders and enablers shall work together in promoting of and advocating for a rights-based approach, based on international standards, as well as support the national authorities in enhancing their capacities, increasing accountability and removing all barriers impeding access to rights and services for all categories of persons in need.

RISK 3: Inhumane, cruel and degrading treatment in detention

- Since Libya is party to a number of key international and regional treaties that stipulate the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment), first and the foremost, the national authorities in Libya, with the support of international community, have the duty to harmonize its legislation with the provisions of the relevant bodies of the

¹⁸ Libya is party to a number of key international and regional treaties that enshrine the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment). These include the 1966 International Covenant on Civil and Political Rights (ICCPR) (articles 7 and

international law (in particular human rights law and the refugee law), in order to:

- a) de-criminalize illicit border crossing for the purposes of asylum or migration;
- b) ensure respect of human rights of migrants, asylum seekers and refugees while in detention
- c) identify alternative modalities to migration detention; and facilitate access to humanitarian actors to detention centers
- d) prevent and sanction any form detention without a due process;
- e) regularize all administrative bodies governing admission, interception at sea, management of the detention facilities, etc, through a legal framework in line with international standards and obligations;
- f) combat xenophobia and negative narrative targeting asylum seekers, refugees and migrants. Under international law (*Article 26 of the Vienna Convention on the Law of Treaties*), states parties to a treaty are bound to implement its provisions and must ensure that their domestic law complies with their treaty obligations¹⁸.

RISK 4: Evictions and/or destruction of personal property

- In addition to recommendations already listed above, the national authorities of Libya, with the support of humanitarian community led by the RC/HC, shall identify modalities for preventing and mitigating critical protection risks associated with the forced evictions, and in parallel work constructively in creating conditions conducive for a free and voluntary process of identification of durable solutions for the displaced, either

10), the 1981 African Charter on Human and Peoples' Rights (ACHPR) (article 5), the 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and the 1989 Convention on the Rights of the Child (CRC) (article 37).

through integration, settlement elsewhere or voluntary return in safety and dignity. Serious efforts need to be made to combat negative policies and practices exposing IDPs and returnees to risks of decision making under duress, involuntary return, family separation, arbitrary arrest, as well as coercion by armed groups. All actors shall also work collectively in minimizing the risk of secondary displacement and insecurity over housing, land, and property rights, through development of the policy framework in line with international standards.

RISK 5: Trafficking in persons

- The humanitarian community, under the leadership of the HCT and with the support of key enablers such as UNMSIL, SASG, and other stakeholders, shall take due note of the provisions and recommendations from report of the Secretary General¹⁹ and engage the Libyan authorities and the relevant stakeholders in meeting their obligations deriving from the UNSC 2437 and UNSC 2240 respectively.
- Libyan authorities have a particular responsibility in combating trafficking in persons, addressing the culture of impunity, increase the capacity of the law enforcement entities, and create mechanisms and networks for supporting the survivors of the trafficking, in particular the vulnerable categories such as elderly, women and children in line with the United Nations Convention against Transnational Organized Crime (UNTOC) and its supplementing Protocols, to which Libya is a state party.

¹⁹ Implementation of resolution 2437 (2018) - Report of the Secretary-General (S/2019/711) [EN/AR] - [here](#)