

# Patterns of Core International Crimes in Libya: Challenges to Accountability

By Katherine Iliopoulos

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## 1. Introduction

Without accountability, we are left in the dark – adrift in a world where those responsible for unimaginable acts of violence may never be called to answer.

Hisham Matar, *The Return: Fathers, Sons and the Land in Between*<sup>1</sup>

Not much has changed since Matar's journey back to Libya in 2012 in search of answers about the disappearance of his father Jaballa – a prominent political dissident and a vocal opponent of Muammar Qaddafi – who was kidnapped in 1990 while in exile in Cairo and subjected to enforced disappearance. Thirteen years following the overthrow of the four-decades-long Qaddafi regime, Libya remains politically divided, and the human rights and accountability landscapes in Libya are profoundly bleak. The notorious Abu Salim prison in Tripoli, where Jaballa Matar was imprisoned, is one of several detention centres at the heart of systematic human rights violations. Arbitrary detention and enforced disappearance are as widespread and systematic as ever, such that they have become almost banal: a universal *modus operandi* for the consolidation of power and control and the suppression of free thought and expression that transcends both time and political and ideological affiliations.<sup>2</sup>

As a former United Nations ('UN') staff member and Legal Adviser to the Independent Fact-Finding Mission ('FFM') who spent two years working on Libya, it is difficult to accept that the UN Human Rights Council ('HRC'), which established the FFM in June 2020, did not extend its mandate beyond March 2023 despite the unrelenting efforts of the FFM itself and civil society. Instead, it passed Resolution 52/41<sup>3</sup> mandating the Office of the High Commissioner for Human Rights ('OHCHR') to offer technical assistance and capacity-building to Libyan authorities to enhance their ability to pursue transitional justice and address human rights violations despite the fact that, for over a decade, successive Libyan authorities have consistently demonstrated that they are neither willing nor able to investigate or prosecute international crimes or to provide effective remedies to victims. The fallout from Storm Daniel, ongoing violations, and the absence of basic accountability for the international crimes committed over the past 13 years were not enough to persuade the HRC in June 2024 to establish a follow-up reporting and monitoring mechanism.

<sup>1</sup> Hisham Matar, *The Return: Fathers, Sons and the Land in Between*, Penguin, London, 2016.

<sup>2</sup> See Technical assistance and capacity-building to improve human rights in Libya: Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/56/70, 3 June 2024, paras. 8–9 ('OHCHR Report, 3 June 2024') (<https://www.legal-tools.org/doc/msrseis2/>).

<sup>3</sup> Resolution 52/41. Technical assistance and capacity-building to improve human rights in Libya, UN Doc. A/HRC/RES/52/41, 11 April 2023 (<https://www.legal-tools.org/doc/15zafs/>).

## 2. Patterns of Criminality and Key Initiatives for Accountability

The HRC established the FFM on 22 June 2020 through Resolution 43/39,<sup>4</sup> at the behest of the internationally recognized Tripoli-based Government of National Accord ('GNA'), to document alleged violations and abuses of international human rights and international humanitarian law by all parties since 2016. This followed two previous mechanisms: the 2011 Commission of Inquiry on Libya, and an OHCHR-UN Support Mission in Libya ('UNSMIL') investigation in 2015. All three mechanisms for Libya were established in response to the outbreak of conflict in the country: the 2011 civil war, the 2014 civil war, and the April 2019 assault on Tripoli, respectively. The situation in Libya was referred to the Prosecutor of the International Criminal Court ('ICC') by UN Security Council Resolution 1970 (2011).<sup>5</sup> The Panel of Experts on Libya was established by UN Security Council Resolution 1973 (2011);<sup>6</sup> its mandate includes investigating violations of international humanitarian law and human rights abuses in the context of monitoring and reporting on the implementation of sanctions.

### 2.1. The Killing Fields of Tarhuna

In my first mission to Libya in 2021, I visited Tarhuna, a rural town 60 kilometres southeast of Tripoli surrounded by olive groves. Following its liberation from the Haftar-affiliated al-Kaniyat militia on 5 June 2020 by forces loyal to the GNA, 106 bodies were discovered piled up in the local morgue, with over 300 still missing. The town's outskirts also contained several mass-grave sites, which the FFM requested to visit. We witnessed crevices carved into the ground in the search for victims, but also the so-called 'boxes prison', where detainees were kept in small oven-like cells with fires built on top, and the 'triangle of death', a medieval-style public execution site at a road junction in the town centre. We had a particularly intense meeting at the town hall with the family members of the disappeared or murdered. The memory of one in particular continues to haunt me: barely able to contain his rage at the injustice of not just the atrocities themselves but the inaction of the international community – promising justice without delivering results – and his vows of vengeance.

Suffice to say, the FFM's findings were damning. We concluded that there were "reasonable grounds to believe"<sup>7</sup> that members of the

<sup>4</sup> Resolution 43/39. Technical assistance and capacity-building to improve human rights in Libya, UN Doc. A/HRC/RES/43/39, 22 June 2020 (<https://www.legal-tools.org/doc/2goi4q/>).

<sup>5</sup> UN Security Council Resolution 1970 (2011), UN Doc. S/RES/1970 (2011), 26 February 2011 (<https://www.legal-tools.org/doc/00a45e/>).

<sup>6</sup> UN Security Council Resolution 1973 (2011), UN Doc. S/RES/1973 (2011), 17 March 2011 (<https://www.legal-tools.org/doc/f4d6ad/>).

<sup>7</sup> Detailed findings on the situation in Tarhuna: Conference room paper of the Independent Fact-Finding Mission on Libya, UN Doc. A/HRC/50/CRP.3, 1 July 2022, para. 216 ('Detailed findings on the situation in Tarhuna') (<https://www.legal-tools.org/doc/yj2i9a/>).

al-Kaniyat, through a campaign of terror, committed crimes against humanity through the underlying acts of murder, extermination, imprisonment, torture, persecution on political grounds, enforced disappearance, and other inhumane acts, making it the only authority so far – UN, judicial, or otherwise – to qualify the Tarhuna atrocities as potential crimes against humanity.<sup>8</sup> The extermination was in line with an underlying political objective to persecute and punish opposition and silence critics, and to consolidate power and wealth. Organized efforts were made to conceal the crimes committed by burying corpses in mass graves.<sup>9</sup>

On 14 June 2020, Attorney General Sadiq al-Sour issued arrest warrants for 110 individuals related to crimes in Tarhuna, followed by additional warrants from the Military Prosecutor and arrests in 2022. A Special Prosecution team was formed in late 2020. The Attorney General reported in January 2024 that 51 defendants were under investigation, with 400 local arrest warrants, and arrests in Benghazi. However, suspects have fled to areas controlled by armed groups or other countries, with some released following arrest in Egypt, and there is no effective witness protection.<sup>10</sup> However, on 3 October 2024, a Libyan military court sentenced 16 people to death in connection with the murders of the Harouda sisters.<sup>11</sup>

On 4 October 2024, ICC Pre-Trial Chamber I unsealed six arrest warrants issued on 6 April and 18 July 2023 against six suspects.<sup>12</sup> Three were leaders or prominent members of the al-Kaniyat, two of whom had been identified by the FFM as al-Kaniyat leaders and considered as potentially responsible for crimes against humanity.<sup>13</sup>

## 2.2. Inside Libya's Prisons

Through the FFM's investigations, as well as those of UNSMIL,<sup>14</sup> Human Rights Watch<sup>15</sup> and Amnesty International<sup>16</sup> over the past decade, it has become apparent that Libya's prisons tell the story of a failed state, with its deep-rooted corruption, rule by militia, and disregard for human rights and the rule of law, through the eyes of its most vulnerable and disenfranchised, lending credence to Nelson Mandela's poignant statement that "no one truly knows a nation until one has been inside its jails".<sup>17</sup> Although our multiple requests for permission to visit several official places of detention across Libya were denied, we did not need to go inside Libya's jails – many of which are unofficial and secret – to uncover a catalogue of horrors.

<sup>8</sup> While UNSMIL's Human Rights section has recently published detailed findings on violations committed in and around Tarhuna, it described a "pattern of widespread and systematic human rights violations and abuses", see UNSMIL and OHCHR, "Tarhuna – Mass Graves and Related Human Rights Violations and Abuses", August 2024 (<https://www.legal-tools.org/doc/dxvy9tc9/>). According to the ICC Prosecutor's statement following the 4 October 2024 decision to unseal six arrest warrants in the Libya situation, the warrants concern *war crimes* allegedly committed in Tarhuna, see ICC Office of the Prosecutor ('OTP'), "Statement of ICC Prosecutor Karim A.A. Khan KC on the unsealing of six arrest warrants in the situation in Libya", 4 October 2024 (<https://www.legal-tools.org/doc/w97n3azd/>).

<sup>9</sup> Detailed findings on the situation in Tarhuna, paras. 150–151, see *supra* note 7.

<sup>10</sup> UNSMIL and OHCHR, August 2024, pp. 33–34, see *supra* note 8.

<sup>11</sup> Safa Alharathy, "Libyan military court issues death sentences in Tarhuna mass graves case", *Libya Observer*, 3 October 2024.

<sup>12</sup> ICC, *Situation in Libya*, Pre-Trial Chamber I, Decision granting the Prosecution's application to unseal six warrants of arrest, 4 October 2024, ICC-01/11-141-Red (<https://www.legal-tools.org/doc/phxk41xw/>).

<sup>13</sup> Detailed findings on the situation in Tarhuna, paras. 45–46, 48, see *supra* note 7.

<sup>14</sup> OHCHR and UNSMIL, "Abuse Behind Bars: Arbitrary and unlawful detention in Libya", April 2018 (<https://www.legal-tools.org/doc/uhtwb8y7/>).

<sup>15</sup> See, for example, Human Rights Watch, "Interview with Hanan Salah: The Dark Inside of Libya's Prisons", 3 December 2015; *id.*, "The Endless Wait: Long-Term Arbitrary Detentions and Torture in Western Libya", 2 December 2015.

<sup>16</sup> See, for example, Amnesty International, "Libya: Internal Security Agency must be held accountable for deaths in custody, enforced disappearances and arbitrary detention", 10 September 2024.

<sup>17</sup> Nelson Mandela, *Long Walk to Freedom*, Abacus, London, 1995, p. 204.

One of the most notorious is the Mitiga detention facility, Tripoli's largest. On multiple occasions, the FFM experts raised the conditions in Mitiga and other places of detention directly with the Libyan authorities, but to no avail. Investigators took dozens of testimonies from former inmates and their families detailing the torture and enforced disappearance perpetrated by members of the Deterrence Apparatus for Combating Organized Crime and Terrorism ('DACOT'), state agents who continue to run the facility, which the Panel of Experts recently termed "a tool of systemic mistreatment".<sup>18</sup> They target those who they perceive as being politically or ideologically in opposition. Most detainees are held in inhumane conditions and have never been charged with any crime. In some cases, their only transgression is their profession (such as lawyers), or their expression of an opinion, thought or belief that is perceived as a challenge to power structures or prevailing social norms.

Despite the FFM finding reasonable grounds to believe that war crimes and crimes against humanity have been committed in the Mitiga detention facility, it is clear that there has been no significant progress towards investigating or prosecuting these ongoing or historical crimes domestically or internationally.<sup>19</sup> In February 2024, the Supreme Court annulled the verdict of the Tripoli criminal court for the second time since 2021 regarding the 1996 Abu Salim prison massacre – which may have taken the life of Jaballa Matar and would later ignite the flames of the 2011 uprising – referring the case to a new panel for a third retrial.<sup>20</sup>

## 2.3. Migrants: Detained and Dehumanized

Investigations into Libya's treatment of its most vulnerable – sub-Saharan migrants, refugees and asylum seekers who traverse the country *en route* to Europe – revealed, according to the FFM (and others)<sup>21</sup> whose investigators travelled to Malta, Italy and Rwanda to take testimonies, that crimes against humanity have been committed in migrant detention centres under the actual or nominal control of Libya's Directorate for Combating Illegal Migration, the Libyan Coast Guard, and the Stability Support Apparatus.

The widespread and systematic violations perpetrated against migrants as documented by the FFM – including murder, enforced disappearance, torture, enslavement, sexual slavery, rape and other inhumane acts committed in connection with their arbitrary detention in appalling conditions – are "connected primarily to the consolidation of power and wealth by militias and other State-affiliated groups through the misappropriation of public funds".<sup>22</sup>

Following numerous Article 15 communications submitted by non-governmental organizations ('NGOs'), the ICC Prosecutor has investigated violations against migrants as potential crimes against humanity and war crimes both independently and as part of a joint team formed by Europol, Italy, the United Kingdom and the Netherlands.<sup>23</sup> At the

<sup>18</sup> Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya, UN Doc. S/2023/673, 15 September 2023, para. 44 ('Final report of the Panel of Experts, 15 September 2023') (<https://www.legal-tools.org/doc/fgy4i3tk/>).

<sup>19</sup> ICC-OTP, "Twenty-Seventh Report of the Office of the Prosecutor of the International Criminal Court to the United Nations Security Council Pursuant to Resolution 1970 (2011)", 14 May 2024, paras. 39–41 (<https://www.legal-tools.org/doc/y0v4687w/>).

<sup>20</sup> OHCHR Report, 3 June 2024, para. 47, see *supra* note 2.

<sup>21</sup> A report by the European Center for Constitutional and Human Rights ('ECCHR'), Lawyers for Justice in Libya ('LFJL') and the International Federation for Human Rights ('FIDH') argued that atrocities against migrants may amount to crimes against humanity and, as such, should be investigated and prosecuted by the ICC: "No Way Out: Migrants and Refugees Trapped in Libya Face Crimes Against Humanity", November 2021). See also Amnesty International, "Libya: 'No one will look for you': Forcibly returned from sea to abusive detention in Libya", 15 June 2021; Human Rights Watch, "No Escape from Hell: EU Policies Contribute to Abuse of Migrants in Libya", 21 January 2019.

<sup>22</sup> Report of the Independent Fact-Finding Mission on Libya, UN Doc. A/HRC/52/83, 3 March 2023, paras. 4–5 (<https://www.legal-tools.org/doc/s5o0hr/>).

<sup>23</sup> ICC-OTP, "Twenty-Third Report of the Office of the Prosecutor of the International Criminal Court to the United Nations Security Council further

domestic level, Libyan authorities have made some promises to investigate human trafficking, but these have not led to concrete outcomes;<sup>24</sup> in March 2024, a mass grave containing at least 65 bodies, presumed to be migrants, was discovered in south-western Libya.<sup>25</sup>

### 3. Main Perpetrator Groups

The western part of Libya is governed by the internationally recognized Government of National Unity based in Tripoli, while the Government of National Stability controls the eastern region. On 22 May 2023, Prime Minister al-Dabiba became the direct commander of a security force, the Tripoli-based National Agency for Support Forces.<sup>26</sup> The main perpetrator groups which have been implicated in numerous international crimes in Libya according to the FFM include the GNA-aligned militias, the DACOT and the Stability Support Apparatus, who remain the key power brokers in control in Tripoli along with the 444 Brigade.<sup>27</sup> They also include those who continue to wield power in the east of the country, including the Haftar-affiliated Libyan Arab Armed Forces (“LAAF”), and the eastern Internal Security Agency. Key facilitators and funders of these perpetrator groups include countries such as the United Arab Emirates, Egypt and Turkey. During the second civil war, it is reported that Haftar’s LNA received intelligence and military support from foreign powers<sup>28</sup> such as the United Arab Emirates, Egypt, Jordan, Russia and Saudi Arabia.<sup>29</sup> The GNA, as it was then known, received significant military and financial support from Turkey.<sup>30</sup> Profits from migrant trafficking and smuggling have provided an additional source of funding for many armed groups.

Both DACOT and several LAAF brigades<sup>31</sup> are led or influenced by *Salafi-Madkhaliyyin*, whose strict and radically conservative beliefs are influenced by the ideology of Saudi actors.<sup>32</sup> Their targets are those they consider ideologically opposed to them, such as secularists, the Muslim Brotherhood, Sūfis, women and civil society activists. The FFM raised concerns about discrimination and sexual- and gender-based violence against women and shrinking civil space due to the incorporation of Salafist-leaning ideologues into State institutions, including the Internal Security Agency and the LAAF.<sup>33</sup>

The rise to power of the al-Kaniyat began in the wake of the 2011 conflict and, by 2015, they had established effective control over Tarhuna. They profited through smuggling and imposing taxes in return for providing public services, leveraging their control over police and military units, the municipal council, and the judicial system. By April 2019, the beginning of the second civil war, Haftar had made the al-

Kaniyat a crucial ally, supplying them with money and weapons to support his offensive on Tripoli, absorbing them into the 9th Brigade. Many al-Kaniyat members are said to be residing in eastern Libya, Egypt and Tunisia.<sup>34</sup>

### 4. Accountability Challenges

At the domestic level, accountability is nigh impossible when those tasked with upholding law and human rights themselves become the subject of violations by those in power. DACOT, the Judicial Police and the Attorney General in Libya have a complex and intertwined relationship, which emerged during my investigations into attacks on lawyers, prosecutors and judges, when it became clear that the Judicial Police operations room, which is part of the Judicial Police and tasked with providing judicial security, was under the effective control of DACOT and implicated in attacks on members of the judiciary.<sup>35</sup> Even UNSMIL personnel are not immune. When I was back in Tunis in June 2023, I found out that three staff members on official duty were arbitrarily detained by the LAAF at Benghazi airport and subjected to inhuman and degrading treatment in custody.<sup>36</sup>

Furthermore, 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 judicial independence and the separation of powers. Laws have also been enacted that serve to undermine international human rights standards, including the right to life, freedom from arbitrary detention, and freedom of expression. Libya’s civic space has eroded significantly, through both legislative measures and violent crackdowns by militias. Despite this, some Libyan human rights NGOs, such as Libya Crimes Watch, have managed to bravely continue their documentation and advocacy efforts. Furthermore, the Libyan human rights legal framework inadequately addresses torture and enforced disappearance, and lacks specific provisions in relation to international crimes.<sup>37</sup>

International accountability appears equally elusive for victims of international crimes, with several key individuals implicated in international crimes continuing to evade justice. Saif al-Islam Gaddafi, the son of Muammar Gaddafi, has been accused of crimes against humanity, including murder and persecution during the 2011 uprising and is the subject of an ICC arrest warrant.<sup>38</sup> Despite being convicted *in absentia* in Libya,<sup>39</sup> he remains at large and has announced his intention to run for president.<sup>40</sup> Abdulraouf Kara, as the leader of DACOT known for his strict interpretation of *Madkhali* Salafism,<sup>41</sup> is implicated in arbitrary detentions, enforced disappearance and torture, yet has maintained significant influence in Tripoli. Khalifa Haftar, as the commander of the LAAF, is implicated in numerous war crimes and human rights violations, including indiscriminate attacks on civilian areas and extrajudicial killings. In 2022, a United States civil court charged him with war crimes, but ruled, in 2024, that it lacked jurisdiction.<sup>42</sup> Haftar is now

to Resolution 1970 (2011)”, 28 April 2022, pp. 8–9 (<https://www.legal-tools.org/doc/ayxrdtqk/>); ICC-OTP, 14 May 2024, paras. 46 *et seq.*, see *supra* note 19.

<sup>24</sup> World Organisation Against Torture, “Libya’s Longstanding Human Trafficking Dilemma: A Crisis Demanding Urgent Action”, 30 July 2024.

<sup>25</sup> OHCHR Report, 3 June 2024, para. 38, see *supra* note 2.

<sup>26</sup> Final report of the Panel of Experts, 15 September 2023, para. 16, see *supra* note 18.

<sup>27</sup> *Ibid.*, para. 17.

<sup>28</sup> Tim Eaton, “The Libyan Arab Armed Forces: A Network Analysis of Haftar’s Military Alliance”, Middle East and North Africa Programme Research Paper, Chatham House, June 2021.

<sup>29</sup> Rami Allahoum, “Libya’s war: Who is supporting whom”, *Al Jazeera*, 9 January 2020; “Libya conflict: GNA and Gen Haftar’s LNA ceasefire ‘broken’”, *BBC*, 12 January 2020; Kali Robinson, “Who’s Who in Libya’s War?”, Council on Foreign Relations, 18 June 2020.

<sup>30</sup> “Libya’s GNA accepts Turkish offer of military support”, *Al Jazeera*, 19 December 2019.

<sup>31</sup> Final report of the Panel of Experts, 15 September 2023, para. 20, see *supra* note 18.

<sup>32</sup> International Crisis Group, “Addressing the Rise of Libya’s Madkhali-Salafis”, Middle East and North Africa Report No. 200, 25 April 2019; Francesca Mannocchi, “Saudi-influenced Salafis playing both sides of Libya’s civil war”, *Middle East Eye*, 11 December 2018; Ahmed Salah Ali, “Haftar and Salafism: A Dangerous Game”, in *MENASource*, Atlantic Council, 6 June 2017.

<sup>33</sup> Report of the Independent Fact-Finding Mission on Libya, 3 March 2023, para. 3, see *supra* note 22.

<sup>34</sup> Unlike Egypt, Tunisia is a State Party to the ICC and is obliged to cooperate by executing arrest warrants issued by the Court.

<sup>35</sup> Report of the Independent Fact-Finding Mission on Libya, 3 March 2023, para. 98, see *supra* note 22.

<sup>36</sup> Final report of the Panel of Experts, 15 September 2023, para. 56, see *supra* note 18.

<sup>37</sup> International Commission of Jurists, “Accountability for Serious Crimes under International Law in Libya: An Assessment of the Criminal Justice System”, July 2019.

<sup>38</sup> ICC, *Prosecutor v. Saif Al-Islam Gaddafi*, July 2022, Case Information Sheet, ICC-PIDS-CIS-LIB-01-015/22\_Eng (<https://www.legal-tools.org/doc/6smygzo6/>).

<sup>39</sup> ICC, “Saif Al-Islam Gaddafi case: ICC Appeals Chamber confirms case is admissible before the ICC”, Press Release, 9 March 2020, ICC-CPI-20200309-PR1518 (<https://www.legal-tools.org/doc/792vdw/>).

<sup>40</sup> Robert F. Worth, “Qaddafi’s Son Is Alive. And He Wants to Take Libya Back”, *New York Times*, 30 July 2021.

<sup>41</sup> Ahmed Salah Ali, “Libya’s warring parties play a dangerous game working with Madkhali Salafists”, in *MENASource*, Atlantic Council, 3 November 2017.

<sup>42</sup> “US judge dismisses war crimes lawsuits against Libya’s Khalifa Haftar”,

also under investigation in France for allegations of torture.<sup>43</sup> He has previously refused to co-operate with the ICC by *failing* to hand over the late Mahmoud Al-Werfalli.<sup>44</sup> His son Saddam, leader of LAAF's Tariq ben Zeyad Brigade, has also been implicated in violations.<sup>45</sup>

Despite speculation to the contrary at the time the arrest warrants were issued under seal, it now appears that the ICC has not issued arrest warrants for Kara, Haftar, or other senior LAAF commanders who may be responsible for war crimes committed during the 2019–2020 conflict,<sup>46</sup> and high-ranking government officials and militia leaders in charge of places of detention where crimes against humanity are likely being committed,<sup>47</sup> reflecting the limited success of ICC's investigations. Although significant, these warrants are hardly representative of the magnitude of the crimes committed across Libya since 2011. Ideally, the Prosecutor would continue investigations and apply for further arrest warrants across all priority investigative tracks. However, with the addition of six new cases to its existing case against Saif al-Islam Gaddafi, it is unlikely that the OTP will have the resources to open further cases. Indeed, the Prosecutor has set a roadmap aiming to complete the investigation phase by the end of 2025,<sup>48</sup> a move that has been rightly met with staunch opposition from civil society.<sup>49</sup>

Co-operation will be crucial in order for the six suspects to face trial since the ICC relies on national authorities to execute arrest warrants,<sup>50</sup> which has been lacking from Libyan authorities in this regard, as well as in relation to evidence and visas. Political instability has undoubtedly hindered the ability to establish a unified approach to co-operating with the ICC<sup>51</sup> as has the presence of various armed factions,<sup>52</sup> and the lack of adequate support from the international community.

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*Middle East Eye*, 15 April 2024.

<sup>43</sup> “Libyan commander Haftar faces torture allegation in French lawsuit”, *Reuters*, 2 May 2018.

<sup>44</sup> ICC-OTP, “Statement to the United Nations Security Council on the Situation in Libya, pursuant to Resolution 1970 (2011)”, 5 May 2020 (<https://www.legal-tools.org/doc/3tjyqh0/>).

<sup>45</sup> Amnesty International, “Libya: Hold commanders of Tariq Ben Zeyad armed group accountable for ‘catalogue of horrors’”, 19 December 2022.

<sup>46</sup> See Report of the Independent Fact-Finding Mission on Libya, UN Doc. A/HRC/48/83, 29 November 2021, Section III (<https://www.legal-tools.org/doc/5hs2jy/>); Report of the Independent Fact-Finding Mission on Libya, UN Doc. A/HRC/50/63, 27 June 2022, Section A (<https://www.legal-tools.org/doc/fvppmb/>); Report of the Independent Fact-Finding Mission on Libya, 3 March 2023, Section III, see *supra* note 22.

<sup>47</sup> For example, Abdelghani ‘Ghnewa’ al-Kikli, leader of the Stability Support Apparatus, Lotfi al-Harari, head of the Internal Security Agency (Tripoli), and Oussama Darci, head of the Internal Security Agency (Benghazi).

<sup>48</sup> ICC-OTP, 14 May 2024, see *supra* note 19; Merle Sandhop, “ICC Prosecutor Announces Plans to Complete Investigations into Libya War Crimes by 2025”, *Jurist News*, 15 May 2024.

<sup>49</sup> Lawyers for Justice in Libya, “Alarming announcement by ICC to complete investigation in Libya by 2025 puts justice for victims at risk”, 9 November 2023.

<sup>50</sup> ICC-OTP, 14 May 2024, see *supra* note 19; ICC-OTP, “Statement of ICC Prosecutor, Karim A. A. Khan KC, to the United Nations Security Council on the Situation in Libya, pursuant to Resolution 1970 (2011)”, 14 May 2024 (<https://www.legal-tools.org/doc/h2rtdtbqq/>).

<sup>51</sup> ICC-OTP, 14 May 2024, see *supra* note 19.

<sup>52</sup> *Ibid.*

## 5. Conclusion and Recommendations

Ensuring accountability for international crimes largely depends on the ability and willingness of national authorities to investigate and prosecute such crimes. The FFM warned that its mandate was ending when “parallel State authorities are emerging and the legislative, executive and security sector reforms needed to uphold the rule of law and unify the country are far from being realised”.<sup>53</sup> It is therefore unsurprising that efforts by the Libyan government to prosecute international crimes have been largely ineffective. The closure of the FFM has left Libya without an independent, international monitoring and reporting mechanism. The unsealing of ICC arrest warrants against six Libyan suspects on 4 October 2024 is a necessary, yet insufficient, step towards accountability.

The FFM's final report includes recommendations which should be urgently taken up by Libyans and the international community, including the establishment by the High Commissioner for Human Rights of “a distinct and autonomous mechanism with an ongoing mandate to monitor and report on gross human rights violations in Libya”.<sup>54</sup> Notwithstanding, a mechanism mandated to review, consolidate and analyse the information collected by the three previous mechanisms is urgently needed to develop case-files to support international and national accountability efforts. UNSMIL's human rights mandate must be enhanced and properly resourced. Domestic efforts to secure accountability for Tarhuna should also receive international support, including support to the Attorney-General for the execution of arrest warrants.

Additionally, the ICC Prosecutor should continue investigations in Libya beyond 2025, while Libya and the international community should enhance co-operation with the ICC, including supporting the execution of the now seven active arrest warrants in the Libya situation. States should support national proceedings based on accepted principles of extraterritorial and universal jurisdiction. International targeted sanctions must continue to be applied against individuals who have been credibly identified as perpetrators, in compliance with international law. Western funding should bolster support to UN and civil society programmes to train lawyers and judges on the rule of law, as well as efforts to reform the Judicial Police and place detention facilities under civilian oversight.

The international community must take decisive action alongside Libyan authorities to ensure those most responsible are called to answer for their crimes. The Libyan people, especially the victims of international crimes, deserve more than to be left in the dark – they deserve truth, justice, reparations and a society based on the rule of law and respect for human rights. The time for accountability is now – Libya's future depends on it.

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<sup>53</sup> Report of the Independent Fact-Finding Mission on Libya, 3 March 2023, p. 2, see *supra* note 22.

<sup>54</sup> *Ibid.*, Section IV, Recommendations.



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