



The Long and Winding Road: Justice seeking and access to justice in Libya

Suliman Ibrahim, Bruno Braak,
and Jan Michiel Otto

Preface	1
1. Introduction	2
1.1 Opening	2
1.2 Research questions and methodology	4
1.3 Structure of the report	5
2. Setting the Scene	6
2.1 Geography and Access to Justice	6
2.2 A history of injustices and competing calls for justice	8
3. Case Study Summaries	10
3.1. Families of Victims of Abu Salim Massacre, Tripoli	10
3.2. Former owners of land dispossessed via Law 4/1978 in Tobruk	11
3.3. Former owners of land dispossessed via Law 123/1970 in al Marj	13
3.4. Tawerghan IDPs who lost their documents	14
3.5. Victims of murder by armed group members in Bani Walid	15
3.6. People who suffered war-related damage during the Tebu-Tuareg armed conflict in Awbari	17
3.7. Wives of missing persons in Bani Walid	18
3.8. Survivors of spousal violence in Benghazi	19
3.9. Women deprived of inheritance near Benghazi	21
3.10. Victims of kidnapping for ransom in Sabha	22
3.11. Victims of oil pollution near the oases of Jalu, Jakharrah and Awjilah	23
3.12. Irregular female migrants in Benghazi	25
4. General Observations	27
4.1 Justice seekers: injurious experience	27
4.2 General Attitudes among Justice Seekers	27
4.3 Contexts of Justice Seeking: History, Politics, and Culture	27
4.4 Justice Seekers	28
4.5 Justice Providing Institutions	29
Bibliography	30
Colophon	32

Preface

This report addresses the first phase of ‘Access to Justice in Libya’ (A2JiL), a research project by Benghazi University’s Centre for Law and Society Studies (CLSS) and Leiden University’s Van Vollenhoven Institute for Law, Governance and Society (VVI). The project is carried out over four years (2021-2024) and has three research phases: 1) on justice seekers and their justice journeys, 2) on justice providers and their responses, and 3) a national survey on access to justice. The present report was written after the first phase and so it does not yet draw final conclusions or make firm recommendations for policy or law. It mainly presents case study summaries and general observations which will be further developed in the subsequent two research phases.

This work is the fruit of a decade-old research cooperation between Libya and the Netherlands. For this project, our team is led by project leader Dr Suliman Ibrahim who sits on both the Benghazi and Leiden teams. On the Benghazi side, the team further includes Prof. Zahi Mogherbi, Prof. El-Koni Abuda, Prof. Nagib Al-Husadi as senior experts, as well as Dr Jazeeh Shayteer, Dr Hala Elatrash, and Mr Ali Abu Raas as principal researchers, and Mr Fathi Ageila, as project coordinator. On the Leiden side, Suliman is joined by post-doc researcher Dr Bruno Braak, project coordinator Dr Hagar Taha, and senior expert Prof. em. Jan Michiel Otto. Across Libya, five thematic researchers joined for this first phase: Prof. Daw Abu Igharah (Bani Walid), Ms Khadiga Farag (Jalu), Mr Moneer Otman (El-Maraj), Mr Monder Dow Qayeed (Tripoli), Mr Attaher Elhaj (Tripoli), Mr Ahmed Al-Radamah (Sabha) and Dr Mabroukah Ifarawi (Sabha). Earlier projects of the Benghazi-Leiden cooperation involved Libyan scholars and legal practitioners from all over the country, producing a substantial body of work on access to justice and institutional development (Otto, Carlisle, and Ibrahim 2013), law- and constitution-making, property conflicts (Ibrahim 2017; Ibrahim and Otto 2017), and the role of law in national reconciliation (Ibrahim et al. 2021; 2019; 2018; 2020).

We would like to express our gratitude to our colleagues at the VVI for their support in many different ways. We thank Prof. Adriaan Bedner, Prof. Janine Ubink, and Ms Mareike Boom.

We would like also to acknowledge the generous funding and support for this project by the Netherlands Ministry of Foreign Affairs and the Netherlands Embassy in Libya. We would particularly like to thank Ambassador Mr Dolf Hogewoning, Ms Eveline de Bruijn, Mr Renko Verheij and Mr Bart Woelders. Promoting access to justice in Libya fits within this ministry’s general strategy of promoting ‘legitimate stability and sustainable peace in conflict-affected states by addressing drivers of instability and insecurity in three fields: human security, rule of law, and political governance’. While the research team is grateful for the Netherlands Ministry of Foreign Affairs’ funding, it appreciates the fact that it was always allowed to maintain its full independence.

Suliman Ibrahim,
Leiden, 22 December 2022

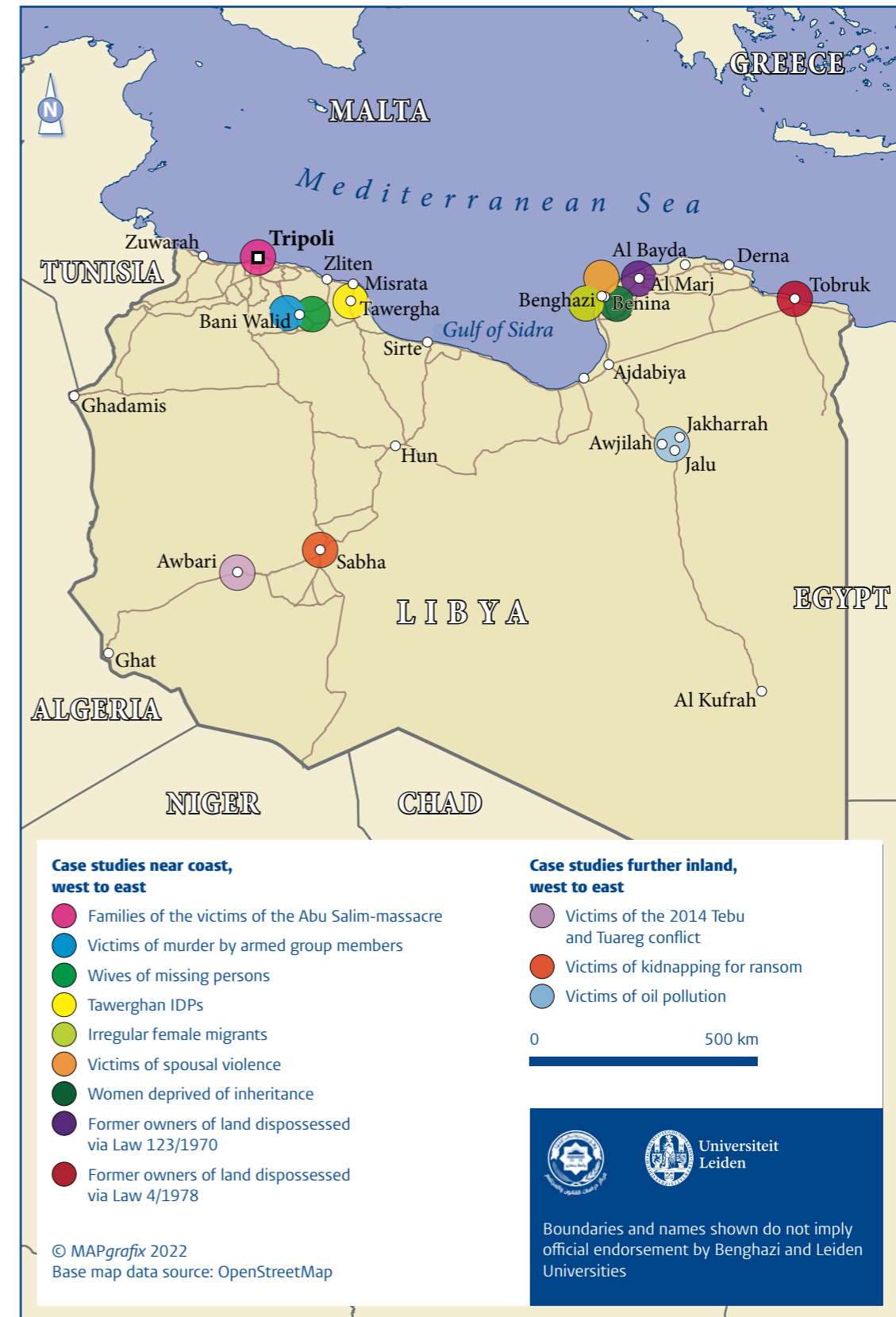
1. Introduction

1.1. Opening

Murder in Bani Walid, abduction in Sabha, displacement from Tawergha, executions in Abu Salim. These are but some of the serious injustices that the people in Libya at the heart of this report continue to grapple with to this day. Throughout the turbulent decade since the fall of Gaddafi in 2011, there have been countless human rights violations (United Nations Human Rights Council 2022). Meanwhile, many of Libya's institutions tasked with maintaining law and order have struggled to cope and some have become entangled in the country's divisions. As a result, experiences of injustice in Libya often have two components: the original injury suffered, and the subsequent onerous justice journey. This situation discourages many people from seeking justice in the first place. Yet others accept great risks and costs to search for justice. This report is based on qualitative research in different parts of Libya (see Map with Case Studies), to foreground the experiences of those people and their 'justice journeys'.

We found that when people in Libya decide to seek justice at all, they must navigate institutional landscapes of justice and security that are highly localized and unstable. Whereas these landscapes feature a host of law-based justice institutions, they may also change, like shifting sands, following political, military, and economic changes. Many of the justice journeys we studied had pauses and accelerations and faced obstacles and opportunities. In the end, very few reached a conclusive and satisfactory outcome. In our 4-year research project, we are examining and analysing the interactions – or lack thereof – between justice seekers and justice providers to ascertain patterns about when and how things get stuck or work out. The project aims to offer possible avenues for reform and incremental change which may help improve Libyans' access to justice in the years to come. In this report we present our observations about justice journeys which provide us with clues to be followed up in the next research phases.

Map with Case Studies of A2JIL Phase 1



1.2 Research questions and methodology

This report considers that people have access to justice when after experiencing a justiciable or ‘potentially legal’ problem, they are able to make their grievances known to ‘justice providers’ and obtain fair treatment and appropriate redress according to the rule of law (*hukm al-qunun*). This research includes both ‘ordinary’ and ‘transitional’ justice cases, and civil as well as criminal ones.

This research does not begin from the top – laws, courts, and judges – but rather from the bottom: people and their problems. At its most elementary, this research begins with an empirical question: what do people in Libya do with their serious problems? From this basic question flow other questions: to whom do they turn for remedies? What are their experiences? What obstacles and opportunities do they face along the way? And what interventions offer potential? For the more technically phrased research questions, refer to the table below.

Table with Research Questions

1. When facing ordinary or transitional justice concerns, how, why and to what extent do people in Libya – particularly members of disadvantaged groups such as women, ethnic minorities, migrants and IDPs – engage with existing state and non-state justice providers in order to obtain a remedy?
2. How, why and to what extent do justice providers in Libya, both state and non-state, respond to the approaches and requests of the abovementioned justice seekers?
3. To what extent are justice providers’ remedies adequate, both from the perspective of justice seekers and from the perspective of the rule of law (*hukm al-qunun*)?
4. What are the main opportunities (or ‘elements that work’) and obstacles (or ‘barriers’) for A2J in this case/in Libya, and how are these opportunities and obstacles impacted by contextual factors and actors, notably of political, economic, socio-cultural, legal, historical, or geographical nature?
5. Which interventions – local, regional, national or international – offer the greatest potential in reducing the obstacles and enhancing the opportunities?

Libya is vast and its people and problems are diverse. We chose our case studies accordingly. First, after a literature study we included a longlist of serious injustices and potential case studies in the project proposal. Second, in the summer of 2021 we carried out focus group discussions with legal experts in Benghazi, Derna, and Tripoli to discuss this list and additions. Third, when we published the vacancy for project researchers, we welcomed their ideas on injustices that ought to be included. In this way, we selected twelve researchers and case studies based, respectively, in Libya’s West (4), East (6) and South (2) (see also 1.1 and 2.1).

In this first phase we used a qualitative research methodology. In October 2021, we hosted a week-long training in Cairo on socio-legal research methods and this research’s design. The researchers returned to their homes in Libya from where they conducted their own socio-legal case study research over the subsequent months. They conducted interviews, focus group discussions, observations, archival and literature research. Periodically we reconvened online to discuss the research and its obstacles. Frequently, our researchers had to navigate local insecurities, frightful respondents, and sensitive research subjects. In March and June 2022 in Tunis, we discussed the researchers’ justice journeys and offered elaborate feedback. By August 2022, each researcher had produced a chapter-length detailed case study on the trajectories of their justice seekers. The full versions of these case studies are being edited and will be published in Arabic by the Centre in Benghazi.

Twelve qualitative case studies, even if most include several ‘cases’ (individual people with their problems), is too limited a basis to generalise our conclusions from. In this report we present preliminary observations and insightful perspectives on injustices, access to justice, and dispute resolution in Libya. These findings will be further refined and tested in the coming research phases: the second research phase on justice providers (November 2022 – October 2023) and the third research phase with a national survey (November 2023 – August 2024).

1.3 Structure of the report

After this introductory section, this report’s second section proceeds by setting the scene, describing important contexts for our case studies and the pursuit of justice in contemporary Libya. This section highlights how injustices and the pursuit of (competing conceptions of) justice have been driving forces in Libya’s political history. Many contemporary injustices are rooted in that history and often their resolution is impeded by contextual factors. Section 3 consists of short summaries of all twelve case studies, and some observations about those cases. Section 4 contains general observations, and clues for the next phases of this research project.

2. Setting the Scene

2.1 Geography and Access to Justice

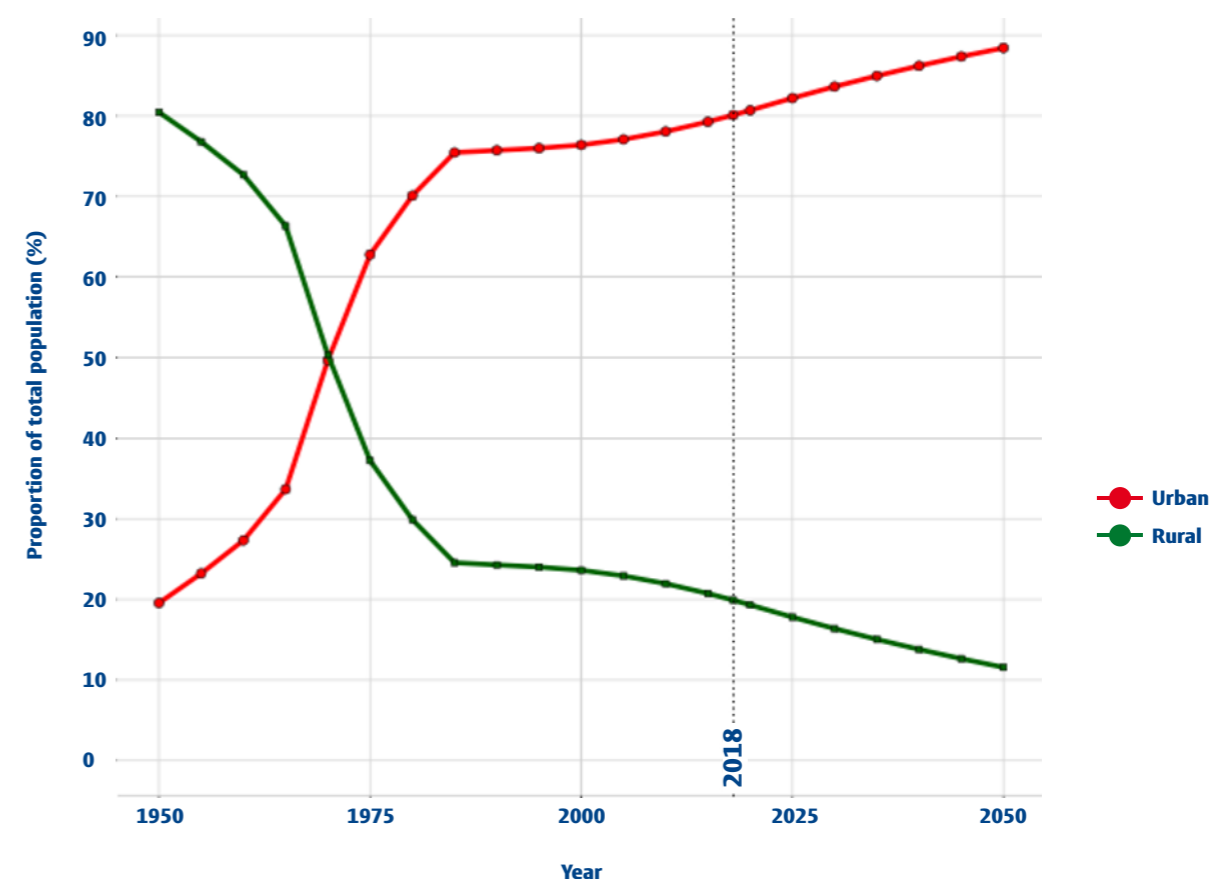
This research features case studies across Libya (see the Map in 1.1). In the West, we have case studies on the families of victims of the Abu Salim prison massacre in Tripoli, the wives of missing persons in Bani Walid, the murder of three men in Bani Walid, and the loss of personal documents of displaced Tawerghans now living in Tripoli. In the East, we have three case studies in Benghazi: on women suffering domestic violence, irregular migrant women's access to justice, and women's disinheritance. Also in the east, in Tobruk and Al-Marj, we have two cases on land conflicts. Some 250 kilometres from the coast inside the East's desert, we have a case study on oil pollution in several oasis areas. In the sparsely populated South, we have a case study on abductions in Sabha and damages from the Tebu-Tuareg war of 2014 in Awbari.

In several instances, our case study's geography was an influential factor in the disputes that occurred. Most obviously, the case's location dictates not only the distance to potential justice providers and intermediaries but also which of Libya's divided government institutions and armed groups holds most control. That has often also influenced when, whether, and how people turn to police, prosecutors, and judges – or other kinds of authorities – for justice (see 3.1, 3.5, 3.7). In Sabha, several respondents linked the prevalence of kidnapping to the proximity of vast barely inhabited deserts and Libya's porous national borders. This geography clearly complicates any effort at state control over the movements and activities of armed gangs (see 3.10). In the oasis areas Jalu, Awjilah, and Jakharrah, oil was found close to where people live, farm, and herd cattle (see 3.11). Arable land's scarcity around the oases, has contributed to people's enmity towards oil production.

Libyans have steadily moved to the cities and Libya has become Africa's second-most urbanized country.¹ In 1970, an estimated 49 percent of Libyans lived in urban areas – now that figure is between 81 and 85 percent (see Figure 1).²

1 This estimate comes from the United Nations Population Division's World Urbanization Prospects: 2018 Revision. These are estimates as accurate census and residence data is not always available. According to the UNPD, Africa's most urbanised country is Gabon.
2 The UNPD estimates 81 percent (United Nations DESA Population Division 2018), UNHABITAT estimates 85 percent (UNHABITAT, n.d.).

Figure 1: Percentage of Libya's population in urban and rural areas, 1950-2050



© 2018 United Nations, DESA, Population Division. Licensed under a Creative Commons License CC BY 3.0 IGO

The city of Benghazi has roughly doubled in size between 2009 and 2019 alone (AFP 2021). The urban frontiers expanded often also due to the (anticipated) increased availability of water, turning relatively arid places into desirable areas for housing or farming. Growing demand for urban and peri-urban land has resulted in rising land prices and increased land disputes in several of our case studies (see 3.2, 3.9).

Socially speaking, some of the injustices covered in this report were rooted in power differences and animosity between genders, ethnic groups, and nationalities. Patriarchal attitudes to women – particularly to widows and single women – were prevalent in preventing women from claiming their rights (see 3.8, 3.9). For example, a married woman with children is advised, as a famous Libyan proverb states, to accept her husband's bad treatment: "who was patient with her husband until she gave birth to his child, should also be patient until she dies". Similarly, irregular migrants and ethnic minorities (called 'cultural components' in Libya) i.e., Amazigh, Tebu, and Tuareg, reported being discriminated against (see 3.4, 3.6, 3.12).

2.2 A history of injustices and competing calls for justice

Libya's modern political history has prominently featured allegations of injustice and competing calls for justice. This is true for the 1 September 1969 coup by Muammar Gaddafi and his Free Unionist Officers Movement which was largely legitimized by the promise to bring revolutionary justice to Libyan society, which, arguably, had rapidly become more unequal following the discovery of oil in 1959. Gaddafi's interpretation of 'justice' shifted over time, with more socialist, Islamic, and 'third way' periods (VandeWalle 2012).

Two facets of the Gaddafi regime (1969-2011) remain vital to understanding access to justice in Libya today. First, Gaddafi launched major reforms to achieve his vision of social justice: for example, redistributing land and housing, and eventually abolishing private ownership of land altogether. Second, the totalitarian regime's violent repression of opposition instilled a deep fear of state power in many people. For those Libyans, 'justice' and 'the state' were antonymous during Gaddafi's reign.

These two facets of the Gaddafi regime – its redistributive aspirations and violent repression – have contributed to a heritage of disputes and grievances that Libya's justice institutions are grappling with to this day. This research features people who were affected by Gaddafi's revolutionary Law 123 (1970) and Law 4 (1978) which expropriated and redistributed real property in agricultural areas and residential areas, respectively (3.2, 3.3, 3.9).

After the Italian colonial concentration camps, probably the most heinous act of state repression in Libya's history was the 1996 Abu Salim prison massacre in which some 1270 prisoners were killed. For years, the Gaddafi regime denied that anything had happened and victims' families received neither truth nor justice (Libya Observer 2022; Human Rights Watch 2006).³ The victims' families' frustrated pursuit of justice and especially the arrest of their lawyer, Fathi Terbil, led in February 2011 to protests which ultimately escalated into the revolution that would topple the regime. This research features a case study on Abu Salim's victims' families, showing how their high hopes for truth and justice after the revolution have remained largely disappointed (see 3.1). The Abu Salim-massacre has become symbolic both for Gaddafi-era repression, and the sense of frustration about many pursuits of justice in Libya today, due to the political, social, and institutional divisions.

The 2011 revolution against Gaddafi was accompanied by new series of injustices – on both sides -, some of which directly related to violent conflict. This research features murders (see 3.5), disappearances (see 3.7), and displacements (see 3.4) which took place during and after the 2011 revolution. Once revolutionaries took over power, they sometimes took revenge against those associated with the old regime (the so called *Azlam*) through violence (e.g., forced displacement of Tawergha's inhabitants), legislation (e.g., the Political Isolation Law, 2013), trials (e.g., criminal trials 630-2012 of 'symbols of the regime' (United Nations Support Mission in Libya and Office of the United Nations High Commissioner for Human Rights 2017), and more mundane discrimination (see 3.4, 3.5, 3.7).

³ There were some attempts by the regime to 'close this chapter'. In 1998 the Gaddafi Development Foundation was established, under the leadership of Gaddafi's son Saif al-Islam. This Foundation attempted to mitigate or reform the more repressive facets of his father's regime, including through deals with the Abu Salim massacre's victims' families and the release of prisoners (Sarrar 2010).

Friction about (transitional) justice and legitimate authority, again shaped the next political-military watershed moment: the eruption of the Second Libyan Civil War (2014-2020) with its bifurcation of state institutions. Our research includes a case study on war-related damages (see 3.6), but the war also influenced our justice seekers in myriad indirect ways. For example, one woman said that while her husband had beaten her before, things only escalated after they were displaced by the war (3.8). Also, the justice seeker whose land in Tobruk, in the East, was expropriated via Law 4 said that, due to the war, he had to stop his work with the former owners' association, which was active in lobbying the Tripoli based General National Congress (GNC) into ending that law and addressing its consequences. When the GNC eventually enacted the desired laws (Law 16/2015 to end Law 4 and Law 20/2015 to address the consequences of Law 4), he, being based in the East where the laws of the GNC are not recognized, could not invoke them (see 3.2).

Libya's judiciary is facing this complicated heritage of injustices with a basic infrastructure that was established during the years after independence in 1951. As in most countries, Libya's Penal Code (1953) was designed to deal with 'ordinary' injustices committed by individuals against others; the Code does not address injustices committed by a regime, in the name of the state, against individuals.

Meanwhile, laws which have been promulgated after 2011 to deal with the latter by establishing mechanisms for transitional justice are often contradictory and confusing (Tashani 2017), and the envisioned legal bodies, such as the Fact-Finding Commission, have largely remained inoperable. Resultingly, Libyan justice seekers have often turned with potential transitional justice cases against the state to the ordinary judiciary. Obligated to apply the 1953 Penal Code and the 1953 Criminal Procedure Code, this judiciary ended acquitting those accused of committing the Abu Salim Massacre (3.1).

3. Case Study Summaries

3.1. Families of Victims of Abu Salim Massacre, Tripoli

Author: Ali Abu Raas

After the Italian colonial concentration camps, probably the single most heinous act of state repression in Libya's history was the 1996 Abu Salim prison massacre in which some 1270 prisoners were killed. The Abu Salim-case was a milestone in the history of Libya and its judiciary. The massacre took place more than a quarter century ago and yet the page has not been turned yet, reflecting the inability of Libya's legal system to provide the minimum guarantees associated with the idea of justice – particularly in transitional justice cases.

Many scholarly and literary authors have written about the Abu Salim-massacre, and the troubled pursuits of justice in response. This case study adds to that literature, by focusing on the central question, 'Why was justice not available for the victims of Abu Salim?'. It describes in great detail the justice journeys of three families who lost a relative in the Abu Salim-massacre. This summary focuses on one of these cases, that of Mrs Wedad.

In April 1986, Mrs Wedad and her husband Ahmed lived in Tripoli when her husband did not come home. Wedad knew neither who had arrested her husband, nor why they had done so. The arrest meant a crisis: Wedad was three months pregnant with their only child, and fully dependent on Ahmed's salary. It was only in 1988 that she learned from some released political prisoners that her husband was in prison. When her husband's salary stopped coming, she had to secure an income for her and the child. But her applications were rejected, because her husband was a political detainee. When she finally managed to find a job, it was one based on a fixed contract resulting in depriving her from promotion and fixing her salary throughout her career.

Wedad was first allowed to visit Ahmed in prison in April 1988. She continued to visit him every month, except for when she was banned from coming. The last visit Wedad brought her husband was in April 1996, two months before the massacre. She heard rumours about incidents in Abu Salim-prison at the time but did not know Ahmed's fate.

Wedad continued her monthly visits even though she was not able to meet with him. She would bring supplies and clothes to help Ahmed endure prison, handing these over to prison guards who pledged to give them to her husband. These visits and those gifts were a glimmer of hope for her; hope that he was alive. Wedad believed that Ahmed was alive still, because she knew that he did not belong to the Islamic current targeted in the incident.

This belief that Ahmed was alive, was reinforced by state authorities' behaviour after 1996. In those years, a People's Court sentenced him in 2000 to Ahmed imprisonment. An unknown person gave Wedad a letter from Ahmed and took belongings from her that he pledged to pass on to her husband. In 2009, an intelligence officer called her brother-in-law asking him to prepare the family booklet in preparation for Ahmed's release. The same happened in 2011. And when a member of Amnesty International asked to visit Ahmed, he was informed that Ahmed was imprisoned in Benghazi. All of this led Wedad and her family to believe that her husband had not been killed in the massacre.

Yet Wedad's hopes evaporated after the February 2011 Revolution. A former inmate who had known her husband in Abu Salim prison, told her that Ahmed had been summoned by the prison guards on the morning of the massacre. Like other prisoners, Ahmed had been taken to the prison courtyard. Shortly after, the former inmate had heard a barrage of bullets. It appears probable that Ahmed was killed then, but to this hour Wedad has not been informed officially of her husband's death.

Wedad and her family tried many things to find out Ahmed's fate. Wedad contacted the Amnesty International representative for help, but with no result. Their son submitted a memorandum to Saif al-Islam al-Gaddafi requesting his fathers' release – to no avail. Wedad contacted the Civil Status Authority to request that the family's booklet was changed and she was appointed as the head of the family, but they refused on the pretext that the head of the family, her husband Ahmed, was still alive officially. This prevented Wedad and her son from obtaining a national number, because this is only for those to whom the booklets of a new family were disbursed. When her son got married, the Civil Status Authority did not give him a family booklet because he did not have a national number. The Ministry of Martyrs refused to give her the grant prescribed for the families of the martyrs but fortunately a Good Samaritan intervened and persuaded the officials to allow that. Lastly, Wedad filed a lawsuit to prove her husband's death before the South Tripoli Court of First Instance, but this ruled that it had no jurisdiction.

The horror of her husband's disappearance was followed by a prolonged series of knock-on effects. Since 1986, she has been deprived of her husband, and she has lived in uncertainty about his fate. Although by now she believes that Ahmed was murdered, the competent authorities have neither confirmed this nor given her a death certificate. And so Wedad remains in the eyes of the law a wife – not a widow – and she cannot claim retribution, blood money, compensation, or any of the rights of the recognised victims' families. Wedad and her son have been unable to get a national number, rendering their citizenship incomplete. Her son has been denied his inheritance from his father's family, as this is conditional on proving the death itself – and its date – which are still shrouded in mystery.

The most prominent obstacles Wedad faced on her justice journey, were the difficulty of proving the former regime's crimes. The regime was keen to obliterate any traces of its crimes, by hiding and burning bodies, and disappearing the prison archive. All this disabled Wedad from proving her husband's fate. The court refused to hear Wedad's case on the spurious grounds that the court had no jurisdiction. Underlying their reticence, was the court's reluctance to burn its fingers on a heavily politicised case like the Abu Salim-massacre.

In sum, Wedad's tragedy is that she is forced to seek justice from the same Libyan state which has arrested her husband in 1986, likely murdered him in 1996, and for over twenty-five years deprived her and her son of their rights.

3.2. Former owners of land dispossessed via Law 4/1978 in Tobruk

Author Suliman Ibrahim

This case study is about a person who lost the land he purchased for investment in the centre of Tobruk when in 1978 Gaddafi regime enacted Law 4. He never received any compensation and his, and his heirs', efforts to get the land back were, to date, to no avail. The law impacted tens of thousands of owners, but the study focused on this particular case for it is representative of how justice seeking can be heavily influenced by political and social changes.

While from Zlitan in the west of Libya, Hassan chose Tobruk in the far east to be his hometown. He became a trader there, and in the sixties purchased land in the centre of the city to build blocks of flats for investment and got a mortgage. The environment then was encouraging. The Monarchy regime (1951-1969) adopted laws favorable to private investment.

Hassan paid the last instalment of the land price in early seventies, but he decided not to start building the blocks. Gaddafi regime that came to power in 1969 was then sending signals that it was following on the steps of the neighboring Egypt's socialist policies and laws including those limiting the role of private ownership and investment. Indeed, in 1978, the regime introduced Law 4 that banned owning more than one dwelling or one plot of land. Hassan had to report the 'excess' property including the land, which was then taken by the state and assigned to the newly established 'Public Company for Markets'. Interestingly, Hassan did not demand any compensation for the land taken. Later, he explained that he felt that Law 4 was justified; it aimed at public interest.

Things changed, however, in 2006. Then, the regime introduced reformative measures including reviewing its socialist policies and laws. In that year, the regime disbanded the Public Company for Markets and formed a committee to compensate for, or retribute, property expropriated via Law 4. Hassan then applied for restitution to the branch committee in Tobruk.

There was the problem of the market built on the land. After more than 25 years without any maintenance, this metal building was crumbling. Still, Hassan was asked to pay the mortgage the disbanded company had when building it: over 4 million Libyan Dinar (more than 3 million euro). Expectedly, he refused to pay it. He did pay the mortgage he took when planning the investment despite the land being taken by the state, but he was not prepared to pay that huge amount too.

To complicate matters further, the market was assigned to a local public marketing company within the municipality of Tobruk. Clearly, the regime was not prepared to completely abandon its socialist policies. In practice, however, the market was contracted to a private investor happened to be the cousin of the person responsible for the economic sector within the municipal council and a leader of the local powerful tribe.

Eventually, Hassan managed to get a decision by the compensation committee to get his land back provided that he would rent or pay for the market. Yet, all attempts to implement the decision failed. The powerful private investor refused to leave. Hassan resorted to no avail to courts, the head of the military area, the compensation committee, the minister of justice, administrative monitoring authority, the state property authority, the real estate registration authority, Saif Al-Islam's human rights commission and the people's general congress. Local institutions entrusted with enforcing the decision declined to do so. The big blow came when the regime, in another move showing that it was unsure about reviewing its socialist policies, made a decision preventing the restitution of any land on which a public market was built. Hassan was left with no choice but compensation which he refused.

The February revolution did not bring any change. By then Hassan passed away and Hani, his eldest son, replaced him in pursuing justice. The son became an active member of the newly established associations for former owners. They lobbied the General National Congress (GNC) and government for abolishing Law 4 and addressing its consequences. This resulted in several draft laws but none saw the light, on time at least. The GNC did adopt a law abolishing Law 4 (Law 16/2015) and another addressing the consequences by deeming restitution as the default remedy (Law 20/2015). It did so however in 2015, after the House of Representatives (HoR) was elected and the country became politically divided. Being based in Tobruk, where the GNC and its laws were seen as illegitimate, Hani could not make use of these laws. He had also to cease his activism in an association its headquarters were in Tripoli.

When interviewed, he was very pessimistic about any new law. Laws, he said, need enforcement which was unattainable given the condition of the relevant state institutions. His opponent, the private investor, could only be evicted if strong enforcement institutions would be in place. He, despite decades of residing in Tobruk, is deemed an outsider in a city claimed to be built on the land of the investor's tribe.

Later, however, there seemed to be a positive outcome for Hani and his family. One of the newly rich businessmen, known for trading in drugs, was attracted to the centrally located land and offered to purchase it for 40 million Libyan Dinar (around 8 million US dollars in today value). He offered to pay the private investor 1,5 million Dinar to leave the land. Hani, and his family, agreed to the offer. Legally speaking, the land is still state owned., but the businessman could deal with it, we were told. Knowing how he operated, one would expect this dealing to involve corruption. Hani did not care. To him, what matters is to finally get the matter resolved.

3.3. Former owners of land dispossessed via Law 123/1970 in al Marj

Author: Moneer Otman

Libya's recent history has seen a number of radical reforms of land tenure, which have caused legal uncertainty and disputes between those who benefitted from such reforms and those who lost out. This case study focuses on three land disputes resulting from the application of Law 123 (1970) regarding reclaimed agricultural land owned by the state. These disputes take place in Al Marj and its suburbs, specifically Al-Gawhari, Bouhamir, and Bouqrin. Most people here belong to the Al-Arafah and Al-Obeid tribes, and this includes those who benefitted from Law 123 and those who were negatively affected by it. The three cases were selected because they were revealing of the multiplicity of stages that justice seekers go through, and the diverse means they use.

Both land ownership and land disputes in Libya, have often been passed down from father to son for generations. So the justice seekers interviewed for this research, often began to tell their fathers' stories. Here we will consider the case of Al-Gohary. His father was nineteen years old when Law 123/1970 was applied to land which he had inherited from his father. When the paving machines came to work on the land, he tried to obstruct them. He was arrested, brought to Al Marj police station, and only released after he signed a pledge not to intercept the machines again.

Al-Gohary also inherited his land dispute from his father. He resumed his father's justice journey after his father died. Al-Gohary tirelessly submitted official requests to the competent popular committees and official authorities, and used several customary committees and councils of elders. Ultimately, his efforts culminated in the issuance of the decision of the director of the Agricultural Middle Project in 1998 to establish 731 farms, of which his share was farm number 79/b. However, this decision was not implemented. His newly created farm was isolated from the public road. The beneficiaries of the surrounding farms refused to allow Al-Gohary to cross their land to access his farm. Further, the Agricultural Appeals Committee annulled the decision of the director of the Agricultural Middle Project. When the case was brought to the judiciary, the Green Mountain Court ruled in favour of the annulment of the decision, a ruling that the Supreme Court later upheld. In sum, Al-Gohary had exerted great effort, but was left disappointed.

After the February 2011 revolution, a new phase began in these land disputes. The original landowners returned to demand the restitution of their land. The Ministry of Agriculture authorized wise men councils to resolve this matter and the disputes between original owners and the beneficiaries. These councils began to form customary committees, which achieved customary agreements between the parties in about 80 percent of the farms in this

study area, according to the chairman of the board of directors of the former owners association (the Arduna, our land, Land Organization). Al Gohary could, through this agreement, fully recover his land in 2013.

But the armed conflict which broke out in 2014, and the political and institutional divisions since, have negatively affected the interests of the original owners. When Operation Dignity-forces became dominant in the East, some beneficiaries of Law 123 tried to renege on the agreements which they had reached in 2012-3 with the original owners. Some denied ever having made such deals, and others went to court to try and nullify those agreements – claiming that they had signed under duress. Al-Gohary found himself in this position. The beneficiary on his father's land repudiated the agreement, and filed a lawsuit against him at the court of Al-Marj. This Court issued a ruling ordering the eviction of Al-Gohary, but he appealed this ruling before the Court of Appeal in Al-Bayda. While the appeal was in his favour, and the eviction ruling was struck down, his opponent tried to prevent him from entering the farm by force. This led to a fight that escalated into murdering Al-Gohary's nephew and disabling his son.

To calm things down, the perpetrators were forced to leave Al Marj. Sheikhs, sages, and social committees began their reconciliation efforts between the families. Out of these processes a resolution emerged. The perpetrators' family were ordered to pay the blood money for the deceased – 500,000 Libyan dinars – to permanently move the perpetrator away, and to accept Al Gohary ownership of the land. In return, Al-Gohary had to allow the perpetrator's family to rent part of the land for ten years to meet the full value of the blood money.

In sum, the application of Law 123/1970 brought about disputes between former owners and beneficiaries. Those disputes resurfaced around the February 2011 revolution, when sons of former owners were hopeful that they could get their family land back. In the revolutionary years 2011-3, former owners in Al-Marj did indeed often manage to get their land back through customary agreements. But after the 2014 division, some beneficiaries reneged on these agreements – causing a new series of disputes. The case of Al Gohary illustrates how such land disputes can be inherited over generations, and escalate so violently that entire families have to be reconciled to avoid a spiral of revenge.

3.4. Tawerghan IDPs who lost their documents

Author: Monder Dow Qayeed

The February 17th revolution of 2011 marked a turning point for the city of Tawergha. Whereas other cities, notably neighbouring Misrata, were prominent in rebelling against Muammar Gaddafi, Tawerghans long fought on the side of Gaddafi and were accused of committing grave human rights violations such as rape in this fight especially against their neighbours in Misrata. When the rebels got the upper hand, they displaced most people from Tawergha. This case study focuses on some of those displaced Tawerghans and an often-overlooked problem they faced: the loss of their personal documents (identity, educational, banking, and land titles).

Consider Mohammed, 37, who received his engineering degree and was among the first in his college. His high marks helped Mohammed get a scholarship to study abroad. But all his dreams were shattered by the events of February 17, 2011. He and his entire family were displaced from their hometown Tawergha, and he lost his personal documents including identity documents. Mohammed and his brothers were forced to move from one place to another, until they finally settled in Tripoli in the camp of the Islamic Call Society.

Mohammed lost his personal documents and his academic papers, and thereby his chance to study abroad. Secondly, Mohammed described that his loss of personal documents led him to now fear security agencies when he moved around: 'When you are stopped at checkpoints on the road and you do not have any documents, you will face great problems. Especially when you are a Tawerghan.' Thirdly, having no personal documents Mohammed could not participate in political activities like municipal or parliamentary elections.

Some Tawerghans managed to get replacing documents in reasonable times. But others, like Mohammed, felt discouraged from trying to replace their documents. In administrative terms, Tawergha had always depended on Misrata. And given the central enmity between the two cities and his belonging to the former, he expected no help from people in the latter. Initially Mohammed thought it was not possible to claim anything from those who had stormed his city and caused his displacement.

Eventually, Mohammed did resort to several bodies, such as the Civil Status Department, the Real Estate Registration Authority, and the Department of Passports, Nationality, and Foreigners Affairs. The responses from these authorities differed. The departments dealing with civil status and passports responded favourably, if often with a long delay. Mohammed was able to extract a collection of official documents through the Tawergha Issuance Office of the Civil Status Department. But other bodies – like the Misrata Education Directorate – did not issue new educational documents. This refusal was seen by many Tawerghans as a collective punishment against their people. Some, like Mohammed's brothers, had lost faith that the Education Directorate would ever give them their educational documents, and began their university studies anew.

When thinking about war and displacement, the loss of personal documents may immediately come to mind. But this case study reveals that such losses can have very negative and long-lasting impacts on the lives of displaced people. Especially when personal documents only existed on paper and no back-ups were stored elsewhere, a civil war can effectively erase people's identity, accomplishments, and assets. A decade after their displacement, the Tawerghans in this case study managed to get some of these documents replaced – but have given up hope ever getting back all that was lost.

3.5. Victims of murder by armed group members in Bani Walid

Author: Attaher Elhaj

This case study looks into the justice journeys of families of people who were murdered during the violent conflict in Bani Walid in 2011-2012. For some essential context: Bani Walid, or Warfalla, is a Libyan city some 185 kilometers southeast of Tripoli. The city counts some 90.000 people, most of whom are part of the Warfalla alliance which is composed of Arab and Amazigh tribes. The city was generally affiliated with the regime of Muammar Gaddafi (1969-2011), and was one of the last to fall during the February 17 revolution. In 2011 and 2012, the city saw violence between supporters and opponents of the Gaddafi regime, both between the inhabitants of Bani Walid and between Bani Walid and neighbouring cities which were more clearly anti-Gaddafi.

Things escalated from July 2012 when a famous Misratan revolutionary, Omran Shaban, was kidnapped, shot, and tortured near Bani Walid. Shaban had become famous for being among those who had caught Gaddafi. After high-level mediation efforts, Shaban was released in September, but he was in critical condition and died in a Paris hospital within weeks. In response, the General National Congress (GNC) issued Resolution 7 calling for the arrest of those responsible for Shaban's death. GNC-affiliated forces invaded Bani Walid. These events contributed to the weakening of the position of those who supported the former regime – the majority in Bani Walid – vis-à-vis the revolutionaries.

This cases study builds on interviews with the relatives of six men who were killed during the 2011-12 violence, and with local experts. The study focuses particularly on three cases. First, Mabrouk was opposed to the Gaddafi regime and three of his relatives were killed by former regime forces despite not participating in hostilities. Second, Abdul and Masoud were supporters of the Gaddafi regime, and their sons died fighting against the rebels. Third, an anonymous man whose son was killed working as a security detail for a tribal delegation sent to reconcile the cities of Zintan and Al-Mashashiya.

These cases are the starkest example in this research of political affiliation shaping access to justice. They also reveal how politicised legal concepts like victimhood and injustice have become. Supporters of the Gaddafi regime considered that whatever harm came to the rebels or revolutionaries in 2011-12 was not an injustice, but rather the result of their attempts to sabotage Libya or bring it under a colonial yoke. Conversely, supporters of the February 17 revolution found that Gaddafi-loyalists got what they deserved for standing with a tyrant against Libyan people's quest for freedom and dignity.

Both parties see themselves as victims of oppression and injustices. Indeed, both groups have suffered killings, displacement, and looting. To make matters more complicated, both loyalists and revolutionaries claim that they acted on the orders given by those who they deem as the legitimate authority. The adjudication of wrongdoing is complicated by the contested legitimacy of Libyan authorities and armed factions at the time and, to a lesser extent, to this day.

Legal recognition and remedies have tended to be accorded to the victims who belong to the victor's group. For example, those who died fighting for the revolution were granted the status of 'martyr' and their relatives were entitled to the moral and material benefits that resulted from this recognition. Those who died fighting for the old regime, however, were not given this status by the state. Yet in the eyes of their relatives, these men died to defend their homeland, so how can he not be a martyr? In sum, those in Bani Walid who 'lost' the battle – the Gaddafi loyalists – also lost control over, and confidence in, state institutions. Some of them reported feeling now like second-class citizens. And so while Gaddafi-loyalist families also filed lawsuits to demand their rights, they invested especially in the non-state track through tribal social councils.

All interviewed justice seekers in Bani Walid agreed that Libyan media have had a malign influence especially during war and its aftermath. Specifically, they argued that media have stoked fires, spread misinformation, and generally fueled conflicts and widened rifts. For example, Hajj Abdul said that some TV-channels representing the February 17-revolution describe Muammar Gaddafi in the most heinous ways, thereby insulting his supporters and complicating a future national reconciliation. A human rights activist, Mohsen, argued that Libyan TV-channels have prioritised the personal and ideological interests of their owners rather than the common good and more harmonious views. The situation is hardly better online and on social media, where electronic armies represent unknown and sometimes international interests, without the slightest concern for the interests of Libyans.

The justice journeys of these three surviving relatives, indicate that a remedy for these individual cases may remain elusive as long as there is no wider national reconciliation or restoration of the social fabric. The justice seekers also hoped that Libya will overcome the winner-takes-all approach to justice. Critically, respondents differed on the best method to achieve reconciliation. Some emphasised that perpetrators ought to be punished, while others stressed that all sides would have to make concessions and forget the past.

3.6. People who suffered war-related damage during the Tebu-Tuareg armed conflict in Awbari

Author: Ahmed Al-Radamah

When conflict erupted across Libya in 2014, in the southern town of Awbari fighting occurred between ethnic Tebu and Tuareg. People were killed and wounded, and properties were destroyed. And when the dust settled, many people were uncertain whom to turn to for a remedy. This case focuses on eight people affected by the Awbari conflict, and their attempts to find justice.

Our respondents had unique stories of damage. For instance, the house of our respondent Mohammed, a Tabu, was shelled with a mortar. This killed his brother, destroyed his house, and badly wounded Mohammed's leg. For treatment Mohammed spent three months in Egypt, nine months in Tunisia, and eight months in Greece. The house of another man, Muhammad Ahmad, caught fire during the conflict, and his farm's fence and irrigation network were destroyed.

The first step that most affected people, including Muhammad Ahmed, took to search for justice, was to file a report of the damage at the Awbari police station. At the time, the station was crowded with people affected by the Tabu-Tuareg conflict, and the waiting time reached about an hour. Still, our respondents reported little difficulty at this step. The police station received them with open arms, and the investigators were competent young people who took the statements of all the injured. The police wrote a report for everyone, based on simple questions: 'what was the damage?', 'what did the house contain?', 'how many devices were in the house?', 'how many air conditioners?', and so forth. A copy of this police report was offered to each complainant, and the police bureau kept the originals. The station's Investigation bureau was filled with such papers, indicating that many of the affected reported to the station.

This reporting of the damage to the police station, was a first and necessary step before people could turn to a specialised committee which had been established by Awbari's municipal council. This committee's first task was to count and register the victims, also with an eye on possible future state compensation. The respondents reported that a copy of the victims' files was handed over to Awbari's municipal council. The council, then, was to look for a suitable party which could consider the victims' plights and compensate the deserving.

Yet compensation remained a distant promise. After all, many areas of Libya had been affected by the war – Sabha, Awbari, Murzuq, Kufra, Qawalish, etc – although the damage vary per region. In Awbari, too, people have not been affected equally. Some victims cannot return to their normal life without compensation, while other victims' situations are reasonably good. And so, some community members call not only for individual compensation, but also (or rather) for projects that serve everyone: such as factories, infrastructure, or public housing.

The Tebu and Tuareg search for compensation briefly became more hopeful, due to the involvement of Qatar. First, a reconciliation initiative between the Tebu and Tuareg communities of Awbari was conducted in Qatar. Then, the Tebu and Tuareg requested reparations from Qatar to enable the affected to return to their homes. From the reconciliation agreement emerged a committee composed of engineers which in turn formed working teams from young people – Tebu and Tuareg both – to communicate with those affected from their tribes. When interviewed in this process, residents recommended that buildings which had become uninhabitably damaged were to be removed, and that those affected be compensated. But then a rift occurred between the Qatari foreign ministry and the Libyan state. It seemed that the Qataris wanted to deliver compensation directly to those affected, so that they would be certain of the fate of their money. Yet the Libyan state insisted that compensation would be given through the Awbari municipal council as the representative of the state.

Our respondents were uncertain where the process was now. It seemed that things were stuck. The Qataris had wanted to consult with the Tebu and Tuareg signatories of the reconciliation agreement on the appropriate mechanism for reparation and compensation. But the signatories could not travel to Qatar to clarify matters, nor extract any funds from the donor state. Now it was unclear to our respondents whether some money had been allocated or not, or whether Qatar had retracted its promised compensation.

3.7. Wives of missing persons in Bani Walid

Author: Daw Abu Ighrarah

The western city of Bani Walid, saw a number of violent episodes between 2011 and 2012, during which many people were killed or went missing (see also 3.5). This case study looks into the justice journeys of three women in Bani Walid, Naima, Fatima and Warda, whose husbands had gone missing in this way. The wife of a missing person faces a particular kind of suffering. Her fate differs from that of the martyr's wife, as her situation is more unclear and unstable: is she a wife or a widow? In addition to the pain this causes, the wives of the missing also face legal uncertainty. And when this uncertain state drags on, this leads to countless everyday problems.

The most important objective of the three women was to learn the truth about their husbands. A secondary objective was to secure the material and moral advantages of a clear legal status as widows or wives. Practically, Naima and Fatima did not speak about the inheritance they or their children would be entitled to. But Warda wanted to secure her children's rights to inheritance and to the salary of their missing father.

The women tried different justice providers. All three registered with the Association of the Missing and the Organisation of those Affected by Resolution No 7. Naima and Warda went to the public prosecutor in Bani Walid. Naima left it at that. Warda still approached the president of the court in Bani Walid to try and secure her husband's inheritance, salary, and house. Fatima took two different routes. Instead of going to the prosecutor in Bani Walid, she went to the prosecutor general in Tripoli. Further, Fatima went to the public lawyers office to file a lawsuit before the judiciary, and communicated with a number of NGOs.

The women's justice journeys differed, and these differences were influenced by: the wife's education and occupation; the husband's name, which could be seen as revealing his political affiliation, the spouses' tribes; the family's number and economic status; and the circumstances of the disappearance. The women also differed in how much risk they were willing to take. Warda did not leave Bani Walid to find out the truth about her husband, instead focusing her efforts on notables within Bani Walid. Fatima went beyond Bani Walid, to Tripoli and even Misrata, where she was financially duped by lawyers. Naima accepted the greatest risks by searching for her husband in prisons outside of Bani Walid.

Until the time of writing, the women have not found out the fate of their husbands, despite their recourse to all these authorities. Here, the political context was key. The wives' husbands, and Bani Walid more generally, had been accused of supporting the Gaddafi regime and opposing the February 17 revolution. Once the revolution was over, local authorities in Bani Walid did not want to be seen as ruling in favour of people associated with the old regime. Sensitive to this wider political context, one of the women considered that her missing husband was part of a much larger story. She contended that ultimately, a solution to her individual suffering depended on reconciliation between the Warfalla, the majority-tribe in Bani Walid, and the city of Misrata whose troops had played a prominent role in occupying Bani Walid following GNC Resolution 7.

3.8. Survivors of spousal violence in Benghazi

Author: Jazeeh Shayteer

This case study examines the justice journeys of five women in Benghazi who were beaten by their husbands. The five – Azza, Khadija, Khawla, Rima, and Fatima – are all Libyan women, Arab, Muslim, married to Libyan Arab Muslim men.

The causes of violence varied. In Azza's case it began after the husband's deception; in Khadija's the husband had been reluctant to get married; in Khawla's the husband was jealous. In Rima and Fatima's case, the war was an important factor, after it displaced Fatima's family, and brought unemployment and poverty to Rima's family. Forms and degrees of violence also varied: Azza was threatened with kidnapping and rape, Khadija was insulted and humiliated, Fatima was humiliated causing her minor harm, while Rima and Khawla were seriously physically abused.

The journeys of these women on the road to justice were rich in steps and obstacles, and each individual journey is elaborated in the full case study. There were some notable similarities. For one, all women perceived the violence as harmful and a condemnable violation of their rights – not accepting the logic by some of their family members that a husband is entitled to discipline his wife, which may involve beating her. The women differed in whom they attributed most blame to. Some blamed their husband alone, others blamed their own father and mother for forcing them to marry or get divorced. Some women also apportioned blame to the wider structural conditions of war and economic hardship, which affected their marital relationships.

The women sought different remedies. Rima did not want a divorce and felt forced by her brothers to aim for a criminal penalty of her husband. Azza and Khadija only wanted to divorce, and Fatima and Khawla sought both a criminal penalty and divorce. Partly informed by these divergent goals, women chose divergent paths and mechanisms. Some opted for the informal path through family or tribe, while others preferred a swift turn to police and courts.

The husbands usually disputed the divorce application, and would only respond to it after making sure that it comes with the least losses (Azza's case). Husbands objected to criminal charges, either by justifying the violence as a morally upright exercise of their right to discipline (Khawla's case), or by levelling counter-accusations against their wives (Rima's case).

Children played a pivotal role in this justice journey. Sometimes they figured as victims or as subjects of post-divorce disputing. In other cases, they were called on as eyewitnesses of the violence – which typically took place within the walls of the marital home. In some cases, women gave up their own demands for divorce or criminal punishment of the father, after they considered that this would jeopardise the interests of their children (Rima's case).

Patriarchal cultural beliefs and practices pervaded these five cases. Fatima's father refused to accept her plight to divorce her abusive husband, forcing her to endure all manner of spousal violence. Khadija felt great trepidation about exposing her marital problems, fearing particularly the shame that would befall her husband and, by extension, her children if she were to expose his homosexual interests. Azza's family likewise was reluctant to expose the abusive husband's shameful qualities out of fear that his tarnished reputation would affect them as well.

Patriarchy also influences how family members and justice providers respond to domestic violence. Brothers typically control women's paths to justice, sometimes supporting their sisters and sometimes hindering them. Abused women are typically represented by male relatives when a tribe facilitates negotiations with the abusive husband. Even official justice providers like courts, deal with family communication and complaints with extreme sensitivity – cautious not to upset family ties or offend Arab-Islamic values. Outsiders to the family usually refrain from interfering in a domestic dispute – even if they witness violence – except when they are forced to intervene due to the gravity of the violence or when the violence extends beyond the marital home.

Various justice providers got involved in these five justice journeys, and a rough distinction can be maintained between 'informal' and 'formal' institutions. First and importantly, on the informal side the tribe often plays a distinctive role in domestic violence. In Benghazi, it remains a highly reliable tool for social control of husbands. It may oblige the husband to pay the wife "*annusufa*" (compensation in kind for the wife), or even to divorce her, and it may oblige the wife's parents to give up their material rights in an effort to settle disputes between the families of the spouses.

Second, on the formal side are the police and prosecutor. Three of the five women turned to the police, which was always the first state institution they approached (Cases of Khawla, Fatima, and Rima). In all cases the investigating officer would open a report, hear the complaint, ascertain the desire of the concerned person to prosecute her husband, and refer her to the prosecutor. The prosecutor would then refer the wife to the forensic doctor and order the arrest of the husband in preparation for his pretrial detention on charges of mistreatment of a family member.

However, some women who go to the police and the prosecutor, later withdraw their complaint – often under pressure from their families. This in turn prevents the prosecutor from pursuing the prosecution proceedings (Fatima's case), and then the conflict returns to the informal or 'social' track.

One of the obstacles faced by victims of spousal violence is their limited legal awareness. Women often do not know their rights, nor who is able to safeguard them. They often choose the first lawyer they meet on their way, whether he is a friend of the family (Khadija's case) or a public lawyer (Fatima's case). These five women were unable to afford private lawyers, who they see as perhaps more active but expensive. In one case, the accused husbands turned to a private lawyer who was skilled but also dishonest and malicious (Khawla's case). These five cases suggest that there are important differences between public and private lawyers, both in terms of affordability and skill, which may influence access to justice.

Another obstacle women face has to do with proof. The occurrence of domestic violence can be proven by victim and witness testimonies, but in practice medical reports play a key role especially in establishing the gravity of the violence. But when a woman suffers domestic violence, she is often first brought to the hospital – where a medical report may describe her injuries. Only later will she go to the police and from there to the public prosecutor. The prosecutor, however, will not accept the hospital report, and instead require that the woman visits a forensic doctor who writes a new report. As time has passed between the incident, the hospital, the police station, the prosecutor's office, and the forensic doctor, some of the injuries may have already healed. This in turn may negatively impact the woman's case.

Critically, these five studied cases in Benghazi were not randomly sampled and are not representative of the whole of Libya. Yet they indicate just how difficult it is for women to speak up about domestic violence and to seek justice. These cases are part of a large number of cases which have reached formal institutions, yet many more are dealt with by informal justice providers only, and still more women are likely suffering domestic violence in silence.

3.9. Women deprived of inheritance near Benghazi

Authors: Bruno Braak and Suliman Ibrahim

Libyan women have the right to inherit land – both in sharia and statutory law – and depriving them of this right ('disinheritance') is even forbidden. Still, many Libyan women are discouraged by their family members from claiming their inheritance. This study offers a general legal, historical, and cultural context of women's rights to land and inheritance in Libya. Then, the paper offers a detailed analysis of the case of one elderly woman, Um Aliz, who is deprived of her inheritance and seeks a remedy. Several important changes appear: women's increasing voice, pragmatic compromises, and weaknesses of Libya's judiciary pertaining to disinheritance cases.

Um Aliz, the protagonist of this case study, was born in the 1950s in a rural area not far from Benghazi. This was a different time. Land was abundant and people often claimed large swaths. It was no desert, and its red soil and limited rain made barley cultivation possible. Um Aliz recalled how when she was born her whole family, 'were doing everything on the land, our lives were in it.'

But Libya changed rapidly in the 1950s, especially after oil was discovered in 1959. Jobs were elsewhere now, and one brother took up a job in the army, another in the transport sector. Even as most of the family members left the land, they did not sell it. Instead, they returned periodically to cultivate barley, and one brother sold grazing rights and some of the land's water to cattle keepers. Otherwise, the land lay uninhabited for years as the family members pursued lives and livelihoods elsewhere. The land as such was not particularly marketable or valuable.

The land where Um Aliz was born belonged to her larger family, which was in turn divided in three sub-families. Um Aliz's parents were family relatives, and both part of the larger family. And so according to Libyan law and sharia she would have been entitled to inherit parts of the land both from her father's and mother's side.

For decades Um Aliz made no attempt to claim her right to inherit land. One reason is rooted in a local Bedouin custom which her father would frequently remind her of: 'a woman married to a foreigner (*barani*) does not inherit'. Crucially, not only non-Libyans qualify as 'foreigner' in this logic, but also people of other families. The reasoning behind this expression is that families should ensure that their land remains within the family. So when Um Aliz married to a person from outside the larger family, in this logic she lost her right to inherit land. Um Aliz also felt ashamed to bring up her inheritance with her brothers, regarding such claims-making as immodest.

Yet Libyan women's resistance to disinheritance appears to become more common. One factor is the rising price of land. Urbanisation has been rapid across Libya, and Benghazi has roughly doubled in size between 2009 and 2019. Land prices have skyrocketed also in the areas surrounding the city. A second factor are the changing attitudes of women, with younger generations being bolder about claim their rights than older women.

Particular to Um Aliz are three additional factors. First, Um Aliz's children are now mature and married, which means that Um Aliz has an important safety net in case anyone needs to provide for her; a role that would earlier be played by her brothers. Second, Um Aliz's female maternal cousins have been claiming their inheritance rights, 'They said they would not leave their mother's share ... And I said what you're doing, I agree with it [that I run with it]'. Had it not been for these cousins, Um Aliz says that she would probably not have claimed anything. Now her cousins run most of the social risks, and Um Aliz is just a signatory – also joining the claimants but not the instigator. A third more personal factor spurring Um Aliz into action is her current poverty and illness: she urgently needs money to get medical treatment, and this inheritance could help her.

To claim their inheritance, Um Aliz's cousins initially turned to their male relatives directly. But those who occupy the land insist that it is no longer 'family land'. On one plot, the occupant says the land was redistributed to his father by a Gaddafi-era property redistribution law, Law 123/1970, after which the occupant simply inherited it. On another, the occupants claim that the land is no longer family land after family members would have sold their shares. In short: on both lands a series of undocumented and contested land transactions are alleged to have (not) taken place. The dispute about present ownership is thereby inevitably about past tenure arrangements, and even the legitimacy of governing actors (i.e., the Gaddafi regime). The absence of paper proof or communal consensus have left family members at loggerheads over these lands.

Met with the intransigence of the current occupants, Um Aliz's cousins first turned to a well-respected member of their joint family who is also a religious sheikh, to mediate. When that had no effect, they hired a private lawyer – paying 7,000 Libyan dinars up front, with another 8,000 Libyan dinars to be paid if the land would be won.

The court case is still ongoing, but Um Aliz and her son feel ambivalent already. On the one hand, they believe this turn to the court was inevitable given their cousin's behaviour. Um Aliz: 'He is the one who spoiled the subject by claiming that [grandfather] had sold ... He will not be deterred except by law.' Um Aliz expects that the judge will ask her cousin for paper proof to evidence his claims to the land, which she believes he does not have.

On the other hand, Um Aliz feels uneasy about going to court over a family matter; 'In the name of God, we should not have these problems but what can we do?' The dispute has already affected family relations. Um Aliz was particularly hurt when the cousin did not attend her daughter's marriage: 'He brought his wife, but declined to enter. Why? We only want the right, this is not a mistake in God's law [*Nubu haqna*, there is nothing wrong with demanding the right that God has given]'.

Um Aliz's case alerts us to enduring discrepancies between law and practice; disinheritance continues to be practiced despite being forbidden in sharia and state law. This finding alone also suggests that legal reform efforts alone may not suffice in mitigating the situation for disinherited women. Yet the case study also offers glimmers of hope for women: their bold efforts to claim inheritance rights are sometimes effective at forcing male relatives to offer compromise solutions (offering them money in lieu of property, for example). And the more women claim these rights, the more other women feel empowered to do the same.

3.10. Victims of kidnapping for ransom in Sabha

Author: Mabroukah Ifarawi

South Libya's capital Sabha has seen an increase in abductions since the fall of Gaddafi in 2011. This case study focuses on four families in Sabha whose children were abducted for ransom. Ransom is the main objective of the kidnappers, and so they look out for suitable targets. Sometimes a person close to the victim shares information with the perpetrators, in exchange for a share of the ransom. Then, the abductors estimate how much they can demand from each family. Our main case involves a wealthy merchant family, Berkoli. Their son Mohammed was kidnapped and a ransom of 1.500.000 Libyan dinars was demanded. Later, Mohammed's brother Mustafa was also kidnapped, and then the ransom was set at 5.000.000 Libyan dinars. In two other cases, the amounts demanded were significantly lower. After the Abdul's son was kidnapped, a ransom of 60.000 Libyan dinars was demanded. And when Hajja Halima's son was kidnapped, a ransom of 30.000 Libyan dinars was demanded.

Although the harm appears clear – the abduction of a child – the families differed in their initial assessment of the gravity of their sons' situations. Sometimes kidnappers communicated with their victim's family to scare them. Some abductees were tortured and then told to call their families, to increase the psychological pressure on them to pay a ransom. Beyond the physical and psychological harm thus inflicted on the victims and their families, the abduction often also had economic and social ramifications.

The families' justice journeys were rich in attempts, appeals, and obstacles – which are described in more detail in the full case study. In all cases, the families' main objective was the return of their child. Halima remained uncertain about the fate of her son and said that even if he was no longer alive, she would simply want the return of his body. The merchant family was alone in making more retributive demands: that the perpetrators would be found, punished, and brought to justice.

All victims' families first went to the police to file a complaint. But in their experience, the security services were uninterested or unable to bring back the abducted children. Interviewees agreed that Sabha's security services do not have enough power to pursue criminals. This led a justice seeker to approach an armed group to find and arrest the kidnappers of his son. What is more, tribal politics impact their work: officials are reluctant to act against locally powerful tribes, for fear of retaliation against themselves, their family, or their tribe. Yet these cases also suggest that in Sabha tribes sometimes resolve conflicts, mediate between parties, and connect their members to state institutions. In sum: Tribes in Sabha sometimes aid people's access justice, and at other times work to counter it. The merchant family and Abdul both turned to the military command which controlled Sabha, whereas Halima tried to establish communication with the kidnappers through her personal network.

Tribal affiliation, economic status, and social status in society all impacted justice seekers' demands and actions. For instance, Hajja Halima was not well-off and lacked tribal connections. She did not succeed in finding back her son. Conversely, the merchant family was wealthy, of high social status, and had strong tribal connections. This helped them to involve state institutions, tribes, and armed groups, and ultimately to get their son back.

3.11. Victims of oil pollution near the oases of Jalu, Jakharrah and Awjilah

Author: Khadiga Farag

The production of oil in Libya sometimes leads to disputes between companies and local inhabitants. So it is in the three oasis areas – Jalu, Jakharrah, and Awjilah – at the heart of this case study. This research draws on interviews with eight people who were affected by oil pollution, and with local experts. It focuses in particular on two people in Jakharrah, and one case in Jalu and Awjilah each.

People suffered diverse damage or grievances due to the arrival of oil companies. Suleiman argued that nearby buried oil residues had rendered his land unsuitable for agriculture. Osama argued that oil production had contaminated the water, which led to the death of his camel. Adel's farm was damaged by polluted air, soil, and groundwater. In Jalu, people were wary about planned oil production and the impact it would have on their 'Green Belt'. When they protested against the oil companies, a clash with the companies' guards resulted in the death of one protestor, the brother of Ibrahim. Further, oasis inhabitants complained about the frequent diseases among people and animals in the oasis, and attributed blame to oil pollution.

All interviewees attributed most blame to the polluting activities of oil companies. Some argued that the companies did not adhere to safety standards, or acted in violation of their rights. Victims sought different things. Osama hoped to receive material compensation. Suleiman and Adel demanded compensation, that the oases' pollution would be addressed, and that oil companies would abide by environmental standards. Ibrahim, the man whose brother was killed protesting, demanded simply that the oil company would not come to Jalu.

These men chose different mechanisms. There was: i) the legal path which started by filing a complaint with the police and public prosecution; ii) the civil track which involved the communication (through an NGO) with concerned state authorities; and iii) the political track, which is the formation of a committee of those affected to communicate their voice towards the state. Especially those who saw their own grievance as part of a collective one opted for a more political route aimed at state authorities.

The oil companies ignored the requests of Suleiman and Adel. Osama was offered compensation in return for dropping the suit. Suleiman's case was special, due to the political context. So many of Jalu's residents stood together in solidarity, that it made state officials nervous. At the time, the Gaddafi regime feared that any large popular gathering of disgruntled people could escalate and turn against the regime itself. To take the sting out of these protests, state officials pressured the oil company to communicate with Suleiman. The company ultimately agreed not to enter the Green Belt, a victory for the people of Jalu.

A major obstacle that the justice seekers faced, was the difficulty of proving i) that their air, soil, and water was polluted; ii) that this pollution was the result of oil company activity, iii) that this pollution had caused in their experienced damage. The oasis inhabitants had no access to an independent center for research and studies, and distrusted the experts of the National Oil Corporation and the oil companies. This inability to prove pollution, wrong-doing, and damage, critically hamstrung these justice journeys. They were further deterred from pursuing expensive lawsuits, especially as they knew oil companies would be able to afford the best private lawyers. And so justice seekers often aimed not for judicial accountability, but for a form of reconciliation with the oil company.

Another obstacle people faced when oil production took place under the Gaddafi regime, was their fear of speaking out against the regime. Oil companies worked with government permission, and people feared that criticising these companies' pollution would anger the regime. But after 17 February 2011, oil pollution became visible and people talked about it everywhere. Even so, the bifurcation of state authorities in Libya created a new sensitive political context. Some alleged that certain actors would have a political interest in the closing of oil fields, and tried to achieve this aim by stirring up public anger about oil companies' pollution.

This links to a last obstacle: the justice seekers considered that oil companies now operate without effective and neutral state control or oversight. They argued that the Environmental Public Authority is dead, whether in the control or in assessing pollution. In 2015, the chairman of the Board of Directors of the National Oil Corporation decided to form a committee from the Environment Public Authority to carry out a comprehensive environmental study in the oasis areas. But the committee's results provoked anger in the oasis areas, where the report was seen as false. Inhabitants distrust the NOC's agenda, and its role as both opponent and arbiter. Two central wishes of the oasis inhabitants are that: i) there must be a neutral body that monitors the work of oil companies, and ii) an independent study center should be established in the oasis areas to study samples and assess pollution.

3.12. Irregular female migrants in Benghazi

Author: Hala Elatrash

This case study explores the injustices experienced by three irregular migrant women: Bilquis, Sarah, and Lisa. Their lives in their countries of origin in Sub-Saharan Africa had been full of hardship, poverty, and rights violations. Each left home risking her life to reach a better life. Yet on their journey to Libya, the women fell victim to deceiving smugglers and exploitative human traffickers. Once in Libya, they chose to live in Benghazi because they considered that life conditions there were better than in other Libyan cities. Still, in Benghazi they faced a new and complex series of violations by those who exploit their illegal status to intimidate and control them.

A central complexity in this case study, is that the three migrant women may simultaneously be seen as 'victims' or 'criminals'. Victims because of the rights violations they suffered, and criminals because of their undocumented or illegal stay in Libya. Whereas in the other case studies, the protagonists actively approached state authorities, in this case study the protagonists have tried to evade pursuit by such authorities. For example, Bilquis suffered multiple violations and has never been inclined to demand justice; Sarah was a victim of human traffickers and did not seek justice – instead finding herself in front of the court as accused. Lastly, Lisa has spent years in Libya without demanding justice, but then found herself accused of witchcraft. In short: irregular migrant women are among the most vulnerable people in Libya and yet they do not appear in the eyes of Libya's justice system as claimants or victims, but as suspects.

One reason why the women never sought justice, is that they did not consider their trafficking to Libya as an injustice. They wanted to come to Libya and accepted that the journey would involve risks and great costs. When they were wronged by others, they either accepted it or blamed themselves. When they arrived in Libya vastly indebted to their 'sponsors', they accepted that they would have to do unsalaried work to repay these sponsors.

Even when they considered the harms they suffered as 'unjust' and attributed blame to others, they have never sought to claim their rights or remedies before state bodies. Instead, they avoided state institutions out of fear of detention and deportation. Neither did the migrant women seek help of national or international human rights organisations. They also distrusted their own embassies or consulates and were skeptical of their ability to provide diplomatic protection or legal assistance. They had different ways of getting information and advice from unofficial actors: from a husband, friend, the leader of their country of origin's community in Libya, or employer.

In Bilquis' home country, her life was affected by war and poverty. She found a smuggler who said he could bring her out to a better place. She was skeptical about his ability to do so, but the smuggler brought her to Libya successfully. There she has to work for free to pay of her debt to her sponsor. She had no grievances about this, as she had migrated to Libya with this smuggler on her own volition and considered it only fair that she would have to do unsalaried labour on arrival to pay off her debt. But two other things happened in Libya, about which she did have grievances. First, the police broke into her house and took her simple belongings. Second, her employers did not pay her wages for several months and threatened that if she would object, they would hand her over to a detention centre. While Bilquis clearly was troubled by these grievances, she did not turn to any institution to claim any rights or remedies because she feared detention and deportation. She mostly blamed herself for the misfortunes she suffered. Although on paper her human rights to life, bodily integrity, and dignity may have been violated, she did not see things in this way.

On the first day of her journey to Libya, Sarah fell victim to human traffickers. On the way to Libya she was forcibly detained in informal detention centers for long periods, where she was blackmailed and tortured. For this she did not blame the human traffickers but rather her parents who pushed her to emigrate. Sarah never tried to seek justice for what happened to her on her journey. Instead, she found herself accused in front of a court for making and selling alcohol. Her experience there was terrible. Sarah only spoke limited Arabic, she did not know about her rights or the substantive and procedural rules, and her options for redress. Further, she had no confidence that the judge was interested in her background story or the injustices she suffered. Sarah did not know how a lawyer was appointed, and anyway considered that a lawyer would be unaffordable for her, and that they would not speak one another's language. The judge rules that she was to be deported – which Sarah considered a death sentence to her future hopes. Yet the chaotic security institutions and a violent clash prevented her deportation. When an armed group attacked the Center for Combating Illegal Migration where Sarah was held, she found herself free.

Lisa faced a series of harmful experiences on her journey to Libya. She knew that her migration to Libya was not legal, but she had consented to it and had a good relation with the smuggler. She even indicated that she was expecting to make a similar arrangement for her planned onward journey to Europe. Like Sarah, Lisa found herself in court accused of practicing witchcraft and sorcery. The police had seized her savings and she had been blackmailed about this by a public official in the court corridors. So when she came before the judge, she dared not tell him about the police's theft. Yet where Sarah had a bad lawyer, Lisa's lawyer worked his personal connections. In this way, Lisa received an inventory card in a record period so that when the judge saw her, she was not charged with entering the country illegally. The lawyer also got her acquitted of the charge of practicing witchcraft, because this is criminalized in Libya only as a crime of fraud and the elements thereof were not available in her case.

The three women did not seek justices for the violations of their rights. This is due to a complex mix of obstacles and quite rational calculations. For one, the women knew full well that their irregular stay in Libya was criminalised and put them at risk of detention and deportation. They also feared that any criticism or claim against the traffickers might put their family in their country of origin at risk of retaliation. Second, they neither knew about their rights or Libya's laws, nor did they have much faith in Libya's security and justice institutions. Third, once they found themselves in court they were confused by its complicated processes and Arabic language, and left at the mercy of their lawyer. In one case that worked out poorly, in another Lisa was lucky with an active lawyer.

Libya has no policies or measures to protect migrant women from domestic violence and human trafficking crimes, or to encourage women to report safely and without fear for reprisals. Such measures might include witness protection programs and firewall policies which prevent health care providers and state bodies from sharing any personal data or information about irregular migrant women with security and immigration control agencies.

In this case study, the Libyan state failed to enshrine and protect the rights of migrant women. As migrants find that they have no path to justice in Libya, they lose trust in the country's institutions and society. When conflicts do occur, they are forced to solve them outside the view of the state. Improving access to justice for this group would create a more just and accountable Libyan society.

4. General Observations

For this section, we have distilled from the total of the case studies some general observations. We have discussed these general observations in Benghazi, Tunis, and Leiden. Given the early stage of this research, these observations are preliminary and to be further developed in the subsequent two research phases. We have categorised these observations into four headings.

4.1 Justice seekers: injurious experience

1. Our cases suggest that many ordinary Libyans have been affected by a wide range of very painful 'injurious experiences', before 2011, between 2011 and 2014, and since 2014.
2. Experiences of justice seekers in Libya often have two components: the original injury suffered ('the injurious experience') and the subsequent onerous 'justice journey'.
3. In all case studies, the end result was very disappointing for the justice seekers as they reached no conclusive and satisfactory outcomes.
4. In some cases, justice seekers in the end got their remedies, however these were usually only partial, never fully adequate. As a partial remedy is better than nothing, justice seekers welcomed them. However, in several cases (see 3.2., 3.3, 3.4) those partial remedies were not even implemented. This suggests a structural lack of enforcement.

4.2 General Attitudes among Justice Seekers

5. When they tried to seek justice and remedies, it often turned out to be a hard, checkered, and once again a painful journey with no end. This has left these ordinary Libyan justice seekers with a sense of hopelessness, of being left alone, of alienation from their state and society, of disillusion, and anger.
6. In more than a few cases, justice seekers expressed their fears. This included fear for armed groups, sometimes composed along tribal or religious lines, who are often stronger than state institutions and have sometimes infiltrated or controlled them. Some people feared for the return of the previous regime. Others feared discrimination, both ethnic and political, by society, state officials, and armed groups.
7. Still, in spite of this sense of disillusionment and fear, two case studies (see 3.8, 3.9) show how ostensibly 'vulnerable' justice seekers turned to judicial institutions to hold 'powerful' people to account. In those cases, the appeal of law as a weapon of the weak appeared to triumph over existing worries about fair processes and outcomes.

4.3 Contexts of Justice Seeking: History, Politics, and Culture

8. Historically, the two main facets of the Gaddafi regime – its redistributive aspirations and its practice of violent repression – have contributed to a heritage of disputes and grievances that Libya's justice institutions are grappling with to this day. While several of the serious injustices at the heart of this research occurred years ago, and others even decades ago (3.1, 3.2, 3.3), until today, they have remained heavily contested. They have raised fundamental questions about justice, which neither the legislature nor the judiciary has been able to offer conclusive answers to; in part, because in Libya's divided state of today their own legitimacy to do so remains contested as well.
9. Before 2011 many injustices were committed by the regime. A justice journey against this regime was a perilous undertaking. After 2011, as the regime, and more or less the state, collapsed, people could voice their grievances, many of which became 'big issues'. New office holders of the state and many activists and NGOs encouraged the new openness

10. Expectations for justice were high and many new laws saw the light. Still, due to the so-called revolutionary fervour, some of these laws were problematic, e.g., Law 13/2013 on Administrative and Political Isolation that excluded many from office for merely working under the former regime without considering their actual act, and Law 29/2013 on Transitional Justice that discriminated between human rights violations based on who committed them.
11. After 2014, the state became openly divided, and the divided parts became embroiled in a civil war of sorts. 'The other side' now became 'the enemy'. In this polarized, politicised atmosphere, actions to remedy an injustice ran the risk of being branded as a political act. It appears that September ('69) Justice is the opposite of February ('11) Justice. Political culture is marked by constant mutual accusations, and new governments enacted contradictory laws. Hence, several legal barriers have had adverse effects on the justice journeys under review.
12. The limited power and authority of state institutions, who are unable to hold perpetrators accountable, is a constant source of frustration among justice seekers. Facing the sheer incapacity of the divided state, they often halted their justice journeys, before even meeting a court or other 'justice provider'. The unbridled power and violence of criminal gangs aggravated their situation in more than one case (see 3.5, 3.10).
13. When, whether, and how justice seekers turn to police, prosecutors and judges or other kinds of authorities is influenced by which government institutions and armed groups hold most control locally (see 3.1, 3.5).
14. Notably in domestic violence, family, and inheritance cases, but also in criminal matters, female justice seekers often devoted considerable time working with family, neighbours, friends so as to resolve their disputes informally. Such 'kin-work' is very demanding for women, given the prevailing patriarchal culture with its gendered power-differences.

4.4 Justice Seekers

15. Justice seekers and their journeys differ. Our cases show that three types of factors matter a lot; they could be an obstacle, or an opportunity. i.e.
- 'Personal factors' (gender, age, education, wealth, personality),
 - 'Ethnic factors' (tribe, city, region, nationality/migrant, race). Especially the role of the tribe came to the fore in our case studies (see 3.3, 3.4, 3.6, 3.10)
 - 'Political factors' ('revolutionary', Gaddafi loyalist, 'being on the right/wrong side of history', or else). These factors impact on the obstacles and opportunities people face and the choices they make. The last two factors are sometimes referred to as 'social weight' (*thaqal ijtima'ai*).
16. Justice seeking sometimes began long after the injurious experience, due to fear for oppression, low expectations, or trauma. In some of our case studies, the victims did not act at all, notwithstanding severe injustices (3.12, 3.8)
17. Justice seekers who suffered the same or a similar injustice have in several cases established and joined victim associations to strengthen their position. Victims' associations played key roles in seven of our cases (see 3.1, 3.2, 3.3, 3.5, 3.6, 3.7, 3.11). While they achieved some successes, individual members sometimes preferred to pursue their own goal over the collective goal, thus weakening the group claim (see 3.1., 3.11).
18. When justice seekers feared that their social identity would prevent fair treatment at a state institution, they could seek support and remedy from a like-minded community-based institution, and vice versa (see 3.5).
19. Justice seekers use their personal connections (*wastah*), not only in informal institutions but also in state institutions. This practice seems to be omnipresent and indispensable when people want to get things done, and the justice sector is no complete exception.
20. Justice seekers themselves, to achieve a remedy for their injury, acted in some cases in violation of the law, or even using immoral means (see 3.10).

21. Whereas the criminal justice system gives the public prosecution and police the leading roles, our case studies indicate that aggrieved persons in criminal cases, like relatives of victims of crimes against persons often still play active roles in pursuing justice, thus also travelling a justice journey, e.g.:
- They pressured various authorities to work on their criminal case (see 3.1);
 - They sought a remedy, like compensation, from the perpetrator, through a civil lawsuit affiliated to the criminal case, or, as they preferred, before a civil court (see 3.1);
 - They reached out to perpetrators for out-of-court settlements (see 3.8);
 - They formed victims' associations to pressure government (see 3.1)

4.5 Justice Providing Institutions

22. Libya has a vast number of state and non-state institutions which may provide justice to justice seekers.
- Libya's state institutions such as police, courts, prosecutors, municipal councils were frequently approached by justice seekers. In our case studies, this is particularly true of the police (see 3.8, 3.10)
 - Justice seekers also widely used community-based institutions, such as tribal leaders (*shuyūkh al-qabā'il*), wise men's councils (*majalis al huqama*), and customary committees (*lijan urfia*). In the aftermath of 2011 these community-based institutions, have provided a powerful alternative or supplement where state institutions functioned poorly (see 3.2, 3.3, 3.9).
 - In some cases, especially those with sharia aspects, justice seekers resorted for advice to local imams and muftis (see 3.2, 3.7, 3.9).
 - Justice provision often required justice seekers to actively involve Libya's government institutions, of the executive branch, like civil registration, real property registration, agricultural police (or inspection), the ministry of justice, who played crucial roles in the process (see 3.1, 3.2, 3.3, 3.4, 3.7, 3.11).
 - Finally, certain institutions did not play a role at all in our cases although one may have expected it. To deal with 'transitional justice' cases, a Fact-Finding Commission had been established by law 17/2012 and reconstructed by Law 29/2013; however, justice seekers did not approach the commission, as it is not operational. So, ordinary justice mechanisms, including courts, have been dealing with these cases, although they were not legally equipped to deal with them (see 3.1).
 - In several cases, justice seekers approached international NGOs to get support – Amnesty International, Human Rights Watch -, and foreign and international public institutions for remedies – the International Criminal Court (see 3.5), the African Human Rights Committee (see 3.1), and the State of Qatar (see 3.6)
23. The distinction between approaching 'formal' state institutions and 'informal' community-based institutions is not watertight, as our case studies show. The two realms overlap and interact in several ways. In fact, more than a few justice seekers in our cases engaged simultaneously with formal and informal institutions and processes (see 3.2, 3.3, 3.4, 3.7).
24. Public lawyers were less consulted than one would expect given that this state-sponsored legal aid is free and widely accessible, presumably even in politically sensitive cases. In the rare case(s) (see 3.8) in which public lawyers played a role in our cases, they were serious concerns about their effectiveness. Regarding private lawyers, justice seekers expressed serious concerns about their high fees, and in some cases about their effectiveness (see 3.1).
25. In our case studies justice providing institutions often required particular kinds of evidence – documentation of citizenship, of land ownership, proof of pollution, but according to the justice seekers such proof was often difficult to secure, due to conflict, insecurity, demolition by the previous regime, weakness of state institutions, or simply lack of technical expertise (see 3.1, 3.11).

Bibliography

- Abrego, Leisy J.** 2011. "Legal Consciousness of Undocumented Latinos: Fear and Stigma as Barriers to Claims-Making for First- and 1.5-Generation Immigrants." *Law and Society Review* 45 (2): 337–70. <https://doi.org/10.1111/j.1540-5893.2011.00435.x>.
- AFP.** 2021. "After Years of War, Libya's Benghazi a Chaotic Urban Sprawl." *France* 24, November 19, 2021.
- Bedner, Adriaan, and Barbara Oomen.** 2018. *Real Legal Certainty and Its Relevance: Essays in Honour of Jan Michiel Otto*. Leiden: Leiden University Press.
- Bedner, Adriaan, and Jacqueline Vel.** 2011. "An Analytical Framework for Empirical Research on Access to Justice." *Law, Social Justice & Global Development* 2010 (February): 1–29.
- Black, Donald J.** 1972. "The Boundaries of Legal Sociology." *The Yale Law Journal* 81 (6): 1086–1100.
- Black, Donald J.** 1976. *The Behavior of Law*. New York: Academic Press.
- d'Hondt, Laure.** 2019. "Addressing Industrial Pollution in Indonesia: The Nexus between Regulation and Redress Seeking." Doctoral Dissertation, Leiden: Van Vollenhoven Institute.
- Ewick, Patricia, and Susan S. Silbey.** 1998. *The Common Place of Law: Stories from Everyday Life*. Chicago: Chicago University Press.
- Felstiner, William L.F., Richard L. Abel, and Austin Sarat.** 1981. "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming..." *Law and Society Review* 15 (3/4): 631–54.
- Genn, Hazel.** 1999. *Paths to Justice: What People Do and Think about Going to Law*. Oxford: Hart Publishing.
- Human Rights Watch.** 2006. "Libya: June 1996 Killings at Abu Salim Prison." New York.
- Ibrahim, Suliman.** 2017. "Property Claims in Post-Gaddafi Libya: Political Debates and Justice Seeking in the Aftermath of Law 4/1978." *Hague Journal on the Rule of Law* 9 (1): 135–56. <https://doi.org/10.1007/s40803-016-0046-6>.
———. 2018. "National Identity, Report on Phase 1." Leiden.
———. 2019. "National Governance, Report on Phase 2." Benghazi.
———. 2020. "Transitional Justice, Report on Phase 4." Benghazi.
———. 2021. "Final Report on the Role of Law in Libya's National Reconciliation." Benghazi.
- Ibrahim, Suliman, and Jan Michiel Otto.** 2017. "Resolving Real Property Disputes in Post-Gaddafi Libya, in the Context of Transitional Justice." Leiden.
Libya Observer. 2022. "Abu Saleem Massacre, Largest Mass-Killing Operation in Libyan Prison," June 30, 2022.
- Merry, Sally Engle.** 1979. "Going to Court: Strategies of Dispute Management in an American Urban Neighborhood." *Law & Society Review* 13 (4): 891–925.
- Molenaar, Fransje, Jonathan Tossell, Anna Schmauder, Abdourahmane Idrissa, and Rida Lyammouri.** 2019. "The Status Quo Defied The Legitimacy of Traditional Authorities in Areas of Limited Statehood in Mali, Niger and Libya." The Hague.
- Otto, Jan Michiel.** 2000. "Reële Rechtszekerheid in Ontwikkelingslanden." Leiden.
- Otto, Jan Michiel, Jessica Carlisle, and Suliman Ibrahim.** 2013. "Searching for Justice in Post-Gaddafi Libya. A Socio-Legal Exploration of People's Concerns and Institutional Responses at Home and From Abroad." Leiden. <https://scholarlypublications.universiteitleiden.nl/handle/1887/21634>.
- Sarrar, Salah.** 2010. "Ex-Islamists Walk Free from Libyan Jail." *Reuters*, September 1, 2010.
- Schwartz, Richard D.** 1954. "Social Factors in the Development of Legal Control: A Case Study of Two Israeli Settlements." *The Yale Law Journal* 63 (4): 471–91. <https://about.jstor.org/terms>.
- Silbey, Susan S.** 2005. "After Legal Consciousness." *Annual Review of Law and Social Science* 1 (1): 323–68. <https://doi.org/10.1146/annurev.lawsocsci.1.041604.115938>.
- Tashani, Marwan.** 2017. "Transitional Justice Chaos in Libya: The Controversial Case of Saif al-Islam Gaddafi." *Legal Agenda*, January.
- Trubek, David M.** 1984. "Where the Action Is: Critical Legal Studies and Empiricism." *Stanford Law Review* 36 (1/2): 575–622.
- UNHABITAT.** n.d. "Libya." <https://Unhabitat.Org/Libya>.
- United Nations DESA Population Division.** 2018. "Country Profile: Libya." *World Urbanization Prospects*. 2018.
- United Nations Human Rights Council.** 2022. "Report of the Independent Fact-Finding Mission on Libya."
- United Nations Support Mission in Libya, and Office of the United Nations High Commissioner for Human Rights.** 2017. "Report on the Trial of 37 Former Members of the Qadhafi Regime (Case 630/2021)." Tripoli.
- VandeWalle, Dirk.** 2012. *A History of Modern Libya*. Second Edi. New York: Cambridge University Press.

Colophon

This report covers the first phase of the ‘Access to Justice in Libya’-project, concerning justice seekers. This is a joint undertaking by the Centre for Law and Society Studies (CLSS) at the University of Benghazi and the Van Vollenhoven Institute for Law, Governance and Society (VVI) at Leiden University, with support of the Dutch Ministry of Foreign Affairs.

Carried out by

Centre for Law and Society Studies (CLSS), Benghazi University
Van Vollenhoven Institute (VVI), Leiden University

Publisher

Centre for Law and Society Studies (CLSS), Benghazi University
Van Vollenhoven Institute (VVI), Leiden University

Research team

Authors: Dr Suliman Ibrahim, Dr Bruno Braak, and Prof. Jan Michiel Otto.
Senior advisors: Prof. Al-Koni Abuda, Prof. Nagib Al-Husadi, and Prof. Zahi Mogherbi.
Principal researchers: Dr Hala Elatrash, Mr Ali Abu Raas, and Dr Jazeeh Shayteer.
Thematic researchers: Mr Monder Daw, Ms Khadija Faraj, Dr Mabroukah Ifarawi,
Dr Daw Abu Ighrarah, Mr Al Thaher Imhimid, Mr Moneer Othman, and Mr Ahmed Al-Rdama.

Cite this report

Ibrahim, Suliman, Bruno Braak, and Jan Michiel Otto. 2022.
“The Long and Winding Road: Justice seeking and access to justice in Libya.”
Benghazi: Center for Law and Society Studies, Leiden: Van Vollenhoven Institute.

Design

Paul Oram

Cover photograph

Libyan Flag flying over a building in Benghazi. Reproduced under a Creative Commons license, courtesy of Flickr.com.

Map of Libya with Case Studies

Jillian Luff

For more information, visit: www.libyanlawandsociety.org

© 2022 VVI/Authors

All rights reserved. Without limiting the rights under copyright reserved above, no part of this report may be reproduced, stored in, or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording or otherwise) without the written permission of both the copyright owner and the author(s) of the report.

The views represented in this report are those of the authors and in no way attributable to the Dutch Ministry of Foreign Affairs.



Van Vollenhoven Institute
for Law, Governance & Society



**Universiteit
Leiden**