

Integrated Humanitarian Country Team Protection Strategy for Libya

(October 2019 – December 2020)

I. INTRODUCTION

Guiding Principles

Protection of civilians is the responsibility of all parties to the conflict. Libya is a party to the four Geneva Conventions of 1949, as well as to the Additional Protocol II to the Geneva Conventions and relating to the Protection of Victims of Non-International Armed Conflicts of 1977, which prohibits attacks against civilians and civilian objects indispensable to the survival of the civilian population.

Article 3 common to the four Geneva Conventions requires that persons not taking an active part in hostilities be treated humanely and prohibits at any time and in any place violence to life and person, in particular murder of all kinds, mutilations, cruel treatment and torture, the taking of hostages, and outrages upon personal dignity.

One of the fundamental principles of international humanitarian law is that all parties to the conflict must ensure full respect for the principles of distinction, proportionality, and precautions in attack. In this regard, all parties must at all times distinguish between fighters and civilians. Directing attacks against civilians who are not taking a direct part in hostilities, as well as indiscriminate and disproportionate attacks, are prohibited, as is collective punishment of a population. The parties to the conflict must ensure that all necessary precautions are taken to protect civilians and other protected persons, including hors de combat. Furthermore, attacks against healthcare, medical facilities and workers, education facilities and officials, and wounded and sick are also prohibited. The wounded and sick must be collected and cared for without discrimination.

Humanitarian Access concerns humanitarian actors' ability to reach populations affected by crisis, as well as an affected population's ability to access humanitarian assistance and services. States bear the primary responsibility for ensuring that the basic needs of civilian populations under their control are met, and if unable or unwilling, humanitarian organizations may have the right to provide assistance, to ensure the affected population's right to receive assistance, and to deliver assistance in accordance with IHL and humanitarian principles.

Accountability to affected population (AAP) leads humanitarian leadership and governance to demonstrate commitment to accountability by ensuring feedback and accountability mechanisms into country strategies, programme, and active monitoring and evaluations. It aims at providing accessible and timely information to affected populations on procedures, structures and processes and ensure that they can make informed decisions and choices. It seeks the views of affected populations to improve policy and practice in programming, ensuring that feedback and complaints mechanisms are streamlined. It enables affected populations to play an active role in the decision-making processes that affect them through the establishment of clear guidelines and practices to engage and ensure that the most marginalised and affected are represented and have influence.

Centrality of Protection in Humanitarian Action

Protection of all persons affected and at risk must inform humanitarian decision-making and response, including engagement with States and non-State parties to conflict. It must be central to our preparedness efforts, as part of immediate and life-saving activities, and throughout the duration of humanitarian response and beyond. While protection of the rights of people is primarily the duty of member states and, in conflict, the parties to a conflict, Humanitarian Coordinators and Humanitarian Country Team are responsible for ensuring that protection is the purpose and intended outcome of humanitarian response.

Guiding Principles on Internal Displacement issued by the Secretary General of the United Nations identify and recognise human rights and guarantees of persons who have been forcibly displaced from their homes. They provide guidance to all relevant actors regarding protection against displacement, the framework for humanitarian assistance and protection in accessing to durable solutions. International refugee law (IRL), including the 1951 Convention relating to the Status of Refugees and the OAU 1969 Convention governing the specific aspects of refugee problems in Africa international instruments and customary law, deals with the rights and protection of refugees.

Rights-based and people-centred humanitarian response is a joint effort to save lives, alleviate suffering, and protect human rights. The rights-based approach encapsulates a range of established legal rights and includes but is not limited to the right to life with dignity, the right to receive humanitarian assistance, the right to protection and security, and the right to seek asylum. Importantly, humanitarian actors work to enable communities to become self-sufficient in support of inclusive, peaceful, and sustainable solutions to conflict in Libya. The active participation of affected populations is essential to providing local efforts to prevent, prepare for, and respond to conflict, and to reinforce the capacities of local actors across Libya.

Protection of vulnerable populations: While international human rights law requires that humanitarian actors to address the human rights of Libyans without distinction, it also recognizes that vulnerable groups are often in need of enhanced protection. Humanitarian actors in Libya thereby privilege the special needs of vulnerable, higher-risk groups, including internally displaced persons (IDPs), refugees, persons at risk of statelessness, migrants, ethnic minorities, indigenous peoples, persons with disabilities, women, children, the elderly, and human rights defenders.

Collective responsibilities

The development process of this strategy and identification its response priorities was articulated around individual consultations and collective evaluation of protection risks and priority responses. In accordance to the principles contained into the IASC Centrality of Protection Declaration, the HCT under the leadership of the Humanitarian Coordinator has the obligation to ensure the protection challenges are timely addressed, including in establishing a whole of system protection strategy and carry the responsibility of its implementation. Technical support is provided by the Protection Working Group and the Inter-sector Group. Individual agencies and technical forums have key role to play to document evidences of situation where civilians are at risk, analyse the humanitarian consequences and propose adapted response and advocacy solutions for the HCT to take an objective decision.

II. PROTECTION RISKS ANALYSIS

General Protection situation in Libya is affected by combination of conflict related insecurity, disruption of public law, security and justice and increasing inter-communal tension and widespread violence:

Protection concern 1. Violations of International humanitarian law posing a threat to life and safety

Violations of International humanitarian law posing a threat to life and safety constitute serious threats against civilians since the offensive launched by the Libyan National Army against the Government of National Accord (recognised by the international community as the official national government). Since April 2019, the regular occurrences of indiscriminate or direct attacks and abuse against civilians, including the indiscriminate and disproportionate use of explosive weapons in populated areas, had led to the killing of over 218, injuries of 289 and internal displacement of some 119,925 peoples. Indiscriminate or targeted attacks also included the use of civilian assets and infrastructures as military positions, the destruction of the objects essential to the population survival such as medical facilities, schools, water system, etc., leading to high contamination from explosive hazards in populated areas This is highlighted by the 56 registered attacks on health facilities and workers thus far in 2019. This situation is mainly related to the lack of distinction by the parties to the conflict between military and civilian objects and individuals, including the act of retaliation against civilian associated to opponent forces.

Protection concern 2. Migration and displacement

Migrants and refugees continue to be at risk of unlawful killings, torture, and other ill-treatment, arbitrary detention, and unlawful deprivation of liberty, rape, and other forms of gender-based violence, slavery and forced labour, extortion, and exploitation. Perpetrators of violations include State officials, members of armed groups, smugglers, and traffickers.

Internal Displacements: There are currently 268,629 Internally Displaced Peoples (IDPs) in Libya identified through key informants (IOM / DTM June 2019). Internal Displacement in Libya is characterised by a combination of large scale population movement due to the armed conflict such as the current clashes in Tripoli and southern Libya, as well as protracted urban displacements of individuals and families due to the threats of human rights violations and persecution based on perceived political, gender, tribal and ideological affiliations. Among those displaced, those with heightened vulnerabilities include those 20% in precarious collective settlements or spontaneous shelters, where shelter conditions may be poor or there may be insecurity of tenure, but also those living in host communities, where lack of privacy or increasing inter-communal tensions may lead to exploitation or abuse. Based on protection monitoring, challenges faced by IDPs and IDP returnees have been reported to include lack of safety, tribal discrimination, harassment, sexual harassment and exploitation, limited freedom of movement, lack of documentation, limited access to services, family separation, loss of livelihoods as well as concerns for persons with specific needs, including victims of gender-based violence and children.

Refugee and asylum seekers: As of September 2019, UNHCR registered over 45,653 individuals as persons of concern; 5,503 (52% men and 48% women) of these individuals are refugees while 40,150 (64% men and 36% women) individuals are asylum-seekers. 4,907 refugees or asylum-seekers (11%) are held in detention, while 40,763 (89%) reside in urban settings (UNHCR Registration Fact Sheet, September 2019).

Socioeconomic migrants: Libya is a destination and transit country for migrants and the breakdown in the law enforcement system has led to a state of impunity, in which armed groups, criminal gangs, smugglers and traffickers established a lucrative economy of irregular migration through the country. While the overall numbers of migrants in Libya are not known, it is estimated that 641,398 migrants are currently in Libya (87% men, 13% women and 9% children, 34% unaccompanied or separated minors). Many migrants suffer human rights violations and abuses in the course of their journeys. They are subjected to torture, other ill-treatment, unlawful killings, human trafficking and sexual exploitation, as well as unlawful detention (UNSMIL/OHCHR 2016). Amid migrants who tried crossing the Mediterranean in 2019, 426 had reportedly died and 4,023 were brought back to the Libyan shore by the coast guards (3,562 men, 287 women and 174 children), while 3,186 arrived in Italy (ibid). IOM have assisted the return of 5,643 migrants from Libya to their countries of origin, including 1,434 women (26%), 4,209 men (74%) and 70 unaccompanied and separated children. 5,695 individuals are reportedly held in 26 detention centres in Libya, including five of them facing high risk of imminent conflict related attacks (IOM / DTM round 25th - April / May 2019).

Protection concern 3. Violations and abuses of human rights and weak rule of law

Summary executions, enforced disappearances, torture and ill-treatment, conflict-related sexual violence, and unlawful detention are the serious violations and abuses of human rights with total impunity by the parties to the conflict in Libya.

Arbitrary detention and enforced disappearance remain serious protection issues in terms of the lack of pre-trial procedures, judiciary management and humanitarian consequences in the current Libyan context. Detention Centres under the Ministry of Interior (DCIM) or the Ministry of Defence (MoD) as well as prison under the Ministry of justice (MoJ) are ran by either formal security forces or by armed groups, constituting the environment of regular violation, abuses and insecurity for men, women, and children, including of Libyans and foreigners, including trafficking, forced recruitment, forced labour, torture, and sexual exploitation and abuse, including rape, particularly affecting women and children, and in certain cases men. Detention are often accompanied by station of forced disappearance of persons and forced disappearance, as well as detention of whole families as a mean of collective punishment for political or tribal affiliation.

Despite the continued advocacy by UNSMIL and OHCHR, the GNA has failed to effectively tackle the patterns of abuse in detention. Efforts to implement provisions of the Libyan Political Agreement to release or bring to court those detained without legal basis and to transfer all those lawfully detained to official prisons were met with resistance from armed groups, and further hindered by political and security challenges. Rather than reining in armed groups and integrating their members under State command and control structures, the GNA has increasingly allowed them to assume law enforcement functions, including arrests and detention, paid them salaries, and provided them with equipment and uniforms. As a result, armed groups' power has grown unchecked and they have remained free of effective government oversight. At the time of writing, no commanders or members of armed groups have been held accountable for human rights violations of abuses committed since the 2011 armed conflict, further emboldening them and entrenching their sense of impunity.

Access to vital event registration and civil documentation: There are currently five categories of peoples affected in Libya by civil documentation issues i) Citizens with lost or destroyed civil documentation (e.g. IDPs, conflict affected peoples, etc), ii) Citizens until further notice, whom have incomplete documentation and with status that may be revoked, iii) peoples who can show the evidence of their citizenship but have incomplete documentation, iv) peoples who had their citizenship cancelled (e.g. those originating from the Aouzou strip) and v) undocumented peoples that include those born in Libya and those with foreign descent. With the exception of the first categories that include almost all conflict affected Libyans, most peoples affected by lack or incomplete civil status are Arab, Tebu, and Tuareg families from southern Libya. A lack of access to civil documentation puts individuals at a high risk of statelessness. Lack or uncomplete civil documentation affect people's access to essential services such health, education, house and livelihood as well as civil and political rights (e.g. participation in political process and peace consultations).

Protection concern 4. Violations of the rights of children

According to the Child Protection Sector, there is a total of 248,000 children in need of humanitarian assistance, out of whom an estimated 133,400 children (53,400 girls and 80,000 boys) are in need of Child Protection services (HRP 2019). Children represent up to 41 per cent of the displaced population, 9 per cent of the migrant population (IOM/DTM June 2019) and 30 per cent of the refugee population with 1,822 refugee children (9650 boys and 7926 girls) according to UNHCR refugee fact sheet in June 2019. Child Protection partners have identified that the children who are at specific protection risks are: i) Children on the move, especially those separated and unaccompanied migrant children, ii) children who are arbitrarily detained and at risk of being trafficked and smuggled, including Libyan children and those among the children on the move, 1591 asylum seeking children registered by UNHCR in detention centres, including 1486 unaccompanied and separated children (UASC), iii) child survivors of physical and gender-based violence, iv) children associated with armed groups v) children in need of psychosocial support, vi) migrant and refugee children at risk of exploitative and forced labour. A lack of access to civil documentation for children, particularly birth certificates, creates a serious protection concern and ultimately impacts the ability of a child to potentially access vital services such as health care or education services. A lack of access to civil documentation also puts Libyan children at risk of statelessness.

Protection concern 5. Gender Based Violence

While Libya has ratified the Convention on the Elimination of All Forms of Discrimination against Women and other international instruments that prohibit discrimination on the basis of sex, significant discrimination against women in both law and practice continues to have a serious impact on the rights of women in Libya. National and international GBV actors continue to document cases of GBV at the agency level involving both Libyans and non-Libyans. Approximately 40% of respondents to a 2017 GBV study indicated GBV was either very common or common amongst Libyans. A ministerial Decree protecting survivors of sexual violence (2014) aims to establish transitional justice mechanisms in cases of gender-based violence. Women held in detention centres run by armed groups across the country are commonly guarded by men, who have full access to their cells and are often not separated from men. Men are also exposed to GBV in detention. Among the IDP population, gender-based violence continues to be

widespread, ill-documented and under reported in Libya, where there are no effective referral mechanisms in place to support victims and their families, not even for crimes committed during the revolution. Because of social and cultural pressure, victims are ostracized, isolated, neglected and most importantly not supported by public authorities and the law. When facing GBV incidents both non-Libyan and Libyan women continue to be at risk to be sentenced for “zinaa” or crimes against honor. Some Libyan women survivors of GBV continue to be detained and face prosecution for “zinaa” and remain in arbitrary detention without due process and lack of legal assistance. The Zinaa legislation has clear gender –discriminatory implications. In the 2009 concluding observations on Libya, the CEDAW committee expressed concern that the criminalization of extra marital relations may have a disproportionate impact on women and girls. Libya’s criminal law does not explicitly recognize child sexual abuse, and there is no dedicated law that addresses child sexual abuse, and Libya does not have legislation setting out the age of sexual consent, as marriage is required before sexual relations are legal permitted. The minimum age of marriage is 20 for both women and men, but a court can allow persons under the age of 20 to marry with the consent of their guardian, which effectively removes the minimum age threshold of legal marriage.

Protection concern 6. Access to essential services and humanitarian assistance

As a direct effect of the armed conflict and widespread inter-communal violence in Libya, the access to services for the civilian population is becoming increasingly difficult. Administrative boundaries for humanitarian agencies to obtain visa to operate, corruption, general insecurity and excessive control by the parties to the conflict over humanitarian services providers as well as discrimination based on racial and tribal origin resulted in the vulnerable population having limited access to essential services to their survival. This situation has been aggravated by increasing attacks against medical workers, objects and the activists of armed non state actors limited mobility of relief personnel. In addition to this situation, the impact of the crisis on accessing currency and the good functioning of public system have affected the general management of social benefits and services. Access to services is further constrained by discrimination faced by some non-Libyan populations. Non-Arab foreigners have reported difficulties accessing services due to discrimination and have reported being unable to access services.

In addition to constraints that humanitarian actors face in accessing populations in need, gaps in humanitarian assistance gradually turn into protection risks, specifically gaps in the shelter response for people in displacement. The lack of sustainable shelter solutions for the urban displaced in particular poses vulnerabilities that gradually turn into protection risks, including the risk of eviction due to placement in collective shelters that are schools, untenable rental increases and lack of official rental agreements as well as the risk of exposure to explosive hazards especially for IDPs and returnees to contaminated areas targeted by the clashes. The urban displaced, including IDPs and refugees and migrants, are at particular risk of exposure to this lack of access to critical support and are increasingly among the most vulnerable populations in Libya.

Protection concern 7. Explosive hazards contamination

The presence of explosive hazards, including explosive remnants of war (ERW) and improvised explosive devices (IEDs), has been a persistent threat to the Libyan population and humanitarian actors even before the recent outbreak of large-scale hostilities.

Even after active hostilities come to an end, explosive hazard contamination continues to pose considerable threats against civilian life and physical integrity and impedes the safe return of IDPs. Furthermore, the explosive hazard contamination of vital infrastructure and utility supplies hampers reconstruction efforts and significantly affects the ability of humanitarian and development actors to deliver humanitarian assistance and implement activities towards stabilization.

The threat from explosive hazards, including IEDs, has been exacerbated by the recent outbreak of hostilities concentrated around, but not limited to, the capital Tripoli. As all parties to the conflict are increasingly relying on the use of explosive, heavy weaponry and aerial bombardments in densely populated areas –

often in a disproportionate and indiscriminate manner – reports of civilians injured, maimed, and killed by explosive hazards are increasing. According to the 2019 multisectoral need assessment (MSNA), 3% of households across Libya reported one or more members injured or killed by an explosive hazard. Tripoli, Aljfara, Benghazi, Sirte, Sabha, Jabal Al Gharbi/Gharyan, Derna, and Zwara are among areas of concern, where the presence of explosive hazards has been reported by the MSNA as well as mine action actors and local communities.

Furthermore, the presence of terrorist groups, particularly ISIL, has led to greater sophistication and increased use of Improvised Explosive Devices (IEDs), driven by the ready availability of explosives derived from military munitions. The explosives used in Libyan IEDs are almost invariably sourced from high explosive bombs, missile warheads or artillery shells which have been acquired from former regime ASAs. The threat of IEDs has increased dramatically, with conventional weapons being used in improvised and novel ways to inflict maximum damage. It has been demonstrated that considerable knowledge transfer has occurred from Syria, Iraq, and Afghanistan, with complex and advanced IEDs intercepted and used in Libya.

III. PROTECTION PRIORITIES

The key priorities of this strategy is to ensure adequate and fair assistance to affected peoples with the aim to address three level of needs:

- **Protection of Civilian affected by the armed conflict**, which include the promotion and respect of International Humanitarian Law, International Human Rights Law and refugee law by all parties to the conflict in Libya through the identification of situation where civilian are exposed to risk, collective actions and prioritization of advocacy and critical humanitarian responses which contribute to the protection of civilians.
- **Protection of the human rights of internally displaced peoples, persons in need of international protection and persons at high risks of violation and abuses**, which include those affected by conflict related or protracted forced displacement, including children on the move, women and girls, those exposed to eviction from shelter and under arbitrary or abusive detention.
- **Ensure the promotion and respect of principled based humanitarian action**, which include the establishment of a framework defining protection modalities and standards for humanitarian assistance and delivery of services, including through the identification of critical protection risks, human rights due diligence challenges in engaging with public institutions, security forces and entities affiliated to the parties to the conflict and adapted mitigation measures.
- **Prioritizing peacebuilding and reconciliation efforts** toward inter-communal harmony, progressive change and reform. Confidence and trust building between affected populations and the government is an urgent and critical component for progress towards durable solutions for IDPs and migrants or refugees. The government's commitment to durable solutions also requires undertaking efforts to ensure that causes of displacement that could have been avoided are effectively resolved. The HCT should advocate for transitional justice mechanisms to address the root causes of displacement, incorporating the four specific areas of a) truth-seeking; b) prosecutions; c) reparations to victims; d) institutional reform.

IV. COLLECTIVE PROTECTION OUTCOMES

In order to address protection priorities which are so prevalent and widespread as to warrant a system wide, comprehensive response, the following are the collective protection outcomes proposed under this HCT Protection Strategy:

Protection Outcome 1. The expertise, mandates and capacities of the HCT are mobilized to identify and respond to risks inherent to the protection of civilians in the armed conflict affecting Libya

- The HCT support increased humanitarian engagement with parties to the conflict on the protection of civilians and the armed groups' obligations under IHL and IHRL. Such efforts should be done in tandem with ongoing efforts by UNSMIL and OHCHR, as well as other specially mandate organizations. Such efforts should facilitate dialogue with armed groups to raise awareness of their obligations and should also enhance documentation of possible violations through harmonized reporting mechanisms to enhance understanding of protection risks faced at the hands of armed groups.
- The HCT together with the Communication and Advocacy Working Groups as well as the Protection Sector develops an advocacy strategy on protection of civilian through: a) the establishment of evidence based key messages and legal definitions according to IHL and IHRL on key protection concerns, b) issuance of quarterly update on protection of civilians and c) promotion of compliance with IHL and IHRL by the parties to the conflict, with particular focus on accountability to bring the perpetrators to justice.
- The HCT ensures, through the Inter-Sector Coordination Group and UN Country Team and with the support with UNSMIL and Secretary General on the Protection of Civilians, that appropriate preparedness and contingency planning is undertaken to plan for responses to conflict-related protection risks.

Priority 2. The HCT promote the access of peoples affected by Forced Displacement to protection and solutions

The situation of peoples affected by forced displacements (IDPs, urban refugees, asylum seekers and host communities) and migration remains particularly precarious and in needs of an integrated response ensuring the benefice of assistance to urgent needs. Through the establishment of a specific coordination and planning framework, the HCT under the leadership of the Humanitarian Coordinator commits itself to:

- The HCT provides support to, and jointly develops a workplan with the Ministry of Internally Displaced Peoples to initiate the durable reintegration of peoples affected by forced displacement through strengthening of public institutions and service providers and the conduct of a profiling of peoples affected by internal displacement (IDP and host communities) that include the identification of their protection needs, socioeconomic status and their intentions.
- The HCT ensures the provision of a strong analysis of the situation of access to house, land and property as a factor of human security and identify existing obstacles and opportunities for durable solutions in collaboration with the NFIs/Shelter sector.
- The HCT ensures that the situation and status of internally displaced is well documented and referred to be integrated within the peace and development roadmap in Libya and that their rights are fully recognise within the political agenda.

Priority 3. Protection of, and accountability to, affected persons are at the centre of response, including by ensuring that the response remains principled, avoids doing harm, and serves the most vulnerable and in need.

Considering the specific context of widespread violence in Libya, the lack of safe, unimpeded, independent, and sustained access for humanitarian operation remains the greatest obstacle to the conduct of objective assistance and protection:

- The HCT with support from the Protection Sector and the Access Working Group should ensure that all interventions by humanitarian agencies and sectors, including in newly accessible areas, are supported by a thorough protection risk, do no harm and conflict program criticality assessment and analysis. The HCT should prioritize the creation of a robust mapping of services and interventions of the humanitarian community through the Inter-Sector Coordination Group and supported by OCHA.

- The HCT with support from the Protection Sector should ensure that selected projects and the provision of humanitarian funds use protection risk frameworks that contain indicators and mitigation measures in the conduct of service delivery and advocacy. These include ensuring the promotion of rights-based responses, Gender with Age Marker, and AAP measures.
- The HCT with support from the Protection Sector and through the Information Management Working Group should ensure the accountability of the common response with the beneficiaries through an active protection based Monitoring and Evaluation and complaint mechanisms, including consultation with affected populations on the types of services needed, the perceived risks and platforms for safe and dignified delivery of assistance, and provision of timely and relevant information on their rights and entitlements and roles and responsibilities of partners.
- The HCT with support from the High Commissioner for Human Rights and Protection Sector ensure that the Human Rights Due Diligence Policy and humanitarian principles are applied and that breaches are adequately addressed and investigated.
- HCT, through the Area-based Coordination Group (ACG) and with support from the Protection Sector ensures updated assessments and training are conducted on protection mainstreaming and integration and to ensure protection is mainstreamed and integrated in the humanitarian response, including AAP initiatives.
- The HCT consider recruiting a Senior Protection Advisor to sit at the HCT level who can advise on strategic protection initiatives and ensure that the centrality of protection informs decision-making and to support the Protection Sector and HCT in the abovementioned points. This position would provide technical assistance to the HCT to increase knowledge, strategic and advocacy response on protection.
- The HCT ensures that all humanitarian activities are done in a manner that supports the humanitarian-development-peace nexus, promoting early recovering and resilience within vulnerable communities.

V. MONITORING & EVALUATION

This strategy particularly emphasizes the need to strengthen monitoring and evaluation of the humanitarian response in its protection objectives. It takes into account the existing humanitarian programme cycle and will cover a period integrating the preparation and planning of the Humanitarian Needs Overview and the development and implementation of the 2020 humanitarian response phase.

The HCT should adopt an action plan to monitor the implementation of the collective protection outcomes of the HCT Protection Strategy together with protection mainstreaming measures of the humanitarian response framework, including clarifying the roles and responsibilities of all humanitarian actors in the actions and outcomes of the strategy.

The HCT should establish a designated task force on centrality of protection to work jointly with the Inter-Sector Coordination Group and the Protection Sector to monitor the implementation of the activities, and review the Action Plan regularly, at least on a quarterly basis and update it as required.