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Pénale
Internationale**

**International
Criminal
Court**



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Date: 30 July 2025

PRE-TRIAL CHAMBER I

Before: Judge Iulia Motoc , Presiding Judge
Judge María del Socorro Flores Liera
Judge Reine Alapini-Gansou

SITUATION IN LIBYA

Public

Public Redacted Version of "Prosecution's application under article 58 for a warrant of arrest against Khaled Mohamed Ali EL HISHRI ("Khaled AL HISHRI")", ICC-01/11-172-US-Exp, 3 April 2025

Source: Office of the Prosecutor

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A. INTRODUCTION

1. The Office of the Prosecutor applies under article 58(1) of the Statute for a warrant of arrest for Khaled Mohamed Ali EL HISHRI a.k.a. “Al Booti”, known as **Khaled AL HISHRI (AL HISHRI)**. This Application shows reasonable grounds to believe¹ that **AL HISHRI** bears individual criminal responsibility for: murder and attempted murder, imprisonment, enslavement, torture, cruel treatment, outrages upon personal dignity, summary punishment, rape, sexual violence, sexual slavery, and persecution as crimes against humanity and/or war crimes committed in Libya, from around February 2015 to at least early 2020, in violation of articles 7(1)(a), (c), (e), (f), (g) and (h), and 8(2)(c)(i), (ii) and (iv) and 8(2)(e)(vi), of the Statute. The arrest of **AL HISHRI** is necessary to ensure his appearance at trial, and/or to ensure that he does not obstruct or endanger the investigation or the court proceedings.²

B. CLASSIFICATION

2. In accordance with the Chamber’s instructions,³ this Application is filed under seal and *ex parte*. The Prosecution further requests that any warrant of arrest is issued as a stand-alone document separate from the decision on the Application, or that the decision is structured in such a way that the reasoning concerning specific arguments or evidence can easily be redacted.⁴ In any event, the Prosecution respectfully submits that the warrant or operative part *stricto sensu* (as opposed to the Chamber’s reasoning under article 58) should not contain details potentially identifying the Prosecution’s sources or evidence—including victims or witnesses relevant to the alleged crimes, or its specific avenues of inquiry—so that it may be transmitted to relevant States and made public, when appropriate, with limited or no redactions.

C. RELEVANT IDENTIFYING INFORMATION OF SUSPECT

3. **Khaled Mohamed ALI EL HISHRI**⁵ (خالد محمد علي الهشري),⁶ also known as Khaled “Al Booti”,⁷ or “Sheikh Khaled” (**AL HISHRI**),⁸ was born on 23 June 1978 in Tripoli, Libya.⁹ From at least 2013, **AL HISHRI** was one of the key leaders of SDF/RADA’s precursor – the

¹ Statute, art. 58(1)(a). *See also* Katanga Interim Release AJ, para. 18; Bashir Arrest Warrant AJ, para. 30.

² Statute, art. 58(1)(b)(i) and (ii).

³ [REDACTED].

⁴ By analogy, *see e.g. Chambers Practice Manual*, para. 66 (vii) (recommending that confirmation decisions contain a separate operative section, distinct from the underlying reasoning).

⁵ *See Annex 4*, Photographs of Khaled **AL HISHRI**.

⁶ [LBY-OTP-0080-0608](#), para. 198 and [LBY-OTP-0080-0669](#).

⁷ [LBY-OTP-0073-0025](#), para. 31; [LBY-OTP-0066-0951](#), para. 41; [LBY-OTP-0069-0584](#), paras. 32, 130; [LBY-OTP-0080-0169](#), para. 85; [LBY-OTP-0074-0889](#), para. 28; [LBY-OTP-00001491](#), para. 112; [LBY-OTP-00015420](#), para. 49; [LBY-OTP-00018772](#), para. 49. *See also* [LBY-OTP-00015405](#), para. 121; [LBY-OTP-00020267](#), para. 123; [LBY-OTP-0083-0663](#), para. 73.

⁸ [LBY-OTP-0069-0584](#), para. 131; [LBY-OTP-0080-0169](#), para. 45; [LBY-OTP-0070-6952](#), para. 96; [LBY-OTP-0083-0663](#), para. 74; [LBY-OTP-00018772](#), para. 29; [LBY-OTP-00015405](#), para. 53.

⁹ [LBY-OTP-0080-0608](#), para. 198 and [LBY-OTP-0080-0669](#).

Souk Al Juma Revolutionaries Battalion (“SAJR Battalion”) –¹⁰ and was a founding member of SDF/RADA itself.¹¹ From February 2015 to at least early 2020, **AL HISHRI** was among SDF/RADA’s top leadership¹² and one of the most powerful Mitiga Prison officials¹³ where he was specifically in charge of the segregated area of Mitiga Prison where women and young children were detained, known as the “Women’s Section”.¹⁴ By 2016 or 2017, **AL HISHRI** was a First Lieutenant affiliated with the Libyan Ministry of Interior.¹⁵ Information obtained by the Prosecution suggests that **AL HISHRI** may have left his role at Mitiga Prison sometime in 2020 or 2021, although he remained a senior SDF/RADA leader and at least occasionally returned to the prison during that time.¹⁶ Around 2021, **AL HISHRI** was allegedly deployed by SDF/RADA to Libya’s Ministry of Foreign Affairs, first at Libya’s Consulate in Kyiv, Ukraine,¹⁷ and later at its Embassy in Rabat, Morocco, where he is believed to reside.¹⁸

D. CONCISE STATEMENT OF FACTS

4. There are reasonable grounds to believe that **AL HISHRI** is responsible for numerous war crimes and crimes against humanity committed as part of an attack directed against segments of the population in Libya perceived to be opposing SDF/RADA or its ideology.¹⁹ These crimes were committed from around February 2015 to at least early 2020.

5. Specifically, within Mitiga Prison, senior members of the Special Deterrence Force—also known colloquially as RADA (for the purpose of this Application, “SDF/RADA”), and latterly also officially termed the Deterrence Apparatus for Combating Organised Crime and Terrorism

¹⁰ [LBY-OTP-0074-0889](#), para. 244; [LBY-OTP-0085-0063](#), para. 29; [LBY-OTP-00020267](#), para. 123.

¹¹ [LBY-OTP-0080-0608](#), paras. 132, 171; [LBY-OTP-00015360](#), paras. 35-36; [LBY-OTP-00018699](#), para. 95; [LBY-OTP-00020267](#), paras. 115, 123.

¹² [LBY-OTP-0073-0025](#), para. 22; [LBY-OTP-00018134](#), para. 85; [LBY-OTP-0074-0889](#), para. 244; [LBY-OTP-0070-6952](#), paras. 129, 137; [LBY-OTP-0080-0608](#), paras. 43, 142-143; [LBY-OTP-0070-7295](#), para. 183; [LBY-OTP-0083-0052](#), para. 30; [LBY-OTP-00018772](#), para. 94 (18); [LBY-OTP-00015360](#), paras. 35-36; [LBY-OTP-00019245](#), para. 75; [LBY-OTP-00016916](#), para. 65; [LBY-OTP-00019195](#), paras. 53, 95; [LBY-OTP-00020236](#), paras. 62, 72.

¹³ See below fn. 594.

¹⁴ [LBY-OTP-0073-0025](#), paras. 31, 33; [LBY-OTP-0069-0584](#), para. 130; [LBY-OTP-00007250](#), para. 53; [LBY-OTP-0069-0506](#), para. 94; [LBY-OTP-0080-0032](#), paras. 35, 120-121; [LBY-OTP-0080-0169](#), para. 90; [LBY-OTP-0074-0889](#), paras. 193, 245; [LBY-OTP-0070-6952](#), paras. 137, 145; [LBY-OTP-00001491](#), para. 112; [LBY-OTP-00015152](#), para. 115; [LBY-OTP-0080-0608](#), paras. 43, 135; [LBY-OTP-0070-7295](#), para. 162; [LBY-OTP-0083-0052](#), paras. 35, 173; [LBY-OTP-00015125](#), paras. 93, 101; [LBY-OTP-00007275](#), paras. 80, 84; [LBY-OTP-00018772](#), para. 78; [LBY-OTP-00015360](#), para. 113; [LBY-OTP-00018075](#), para. 13; [LBY-OTP-00018787](#), para. 56; [LBY-OTP-00016916](#), para. 61; [LBY-OTP-00016896](#), para. 105; [LBY-OTP-00018119](#), para. 98; [LBY-OTP-00019195](#), para. 122; [LBY-OTP-00020236](#), para. 72; [LBY-OTP-00020267](#), para. 76.

¹⁵ [LBY-OTP-0066-0951](#), para. 73; [LBY-OTP-0069-0584](#), para. 159.

¹⁶ [LBY-OTP-00020358](#), para. 125; [LBY-OTP-0070-7295](#), para. 175; [LBY-OTP-0083-0052](#), para. 37; [LBY-OTP-00015125](#), para. 101; [LBY-OTP-00015360](#), para. 116; [LBY-OTP-00015405](#), para. 105; [LBY-OTP-00016896](#), para. 79; [LBY-OTP-00019195](#), para. 122; [LBY-OTP-00020236](#), para. 72; [LBY-OTP-00020267](#), para. 124.

¹⁷ [LBY-OTP-0080-0608](#), paras. 128-133; [LBY-OTP-0079-1402](#), p. 3; [LBY-OTP-00000749](#), p. 3; [LBY-OTP-0070-7295](#), para. 175; [LBY-OTP-0083-0052](#), para. 37; [LBY-OTP-00015405](#), para. 105; [LBY-OTP-00015125](#), para. 101.

¹⁸ [LBY-OTP-00018577](#); [LBY-OTP-00019195](#), para. 122; [LBY-OTP-00020267](#), para. 125.

¹⁹ See *Njeem Arrest Warrant*, para. 24.

(“DACOT”)—created an organised system to detain, mistreat, terrorise, and kill detainees, encompassing the alleged crimes. Victims were thus not only unlawfully detained in inadequate conditions, but also threatened with death and other abuses, insulted, humiliated, beaten, and subjected to other forms of severe mistreatment (including the use of stress positions, maiming, electrocution, burning, mutilation, sexual violence and rape, forced labour, and murder) within a pervasive atmosphere of terror and oppression. This was inflicted for prohibited purposes including obtaining information, punishment, intimidation, coercion, and based on discrimination. Senior members of SDF/RADA controlling Mitiga Prison knew and intended that these crimes would occur and contributed to their occurrence.

6. While the precise number of detainees in Mitiga Prison cannot presently be specified, the evidence shows reasonable grounds to believe that at least 5140 persons²⁰ were imprisoned and subjected to outrages upon personal dignity, cruel treatment and torture, from around February 2015 to at least early 2020. Within this group, the Prosecution further identifies samples of other specific kinds of victimisation, including: at least 28 detainees subjected to sexual violence and at least 8 detainees raped; at least 56 detainees murdered or subjected to attempted murder; at least 16 detainees summarily punished; at least 43 detainees enslaved and at least 5 detainees sexually enslaved; and at least 39 detainees persecuted.

7. Together with other senior members of SDF/RADA, **AL HISHRI** contributed to the commission of all these crimes against SDF/RADA detainees in Mitiga Prison at the material times. Not only did he directly carry out numerous acts of torture but, as a top-level SDF/RADA leader and one of the most senior Mitiga Prison officials, he was in charge of the Women’s Section and exercised his authority over all Mitiga Prison staff and detainees.

E. ALLEGED CRIMES WITHIN THE JURISDICTION OF THE COURT

8. In the period from around February 2015 to at least early 2020, the Prosecution submits that **AL HISHRI** is responsible under article 25(3)(a) and (b) of the Statute, and/or articles 25(3)(d) or (c), for the following crimes concerning at least 5140 detainees: imprisonment as a crime against humanity (article 7(1)(e)) (**count 1**); outrages upon personal dignity as a war crime (article 8(2)(c)(ii)) (**count 2**); cruel treatment as a war crime (article 8(2)(c)(i)) (**count 3**);

²⁰ Prosecution witnesses detained at Mitiga Prison estimate 4000 to 5140 detainees. Since the prison population fluctuated over the relevant period, the Prosecution refers to a total of 5140 detainees, corresponding to the highest number of prisoners mentioned by a Prosecution witness at a specific time, namely 2020-2021. See [LBY-OTP-00020236](#), paras. 38, 44, 51 (estimating 3000 prisoners between [REDACTED]); [LBY-OTP-0073-0025](#), para. 26 (estimating 4000 detainees between [REDACTED]); [LBY-OTP-0069-0584](#), para. 119 (estimating 4500 detainees between [REDACTED]); [LBY-OTP-0080-0608](#), paras. 38, 79 (estimating 4000 detainees between [REDACTED]); [LBY-OTP-0070-7295](#), para. 164 (estimating 4000-4100 detainees between [REDACTED]); [LBY-OTP-00019195](#), paras. 62-63 (estimating 5140 detainees between [REDACTED]). See also [LBY-OTP-00018738](#), p. 18 (referring to 1700 detainees in May 2016, and 2600 detainees in November 2016); [LBY-OTP-0070-4037](#), para. 35 (referring to over 3600 detainees in January 2019).

torture as a war crime and a crime against humanity (articles 8(2)(c)(i) and 7(1)(f)) (**counts 4-5**). Further, the Prosecution submits that **AL HISHRI** is responsible under article 25(3)(a), (b) and/or articles 25(3)(d) or (c), for: sexual violence as a war crime and a crime against humanity (articles 8(2)(e)(vi) and 7(1)(g)), concerning at least 28 detainees (**counts 6-7**); rape as a war crime and a crime against humanity (articles 8(2)(e)(vi) and 7(1)(g)), concerning at least 8 detainees (**counts 8-9**); murder and attempted murder as a war crime and a crime against humanity (articles 8(2)(c)(i), 7(1)(a), and 25(3)(f)), concerning at least 56 detainees (**counts 10-11**); passing of sentences without previous judgment pronounced by a regularly constituted court²¹ as a war crime (article 8(2)(c)(iv)), concerning at least 16 detainees (**count 12**); enslavement as a crime against humanity (article 7(1)(c)), concerning at least 43 detainees (**count 13**); sexual slavery as a war crime and a crime against humanity (articles 8(2)(e)(vi) and 7(1)(g)), concerning at least 5 detainees (**counts 14-15**). Finally, with respect to the crime against humanity of persecution (article 7(1)(h)), the Prosecution submits that **AL HISHRI** is responsible as a direct perpetrator under article 25(3)(a) and/or under article 25(3)(c) for persecution on gender and religious grounds, and under article 25(3)(c) for persecution on political, national, racial and/or ethnic grounds, concerning at least 39 detainees (**count 16**).²²

F. JURISDICTION

9. The situation in Libya “since 15 February 2011” was referred to the Court by the UN Security Council (“UNSC”) in 2011.²³ The UNSC condemned the “violence and use of force

²¹ Hereinafter referred to as “summary punishment”.

²² For the elements of these crimes, see: **Imprisonment** under article 7(1)(e): (1, 2, 3) see paras. 56-101; (4) see paras. 4, 51-54; (5) see paras. 141, fn. 653 and paras. 56-101; **Outrages upon personal dignity** under article 8(2)(c)(ii): (1, 2) see paras. 56-101; (3) see para. 57; (4) see paras. 141 and 56-101; (5) see paras. 45-50, 86; (6) see para. 141; **Cruel treatment** under article 8(2)(c)(i): (1) see paras. 65-80; (2) see para. 57; (3) see paras. 141 and paras. 56-101; (4) see paras. 45-50, 86; (5) see para. 141; **Torture** under article 8(2)(c)(i): (1) see paras. 65-80; (2) see paras. 5, 58, 141 and 68-74, 91-101; (3) see para. 57; (4) see paras. 141 and 56-101; (5) see paras. 45-50, 86; (6) see para. 141; **Torture** under article 7(1)(f): (1, 2) see paras. 65-80; (3) see paras. 59, fn. 216 and paras. 56-101; (4) see paras. 4, 51-54; (5) see para. 141, fn. 653 and paras. 56-101; **Sexual violence** under article 8(2)(e)(vi): (1, 2, 3) see paras. 75-80; (4) see paras. 45-50, 86; (5) see para. 141; **Sexual violence** under article 7(1)(g): (1, 2, 3) see paras. 75-80; (4) see paras. 4, 51-54; (5) see paras. 141, fn. 653 and paras. 56-101; **Rape** under article 8(2)(e)(vi): (1, 2) see paras. 75-80, 90; (3) see paras. 4, 51-54; (4) see para. 141, fn. 653 and paras. 56-101; **Rape** under article 7(1)(g): (1, 2) see paras. 75-80, 90; (3) see paras. 4, 51-54; (4) see paras. 141, fn. 653 and paras. 56-101; **Murder and attempted murder** under article 8(2)(c)(i): (1) see paras. 81-85; (2) see para. 57; (3) see paras. 141 and paras. 56-101; (4) see paras. 45-50, 86; (5) see para. 141; **Murder and attempted murder** under article 7(1)(a): (1) see paras. 81-85; (2) see paras. 4, 51-54; (3) see para. 141, fn. 653 and paras. 56-101; **“Summary punishment”** under article 8(2)(c)(iv): (1) see paras. 87, fns. 379-381; (2) see para. 57; (3) see para. 141 and paras. 56-101; (4, 5) see paras. 87 and e.g. paras. 60-64; (6) see paras. 45-50, 86; (7) see paras. 141; **Enslavement** under article 7(1)(c): (1) see paras. 88-90 (fns. 388-393, 395-396); (2) see paras. 4, 51-54; (3) see paras. 141, fn. 653 and paras. 56-101; **Sexual slavery** under article 8(2)(e)(vi): (1) see paras. 88-90 (fns. 388-393, 395-396); (2) see paras. 88-90 (fns. 395-396) and 75-80 (fns. 325-326, 328-343); (3) see paras. 45-50, 86; (4) see para. 141; **Sexual slavery** under article 7(1)(g): (1) see paras. 88-90 (fns. 388-393, 395-396); (2) see paras. 88-90 (fns. 396-397) and 75-80 (fns. 326-327, 329-344); (3) see paras. 45-50, 86; (4) see para. 141; **Persecution** under article 7(1)(h): (1) see paras. 93 and 56-90; (2, 3) see paras. 91-101; (4) see paras. 91-101 and 56-90; (5) see paras. 4, 51-54; (6) see para. 141, fn. 653 and paras. 56-101. See also Annex 10.

²³ See Resolution 1970 (“UNSCR 1970”), [LBY-OTP-0001-0004](#), para. 4.

against civilians”—including “gross and systematic violation of human rights”, potentially “crimes against humanity”²⁴—calling for respect for international humanitarian law (“IHL”).²⁵ The referral to the ICC is broad and not limited to attacks on civilian populations: “4. *Decides* to refer the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the Prosecutor of the International Criminal Court”. On the face of UNSCR 1970, the parameters of the situation are *geographic* (Libyan territory), *temporal* (15 February 2011 onwards), and *personal* (Libyan nationals, and others).²⁶ This case falls within those parameters, and in any event is sufficiently linked to them, such that it falls within the exercise of the Court’s jurisdiction.

10. The Court has affirmed and reaffirmed, in *Al Werfalli* and subsequently,²⁷ that acts committed in the context of the conflict(s) occurring in Libya until at least 2018 were at least sufficiently linked to this situation—especially, but not necessarily *only*, if relevant actors were also “involved” in the conflict “ever since the days of the revolution against the Gaddafi regime”.²⁸ These decisions conform to the Court’s settled approach in establishing jurisdiction over a case by reference, first, to whether it falls within the parameters of the situation, and otherwise whether it is sufficiently linked to those parameters.²⁹ Importantly, as the Appeals Chamber has stressed, the Prosecutor must be able to investigate “the situation as a whole.”³⁰

11. The crimes alleged in this Application (from 2015 until the present) are linked to and follow from the ongoing crisis in Libya which prompted UNSCR 1970. This is shown by the continuity of the individuals and entities involved, as well as other relevant factual links, and the consistent recognition by the UNSC and other actors of the Court’s enduring mandate. Without addressing the chaotic aftermath of 2011, which affected the civilian population of Libya most profoundly, this Court’s mandate would necessarily be partial and incomplete.

12. *First*, the crisis which began in 2011, triggering the intervention of the UNSC, did not end with the overthrow of Muammar GADDAFI. To the contrary, irrespective whether the course of events should be characterised technically as a single armed conflict,³¹ or multiple conflicts, the question for the purpose of jurisdiction is *factual*. In that regard, the serious armed violence

²⁴ [LBY-OTP-0001-0004](#), Preamble.

²⁵ [LBY-OTP-0001-0004](#), para. 2(a).

²⁶ See [LBY-OTP-0001-0004](#), paras. 4, 6.

²⁷ See e.g. *Al Kani* Arrest Warrant, *Njeem* Arrest Warrant.

²⁸ See e.g. *Al Werfalli* Second Arrest Warrant, para. 20; *Al Werfalli* First Arrest Warrant, para. 23. Additional warrants issued under seal, some by majority of the Pre-Trial Chamber (with one judge dissenting on the question of jurisdiction) are not cited individually here.

²⁹ See e.g. *Afghanistan* Article 18(2) AJ, para. 58; *Afghanistan* Article 15(4) AJ, paras. 62, 64, 79; *Côte d’Ivoire* Article 15(4) Decision, paras. 179, 212; *Georgia* Article 15(4) Decision, paras. 63-64; *Burundi* Article 15(4) Decision, paras. 191-194; *Bangladesh/Myanmar* Article 15(4) Decision, paras. 131-133. See also *Mbarushimana* Article 58 Decision, para. 6.

³⁰ *Afghanistan* Article 15(4) AJ, para. 60.

³¹ See e.g. *Al Werfalli* First Arrest Warrant, paras. 4-6, 25; *Al Werfalli* Second Arrest Warrant, paras. 9-13, 33. Similar analysis is contained in subsequent arrest warrants still under seal.

which indisputably began in 2011 continues until the present day. The strong factual links between the earlier and later phases of this serious armed violence demonstrate that, at least for the *jurisdictional* purposes of the Court, it should be seen as a single crisis. This is also confirmed by the stance of external entities, who continued to conduct themselves on the basis that the crisis which began in 2011 was not resolved, but rather ongoing.

13. *Second*, the armed group referred to in this Application as SDF/RADA emerged from the events in 2011 which first precipitated the crisis in Libya, and remained integral to all that followed, even if its name changed. Key leaders—such as those allegedly responsible for the crimes in this Application—are the same today as before. The venue of the crimes—Mitiga Prison—has likewise been SDF/RADA’s headquarters and seat of power since 2011. Furthermore, SDF/RADA’s ongoing ability to commit such crimes resulted from its exploitation of the security vacuum caused by the 2011 revolution and its aftermath. Not only has SDF/RADA long controlled strategic assets such as the only operational international airport in Tripoli (also located at Mitiga), but it also provided critical early support to the national authorities in Tripoli, securing financing and superficial legitimacy in return. Now ostensibly integrated in the official security apparatus (the Ministry of the Interior, or “MoI”), in reality SDF/RADA continues to act independently and with impunity.

14. *Third*, while jurisdictional matters are for the Court to decide, it is relevant in considering the parameters of a situation to take account of the views of the entity which referred the situation to the Court.³² The Prosecution has publicised its understanding that those parameters encompass cases such as that in the present Application—and this has been repeatedly endorsed by relevant States, in their capacity as members of the referring entity (the UNSC). The Prosecution submits that this should be taken into account by the Chamber as further confirming that the Court’s exercise of jurisdiction in this case is well-founded.

F.1. THE CRISIS IN LIBYA CONTINUED AFTER 2011

15. The overthrow of the GADDAFI regime did not end the crisis in Libya.³³ For the purpose of the Court’s jurisdictional analysis, there are compelling factual links between the events precipitating the 2011 referral to the Court, and the events continuing until the present day, making it inappropriate to distinguish between them in the exercise of the Court’s jurisdiction.

16. The February 2011 revolt against the GADDAFI regime had led to a non-international armed conflict (“NIAC”) in Libya at least between State armed forces and an array of non-State

³² *Mbarushimana* Jurisdiction Decision, paras. 27-39.

³³ See e.g. [LBY-OTP-0053-0990](#), paras. 31-41. See also paras. 50-65; *Al Werfalli* First Arrest Warrant, paras. 5-8, 25; *Al Werfalli* Second Arrest Warrant, paras. 10-14, 33.

organised armed groups, operating in loose coalition.³⁴ However, GADDAFI's overthrow in August 2011 neither extinguished the fighting with former regime elements, nor enabled any of the disparate armed groups which had opposed GADDAFI to gain control of Libya. To the contrary, the provisional and limited cooperation between the groups gave way to violent competition as they sought the best position from which to resume hostilities. The groups divided, among other critical questions, on their attitude towards persons associated with the former GADDAFI regime. External entities likewise continued to anticipate that intense hostilities would re-erupt between these groups, as shown not only by the continued engagement of the UNSC, but also the continued activities of third States—who supported their preferred groups with arms and other military equipment to facilitate their military victory.

17. When intense hostilities duly resumed in 2014, they featured largely the same actors, divided along similar fault-lines as in 2011, but now coalesced into different blocs.³⁵ In the east, this was a bloc known as the Libyan National Army (“LNA”);³⁶ in the west, a bloc which evolved from the General National Congress (“GNC”) to the Government of National Accord (“GNA”). These blocs—which have since dominated both the conflict and the wider course of events in Libya until the present—reflect many of the same divisions which were latent in 2011.

F.1.a. The overthrow of GADDAFI unleashed the latent struggles between armed groups, including about the future role of persons associated with the GADDAFI regime

18. Notwithstanding the declaration of victory by the National Transitional Council (“NTC”),³⁷ the overthrow and death of GADDAFI in late 2011 did not end the violence in Libya. First, fighting continued well into 2012 as armed groups continued to carry out attacks against perceived GADDAFI supporters,³⁸ to pre-empt any counter-revolution. Second, the groups differed in key aspects of their worldview (including about persons formerly associated with the GADDAFI regime) and competed to secure strategic resources, such as military and security facilities,³⁹ resulting in violent confrontations between them.⁴⁰ The struggle against GADDAFI seamlessly transitioned to the struggle between groups for national supremacy.

19. At no point in the period 2012-2014 did the armed groups in Libya disarm, demobilise, or

³⁴ [LBY-OTP-0053-0990](#), para. 32; *Al Werfalli* First Arrest Warrant, paras. 4-5; *Al Tuhamy* Arrest Warrant, para. 6. This notwithstanding, fractures between the groups (for example, with regard to their attitude to defectors from the GADDAFI regime) remained evident: see e.g. Lacher (2020), pp. 21-24.

³⁵ See [LBY-OTP-0070-3925](#), p. 1; [LBY-OTP-00018826](#), pp. 21-24; [LBY-OTP-00000526](#), para. 11.

³⁶ This group should be distinguished from the Libyan National Army existing during the GADDAFI regime. See also e.g. [LBY-OTP-00000529](#), para. 14, footnote 6.

³⁷ [LBY-OTP-0053-0990](#), para. 32; [LBY-OTP-0053-1085](#), para. 3.

³⁸ Lacher (2020), pp. 24, 26; [LBY-OTP-0053-0474](#), para. 70. See also below paras. 20, 29-30; [LBY-OTP-0053-0395](#), paras. 22-26.

³⁹ Lacher (2020), pp. 21-25. See also e.g. [LBY-OTP-0053-0395](#), para. 35.

⁴⁰ See e.g. [LBY-OTP-0022-2540](#), p. 1; [LBY-OTP-00018826](#), p. 21; [LBY-OTP-0053-0990](#), para. 33; [LBY-OTP-0053-1134](#), paras. 22-31; [LBY-OTP-0053-1098](#), paras. 16-25; [LBY-OTP-0053-1204](#), para. 2.

re-integrate into civil society.⁴¹ Rather, the 2011 revolution had resulted in a “complete redistribution of weapons ownership”,⁴² with military materiel transferred from national control to the control of armed groups. Interim structures intended to exercise national authority, such as the NTC and later the GNC, were internally divided and weak,⁴³ and thus depended upon and nurtured the armed groups.⁴⁴ Payments to carry out security activities not only increased competition between such groups,⁴⁵ but led to further violence when those payments were suspended.⁴⁶ Armed groups operated autonomously, with their own structures and arms,⁴⁷ and control over strategically significant facilities such as detention centres.⁴⁸ As early as October 2012, these factors were recognised as the cause of the ongoing chaos and violence.⁴⁹

20. Even if lesser in intensity than at other times from 2011-2020, the period from 2012-2014 saw frequent resort to armed hostilities.⁵⁰ On some occasions, these were expressly framed as targeting perceived pro-GADDAFI forces.⁵¹ Yet throughout 2012 and 2013, armed groups also continued to use “actual and threatened force to advance their agendas” politically,⁵² including against those attempting to exercise national authority.⁵³ In particular, this arose from disputes about the future role and status of those formerly affiliated with the GADDAFI regime⁵⁴—an issue which was significant in triggering the renewed outbreak of intense hostilities in 2014.⁵⁵ Rival armed groups, often with factional affiliations to different organs of the interim national

⁴¹ [LBY-OTP-0053-0395](#), paras. 22-26; [LBY-OTP-0070-3925](#), p. 1; Lacher (2020), pp. 24-27, 30-37. *See also* *Al Werfalli* First Arrest Warrant, para. 5.

⁴² [LBY-OTP-0053-0395](#), p. 5, and paras. 33-34.

⁴³ Lacher (2020), pp. 21-37.

⁴⁴ [LBY-OTP-0022-2540](#), at 2550-2553; [LBY-OTP-0036-0219](#), at 0225, 0228-0230; [LBY-OTP-0053-1098](#), para. 2; [LBY-OTP-0053-0990](#), paras. 33, 52; [LBY-OTP-0053-1369](#), pp. 6-8; [LBY-OTP-0053-0474](#), at 0558, annex 16, paras. 12-14; Lacher (2020), pp. 24-28. *But see* [LBY-OTP-00019034](#), para. 6.

⁴⁵ [LBY-OTP-0053-0990](#), para. 53; Lacher (2020), pp. 23-24.

⁴⁶ Lacher (2020), p. 27.

⁴⁷ [LBY-OTP-00019030](#), para. 33; Lacher (2020), pp. 23, 26. *See also* [LBY-OTP-00019029](#), para. 28.

⁴⁸ [LBY-OTP-0053-0990](#), paras. 33, 52.

⁴⁹ [LBY-OTP-00019114](#) (remarks of then-President of GNC). *See also e.g.* [LBY-OTP-0053-0395](#), p. 5, and paras. 26, 34-35; [LBY-OTP-00019029](#), paras. 26-27, 42-44; [LBY-OTP-00019030](#), paras. 26-27, 39-45.

⁵⁰ [LBY-OTP-0053-0395](#), para. 25. The security vacuum also provided its own momentum: *see e.g.* [LBY-OTP-0054-0534](#), lns. 188-195, 507-508, 518-520. *See also* [LBY-OTP-0054-0292](#), lns. 743-771; [LBY-OTP-0053-1134](#), paras. 23-27; Lacher (2020), pp. 32-37.

⁵¹ For example: (1) heavy fighting took place between units from Gharyan and Asbi’a in January 2012, after an attempt to detain perceived GADDAFI supporters in Sabha ([LBY-OTP-0053-0395](#), para. 25; [LBY-OTP-00019034](#), para. 9); (2) even in October 2012, the GNC President asserted that the liberation of Libya from the GADDAFI regime was incomplete, and armed confrontations against pro-GADDAFI forces persisted in locations such as Bani Walid ([LBY-OTP-00019114](#); [LBY-OTP-00019034](#), para. 10; [LBY-OTP-00019029](#), para. 31; [LBY-OTP-0070-4201](#), paras. 7-10, 31; Lacher (2020), p. 30); (3) perceived pro-GADDAFI elements, especially former officials, were targeted for assassinations in locations such as Benghazi in 2012-2013 ([LBY-OTP-00019029](#), para. 31; [LBY-OTP-00019030](#), para. 36; Lacher (2020), pp. 29, 33); (4) alleged attacks by former GADDAFI loyalists were claimed to precipitate fighting in January 2014 between forces based in Tripoli and the Nafusa mountains against forces in Warshafana, and between groups from the south (Lacher (2020), pp. 33-34).

⁵² [LBY-OTP-00019030](#), paras. 20, 26; Lacher (2020), pp. 27-37.

⁵³ [LBY-OTP-0053-0474](#), p. 88 (annex 16, paras. 28-30).

⁵⁴ [LBY-OTP-0053-1134](#), paras. 2-12; Lacher (2020), pp. 21-22, 25, 30-32.

⁵⁵ Lacher (2020), pp. 22-23, 25, 33-37, 40.

authorities, engaged in major violent clashes throughout 2013 and 2014,⁵⁶ using heavy weapons with significant impact on the civilian population.⁵⁷ Generally, even if the violence partly resulted from tensions pre-dating the revolution, it was significantly “exacerbated by opposing allegiances during the revolution”.⁵⁸

F.1.b. External entities anticipated and facilitated the imminent resumption of hostilities

21. The conduct of external entities underlined their expectation that intense hostilities would be imminently renewed. The UNSC remained constantly seized of the situation in Libya,⁵⁹ warning of arms proliferation (2012),⁶⁰ “escalating [...] security incidents” (2013),⁶¹ and “worsening security situation and political divisions” (2014).⁶² Likewise, alongside the referral to the Court, the organs created by the UNSC to help implement measures aimed at containing the situation in Libya—the Sanctions Committee⁶³ and the Panel of Experts⁶⁴—remained active. The Sanctions Committee continued to designate Libyan nationals for sanctions, including notably in 2018 and 2021.⁶⁵ Likewise, the Panel of Experts warned of the ongoing use of force in Libya in 2012-2014, by actors pursuing their own agendas.⁶⁶

22. Perhaps more notably still, third States such as Qatar, Sudan, and the UAE—which had provided support and weapons to various armed groups in Libya from the start of the conflict in 2011⁶⁷—did not cease these activities despite the overthrow of GADDAFI.⁶⁸ For example, the UN Panel of Experts demonstrated that ammunition used in armed clashes in Tripoli in November 2013 had likely been produced in 2012 in Sudan.⁶⁹ It documented similar transfers from the UAE.⁷⁰ Such activities not only anticipated but facilitated renewed hostilities in Libya.

⁵⁶ For example, Tripoli and surrounding areas saw armed confrontations between the Zintan brigades (affiliated with the interim Ministry of Defence), the Supreme Security Committee (affiliated with the MoI), and so-called “Libya Shield” units: see [LBY-OTP-0053-1134](#), paras. 21-23; [LBY-OTP-0053-0990](#), paras. 36-37, 61-62, and pp. 90-92 (Annex 2); [LBY-OTP-0053-1204](#), para. 17; [LBY-OTP-0053-1369](#), pp. 14-15, 22-23.

⁵⁷ [LBY-OTP-0053-1204](#), paras. 18-19; [LBY-OTP-0053-0990](#), para. 36.

⁵⁸ [LBY-OTP-0053-1116](#), para. 10.

⁵⁹ See e.g. [LBY-OTP-0039-0607](#); [LBY-OTP-0039-0609](#); [LBY-OTP-0039-0614](#); [LBY-OTP-0053-1313](#). UNSC resolutions after 2014 continued to find a threat to international peace and security: see [LBY-OTP-0039-0620](#); [LBY-OTP-0053-1316](#); [LBY-OTP-0053-1328](#); [LBY-OTP-0053-1332](#); [LBY-OTP-00019108](#); [LBY-OTP-00019109](#); [LBY-OTP-00019110](#); [LBY-OTP-00019107](#); [LBY-OTP-00018851](#); [LBY-OTP-00018852](#).

⁶⁰ See e.g. [LBY-OTP-0039-0609](#); [LBY-OTP-0039-0620](#).

⁶¹ [LBY-OTP-0039-0614](#), Preamble.

⁶² [LBY-OTP-0039-0620](#), Preamble.

⁶³ [LBY-OTP-0001-0004](#), paras. 9, 10, 15, 17, 24.

⁶⁴ [LBY-OTP-0039-0609](#), paras. 8-10; [LBY-OTP-0039-0614](#), paras. 9-10, 14, 16; [LBY-OTP-0039-0620](#), paras. 11-13. See further [LBY-OTP-00019029](#), paras. 108-109; [LBY-OTP-0004-0138](#), Preamble; [LBY-OTP-00018851](#).

⁶⁵ See [LBY-OTP-00018865](#); [LBY-OTP-00018866](#); [LBY-OTP-00018867](#).

⁶⁶ See e.g. [LBY-OTP-00019029](#), paras. 29-35; [LBY-OTP-00019030](#), paras. 20, 26-36.

⁶⁷ Lacher (2020), pp. 23, 40-41.

⁶⁸ See e.g. [LBY-OTP-00019029](#), paras. 65; [LBY-OTP-0053-0474](#), paras. 104, 175.

⁶⁹ [LBY-OTP-00019030](#), para. 82.

⁷⁰ [LBY-OTP-0053-0474](#), para. 125.

F.1.c. The intense hostilities from 2014 exhibited continuities with those before

23. By mid-2014, Libya saw a return to large-scale military operations and intense hostilities.⁷¹

The violence between various armed groups had increasingly become consolidated into a clash between two main blocs: the GNC/GNA in the west and the LNA in the east.⁷² These were broadly divided by their rival claims for power and legitimacy, and their attitude towards those perceived to be associated with the former GADDAFI regime.

24. In May 2014, the LNA had launched a large-scale military operation in eastern Libya (“Operation Dignity”) against the Benghazi Revolutionaries Shura Council (“BRSC”), an armed group composed of former revolutionaries against GADDAFI.⁷³ This operation was not authorised by the GNC, and condemned as an attempted coup.⁷⁴ Amid escalating violence,⁷⁵ militias from Zintan claiming to act on behalf of the LNA attacked the GNC building in Tripoli.⁷⁶ By July, heavy fighting had broken out in the west, with pro-GNC armed groups from Tripoli and Misrata launching reprisal attacks known as “Operation Libya Dawn”.⁷⁷ By September, thousands had been displaced from their homes.⁷⁸ Fighting continued for the rest of the year, and throughout 2015:⁷⁹ “a war of trenches with no imminent end foreseen”.⁸⁰

25. While the UN-mediated Libyan Political Agreement was signed on 17 December 2015,⁸¹ replacing the GNC with the GNA,⁸² this was rejected from the outset by key LNA figures such as General HAFTAR.⁸³ February 2016 saw a fresh offensive by the LNA against the BRSC and its allies,⁸⁴ and heavy fighting ensued throughout the year.⁸⁵ While the LNA gradually succeeded in its operations against the BRSC,⁸⁶ intense hostilities between the LNA and GNA,

⁷¹ [LBY-OTP-0053-1204](#), para. 2; [LBY-OTP-0053-0990](#), para. 34.

⁷² Lacher (2020), pp. 28-55; [LBY-OTP-0053-0990](#), paras. 44-48, 50-56; [LBY-OTP-0053-1204](#), paras. 4-5; [LBY-OTP-0049-0205](#), pp. 1-2.

⁷³ [LBY-OTP-0053-0990](#), paras. 35, 44, 59-60; [LBY-OTP-0053-0474](#), paras. 32-33; [LBY-OTP-0053-1204](#), para. 5; [LBY-OTP-0053-1369](#), p. 20; [LBY-OTP-0054-0292](#), lns. 714-739, 841-856; [LBY-OTP-0054-0320](#), lns. 532-559; [LBY-OTP-0054-0534](#), lns. 629-633; [LBY-OTP-0054-0382](#), lns. 931-938.

⁷⁴ Lacher (2020), pp. 35-36. *See also* [LBY-OTP-0054-0320](#), lns. 876-877, 884-885 (GADDAFI affiliation).

⁷⁵ [LBY-OTP-0053-0474](#), paras. 32-33, 42; [LBY-OTP-0053-0990](#), para. 35; [LBY-OTP-0053-1204](#), para. 25.

⁷⁶ [LBY-OTP-0053-0474](#), para. 38.

⁷⁷ [LBY-OTP-0053-0474](#), paras. 51-55; [LBY-OTP-0053-1204](#), paras. 16-22; Lacher (2020), pp. 37-42.

⁷⁸ [LBY-OTP-0053-1204](#), para. 2. *See also* [LBY-OTP-0070-4219](#), para. 9. Most representatives of the international community, including UN staff, were also forced to withdraw from Libya.

⁷⁹ [LBY-OTP-0053-0990](#), paras. 34-39; [LBY-OTP-0053-0474](#), p. 81 (Annex 15, para. 4); [LBY-OTP-00019031](#), paras. 37, 47-54, 61-66; [LBY-OTP-0054-0349](#), lns. 186-510.

⁸⁰ [LBY-OTP-0053-0389](#), para. 3; [LBY-OTP-0053-0990](#), para. 35.

⁸¹ [LBY-OTP-0053-0959](#).

⁸² [LBY-OTP-0053-0959](#), p. 6 (art. 1).

⁸³ [LBY-OTP-0053-1264](#), pp. 3-4, 19-20. *See also* [LBY-OTP-0053-0990](#), para. 56 (HAFTAR’s appointment as General Commander of the LNA).

⁸⁴ [LBY-OTP-0053-1152](#), para. 15; [LBY-OTP-0053-1187](#), para. 18; [LBY-OTP-0053-1437](#); [LBY-OTP-0053-0643](#), para. 48.

⁸⁵ [LBY-OTP-0053-1170](#), paras. 15-16; [LBY-OTP-0053-0990](#), para. 35; [LBY-OTP-0053-1152](#), paras. 2, 15; [LBY-OTP-0053-1424](#); [LBY-OTP-0053-1419](#); [LBY-OTP-0053-1187](#), para. 3.

⁸⁶ *See e.g.* [LBY-OTP-0053-1187](#), para. 18; [LBY-OTP-0053-1436](#); [LBY-OTP-0053-1437](#); [LBY-OTP-0053-1152](#), para. 15; [LBY-OTP-0053-0643](#), para. 48.

including affiliated groups, likewise continued from 2017 to 2020.⁸⁷

26. In particular, on 4 April 2019, LNA forces attacked Tripoli, the seat of the GNA, in “Operation Flood of Dignity”.⁸⁸ While an internationally brokered ceasefire led to a temporary reduction in hostilities from January 2020, widespread fighting had resumed by early March.⁸⁹ On 23 March 2020, the GNA launched a counter-offensive against the LNA (“Operation Peace Storm”), which pushed the LNA back from some areas around Tripoli. However, the GNA failed to achieve a decisive breakthrough, and by mid-2020 the fighting had bogged down in locations around Sirte and Jufrah.⁹⁰ On 23 October 2020, the LNA and GNA formally agreed a ceasefire,⁹¹ commencing another uneasy lull similar to that in 2012-2014.⁹²

27. The intense hostilities from 2014 to 2020 exhibited marked continuities with those of 2011. First, perceived affiliation with the GADDAFI regime once again represented a critical dividing line between the parties to the conflict, as they fought for control of State institutions and Libya itself. Second, as in 2011, and in the period of less intense hostilities from 2012-2014, the armed groups in Libya continued to be supported by third States—who not only provided arms and military equipment but also, from 2014, began to deploy their own forces covertly onto Libyan territory.⁹³ As the Panel of Experts noted, the intense fighting in this period “amplified the *existing* proxy conflict that took shape after 2011”.⁹⁴ Furthermore, the stockpiling of weapons during the 2012-2014 period substantially contributed to the parties’ ability to resume intense hostilities when they did.⁹⁵ Third, while the names and affiliations of the armed groups evolved over time, many of the individuals were the same. For example, as acknowledged in *Al Werfalli*, the Al-Saiqa Brigade (part of the LNA forces in Operation Dignity) had emerged from a group of defectors from GADDAFI forces in 2011.⁹⁶ Likewise, some of the units under GNC command in Operation Libya Dawn were former units of the Supreme Security Committee

⁸⁷ See e.g. [LBY-OTP-0062-0060](#), paras. 14-23; [LBY-OTP-0062-0077](#); [LBY-OTP-0062-0081](#); [LBY-OTP-00000537](#), paras. 1-18; [LBY-OTP-00000570](#), pp. 22-23; [LBY-OTP-0081-0004](#), para. 168; [LBY-OTP-00000037](#), para. 26; [LBY-OTP-0070-9330](#), paras. 26-27; [LBY-OTP-0070-9227](#), para. 42; [LBY-OTP-00000526](#), paras. 11-14; [LBY-OTP-00000426](#), paras. 1-36; [LBY-OTP-00000425](#), paras. 1-34; [LBY-OTP-00000427](#), paras. 1-42; Lacher (2020), pp. 50, 53.

⁸⁸ [LBY-OTP-0070-9130](#), para. 15; [LBY-OTP-0070-7578](#), para. 31; [LBY-OTP-00000424](#), paras. 2-3, 6, 15-30; [LBY-OTP-00000526](#), paras. 11-13; [LBY-OTP-00000426](#), paras. 2-4, 8, 22-28, 32; Lacher (2020), pp. 52-55.

⁸⁹ [LBY-OTP-00000426](#), para. 9; [LBY-OTP-00000425](#), paras. 2-3, 24-26; [LBY-OTP-00020173](#), paras. 96-110.

⁹⁰ See e.g. [LBY-OTP-00000425](#), paras. 8-9, 27; [LBY-OTP-00000427](#), paras. 2-5, 29-35; [LBY-OTP-00000529](#), paras. 36, 63-65.

⁹¹ See e.g. [LBY-OTP-00000429](#), paras. 2, 13. See also [LBY-OTP-00000427](#), paras. 9, 92.

⁹² See further below para. 47. It also provided for the further evolution of the GNA into the “Government of National Unity” (“GNU”). Likewise, in or around 2021, the LNA was restyled as the “Libyan Arab Armed Force” (“LAAF”).

⁹³ See e.g. [LBY-OTP-00000426](#), paras. 3, 6, 22; [LBY-OTP-0053-0474](#), paras. 105-107, 155, 167, 175-176, 182-185; [LBY-OTP-00019032](#), paras. 110-112, 121, 132-134; [LBY-OTP-00000531](#), paras. 76-77. See also Lacher (2020), pp. 40-41, 48, 55.

⁹⁴ [LBY-OTP-00000526](#), p. 2 (emphasis added).

⁹⁵ [LBY-OTP-0053-0474](#), paras. 101-102; [LBY-OTP-0053-0990](#), para. 57.

⁹⁶ *Al-Werfalli* First Arrest Warrant, paras. 7-8.

(“SSC”), which had been created late 2011 to integrate anti-GADDAFI revolutionary groups.⁹⁷ The group known as SDF/RADA—which is the subject of this case, and which went on to fight on behalf of the GNA⁹⁸—is one such example.

F.2. SDF/RADA EMERGED FROM THE EVENTS OF 2011, AND PLAYED AN INTEGRAL ROLE THROUGHOUT THE CRISIS

28. SDF/RADA is the present incarnation of an anti-GADDAFI group from the Tripoli district of Souk Al Juma,⁹⁹ formerly known as the SAJR Battalion, whose leadership prominently included Abdalraouf KARA,¹⁰⁰ **AL HISHRI**,¹⁰¹ and Osama NJEEM.¹⁰²

29. Initially, from mid-2011, the SAJR Battalion’s activities (among others) were loosely coordinated by the Tripoli Military Council, established by Abdalhakim BELHAJ in opposition to the GADDAFI regime.¹⁰³ Around August 2011, the SAJR Battalion participated in seizing a vital strategic asset—Mitiga airbase, located near Souk Al Juma, approximately 8 kilometres east of Tripoli’s city centre¹⁰⁴—from GADDAFI forces.¹⁰⁵ In the same month, the Tripoli Military Council announced the liberation of Tripoli,¹⁰⁶ making Mitiga their headquarters.¹⁰⁷

30. KARA and the SAJR Battalion continued to fight GADDAFI regime elements,¹⁰⁸ and sought to consolidate their power and status.¹⁰⁹ They exploited the security vacuum caused by the perceived affiliation of regular Libyan security forces with the GADDAFI regime.¹¹⁰

31. In December 2011, the NTC established the SSC—notionally under the transitional MoI—to oversee armed groups (like the SAJR Battalion) previously coordinated through the Tripoli

⁹⁷ [LBY-OTP-0053-0474](#), para. 123. See below para. 31.

⁹⁸ See e.g. [LBY-OTP-00001538](#) (trans: [LBY-OTP-00020191](#)), paras. 237-239 (an SDF/RADA battalion, known as the “20/20 Battalion”, fighting alongside GNA forces). See also [LBY-OTP-00018916](#) (trans: [LBY-OTP-00019376](#)) (an LNA airstrike targeting an alleged Turkish drone based in Mitiga in 2019).

⁹⁹ See [LBY-OTP-0074-0889](#), para. 26; [LBY-OTP-0070-3925](#), p. 13.

¹⁰⁰ See [LBY-OTP-0070-3925](#), p. 13; [LBY-OTP-0069-0584](#), paras. 31-32, 129; [LBY-OTP-0083-0052](#), paras. 26-27; [LBY-OTP-0085-0063](#), paras. 29-30; BY-OTP-00018826, pp. 32-33. See also [LBY-OTP-00018638](#) (trans: [LBY-OTP-00019995](#)); [LBY-OTP-00018637](#) (trans: [LBY-OTP-00018899](#)).

¹⁰¹ [LBY-OTP-0085-0063](#), para. 29; [LBY-OTP-0074-0889](#), para. 244; [LBY-OTP-00020267](#), para. 123.

¹⁰² [LBY-OTP-0085-0063](#), para. 29.

¹⁰³ See [LBY-OTP-00018699](#), para. 26; [LBY-OTP-00018826](#), p. 30; [LBY-OTP-00018634](#) (trans: [LBY-OTP-00019179](#)); [LBY-OTP-00018582](#) (video) (trans: [LBY-OTP-00019380](#)), [LBY-OTP-00018583](#) (screenshot showing date) (trans: [LBY-OTP-00019505](#)). See also [LBY-OTP-00018607](#) (trans: [LBY-OTP-00019997](#));

¹⁰⁴ See **Annexes 7 and 8**. See also [LBY-OTP-00007250](#), para. 18; [LBY-OTP-0080-0169](#), para. 23; [LBY-OTP-00001491](#), paras. 135-136; [LBY-OTP-0083-0052](#), para. 27; [LBY-OTP-0085-0063](#), para. 29; [LBY-OTP-0085-0086](#) (trans: [LBY-OTP-00018054](#)); [LBY-OTP-00016916](#), para. 64.

¹⁰⁵ [LBY-OTP-0070-3752](#), p. 3; [LBY-OTP-00018600](#); [LBY-OTP-00018585](#) (trans: [LBY-OTP-00019507](#)).

¹⁰⁶ [LBY-OTP-00018582](#) (trans: [LBY-OTP-00019380](#)); [LBY-OTP-00018583](#) (screenshot showing date) (trans: [LBY-OTP-00019505](#)).

¹⁰⁷ [LBY-OTP-0070-3925](#), p. 13.

¹⁰⁸ See e.g. [LBY-OTP-0070-3752](#), p. 4. See also [LBY-OTP-0053-0474](#), para. 70; [LBY-OTP-00018590](#) (trans: [LBY-OTP-00018901](#)); [LBY-OTP-00018637](#) (trans: [LBY-OTP-00018899](#)); [LBY-OTP-00018611](#) (trans: [LBY-OTP-00019996](#)).

¹⁰⁹ [LBY-OTP-00018699](#), para. 28; [LBY-OTP-0053-0990](#), para. 33.

¹¹⁰ [LBY-OTP-0053-1369](#), pp. 6-13; [LBY-OTP-00018699](#), paras. 18, 24-26, 30, 36-37; [LBY-OTP-0053-0990](#), para. 52.

Military Council.¹¹¹ The SSC was mandated, *inter alia*, to establish security and to investigate members of the former GADDAFI regime.¹¹² It encompassed various “Support and Reinforcement Companies”,¹¹³ numbering just under 50 by January 2013,¹¹⁴ including units to counter drugs and illegal immigration.¹¹⁵ Since the SSC paid well,¹¹⁶ it grew quickly—so quickly that, as early as May 2012, the UNSC warned of a parallel security structure.¹¹⁷

32. Although the Tripoli branch of the SSC was initially headed by Hashim BISHR,¹¹⁸ KARA had assumed command by January 2013.¹¹⁹ His group had established its headquarters in the western part of Mitiga,¹²⁰ and from 2012 undertaken extensive work to build what would become the largest detention facility in western Libya: Mitiga Prison.¹²¹ **AL HISHRI** was among the founders of the prison.¹²² KARA continued to hunt GADDAFI-era security officials,¹²³ and used Mitiga to detain them amid allegations of murder and torture.¹²⁴

33. By January 2013, KARA had also started to use the name “Special Deterrence Force” (“SDF”) (“*Quwwat Al Rada Al Khassa*”, or “*RADA*” or “*AL RADA*” meaning “deterrence”) for his Tripoli SSC units, headquartered at Mitiga.¹²⁵ Advancing its own interests, SDF/RADA

¹¹¹ [LBY-OTP-00018826](#), pp. 30-32; [LBY-OTP-0070-3941](#), p. 9; [LBY-OTP-0053-0990](#), para. 52; [LBY-OTP-0053-1369](#), p. 7; [LBY-OTP-0070-4009](#), p. 4.

¹¹² [LBY-OTP-00018682](#) (trans: [LBY-OTP-00020197](#)), art. 2.

¹¹³ [LBY-OTP-00018682](#) (trans: [LBY-OTP-00020197](#)), art. 3. The strength of the SSC Tripoli branch was estimated between 16,000-35,000 members: see [LBY-OTP-00018826](#), pp. 31-32.

¹¹⁴ [LBY-OTP-00018826](#), pp. 33-34. See also [LBY-OTP-00018623](#) (trans: [LBY-OTP-00019381](#)).

¹¹⁵ [LBY-OTP-00018623](#) (trans: [LBY-OTP-00019381](#)); [LBY-OTP-00018826](#), pp. 33-34.

¹¹⁶ See e.g. [LBY-OTP-00018826](#), p. 31; [LBY-OTP-00018675](#) (trans: [LBY-OTP-00019178](#)); [LBY-OTP-0053-1369](#), pp. 6-8.

¹¹⁷ [LBY-OTP-00018618](#), p. 4.

¹¹⁸ [LBY-OTP-00018826](#), p. 33.

¹¹⁹ [LBY-OTP-00018826](#), p. 33; [LBY-OTP-0070-3941](#), p. 10; [LBY-OTP-00018620](#) (trans: [LBY-OTP-00018900](#)); [LBY-OTP-00018603](#) (trans: [LBY-OTP-00018902](#)); [LBY-OTP-00018043](#) (trans: [LBY-OTP-00018812](#)).

¹²⁰ [LBY-OTP-0066-0951](#), paras. 19, 86-88 and [LBY-OTP-0066-0987](#) (trans: [LBY-OTP-0070-7858](#)); [LBY-OTP-0069-0584](#), paras. 15, 32; [LBY-OTP-0072-0387](#), para. 34 and [LBY-OTP-00001372](#); [LBY-OTP-0080-0032](#), paras. 28-29, 38; [LBY-OTP-0074-0889](#), para. 28; [LBY-OTP-0080-0169](#), paras. 23, 26, 28; [LBY-OTP-0080-0468](#), paras. 18, 32, 77 and [LBY-OTP-0080-0539](#); [LBY-OTP-0083-0663](#), para. 121; [LBY-OTP-00015152](#), paras. 42, 125 and [LBY-OTP-00015162](#); [LBY-OTP-0080-0608](#), paras. 65, 110 and [LBY-OTP-0080-0656](#) (trans: [LBY-OTP-00018054](#)); [LBY-OTP-0070-7295](#), para. 182; [LBY-OTP-0083-0052](#), paras. 25-29, 54-55; [LBY-OTP-0085-0063](#), para. 32-35 and [LBY-OTP-0085-0086](#); [LBY-OTP-00015125](#), para. 98 and [LBY-OTP-00015138](#); [LBY-OTP-00015360](#), paras. 19, 42, 69, 196-198; [LBY-OTP-00018075](#), para. 21 and [LBY-OTP-00018078](#); [LBY-OTP-00015405](#), para. 49; [LBY-OTP-00016916](#), para. 64-67. See also [LBY-OTP-0066-0332](#), at 0336 and [LBY-OTP-0066-0349](#), at 0351-0378.

¹²¹ [LBY-OTP-0069-0584](#), para. 32; [LBY-OTP-0080-0032](#), paras. 36-37; [LBY-OTP-0080-0169](#), paras. 28, 219; [LBY-OTP-0083-0663](#), para. 125 and [LBY-OTP-0083-0726](#) (trans: [LBY-OTP-00018824](#)) at ‘16’; [LBY-OTP-00001491](#), para. 54; [LBY-OTP-0083-0052](#), paras. 59, 61; [LBY-OTP-00015125](#), para. 99; [LBY-OTP-00015371](#) at ‘12’ and [LBY-OTP-00015360](#), para. 199; [LBY-OTP-00015405](#), para. 49; [LBY-OTP-00018119](#), para. 40. See also [LBY-OTP-0066-0332](#), at 0333 and [LBY-OTP-0066-0349](#), at 0351-0378; [LBY-OTP-0070-4253](#), para. 32; [LBY-OTP-00018738](#), pp. 3, 18.

¹²² [LBY-OTP-00018699](#), para. 95; [LBY-OTP-0080-0608](#), para. 171.

¹²³ [LBY-OTP-0070-3752](#), p. 4; [LBY-OTP-0080-0468](#), para. 30.

¹²⁴ See [LBY-OTP-00018883](#), p. 8; [LBY-OTP-00018043](#) (trans: [LBY-OTP-00018812](#)); [LBY-OTP-00018981](#) (trans: [LBY-OTP-00019182](#)).

¹²⁵ [LBY-OTP-0070-4009](#), p. 5; [LBY-OTP-00018826](#), at p. 38; [LBY-OTP-0070-3941](#), p. 11; [LBY-OTP-00018603](#) (trans: [LBY-OTP-00018902](#)); [LBY-OTP-00018043](#) (trans: [LBY-OTP-00018812](#)); [LBY-OTP-0066-0951](#), para. 19; [LBY-OTP-0069-0584](#), paras. 31-32; [LBY-OTP-0080-0032](#), para. 20; [LBY-OTP-0080-0169](#), paras. 15, 19, 23; [LBY-OTP-00018699](#), para. 33; [LBY-OTP-00018798](#) (trans: [LBY-OTP-00019370](#)).

acted as a self-appointed security force targeting anyone it viewed as opposing its objectives, leadership, or worldview.¹²⁶ While KARA held rank (First Lieutenant) in the MoI,¹²⁷ SDF/RADA forces were personally loyal to him rather than to national authorities.¹²⁸ This was similar to other armed groups, who were likewise outside central control.¹²⁹ SDF/RADA could for example resist the national authorities' attempts in Tripoli to assert control of Mitiga Prison, blithely stating that this would be handed over at some point in the future.¹³⁰ It never was.

34. When widespread intense hostilities re-erupted in July 2014,¹³¹ Tripoli International Airport was destroyed in fighting.¹³² This cemented SDF/RADA's power and influence in Tripoli, as control of Mitiga meant control over the only remaining airport. The strategic importance of Mitiga, and of SDF/RADA, was further illustrated by its targeting for LNA airstrikes in November 2014.¹³³ This period thus not only saw SDF/RADA's role in the conflict against the LNA, but also in targeting persons believed to be fighters or sympathisers of ISIS.¹³⁴

35. By 2015, SDF/RADA had become critical in maintaining the security of Tripoli¹³⁵—notwithstanding numerous complaints of human rights violations.¹³⁶ SDF/RADA's iron grip on Mitiga was confirmed not only by KARA himself but also external reporting.¹³⁷ **AL HISHRI** now was one of the most powerful officials in Mitiga Prison,¹³⁸ served as the head of its Women's Section,¹³⁹ and exercised his authority throughout the prison.¹⁴⁰ When the UN-backed GNA and Presidential Council were formed in Tripoli on 17 December 2015, as the sole legitimate national authorities, they were again ostensibly supported by SDF/RADA.¹⁴¹ In turn, in 2016, the GNA formalised SDF/RADA's role,¹⁴² with an estimated 1,500 members.¹⁴³

¹²⁶ See e.g. [LBY-OTP-0070-3941](#), p. 10.

¹²⁷ [LBY-OTP-0069-0506](#), para. 82; [LBY-OTP-0070-3941](#), p. 11; [LBY-OTP-00018826](#), p. 79 (note 74).

¹²⁸ [LBY-OTP-0070-3941](#), p. 11; [LBY-OTP-00018826](#), pp. 38-39. See also [LBY-OTP-0053-0990](#), para. 33. While KARA is known to hold *Madkhali* views (see [LBY-OTP-0080-0468](#), para. 42)—a radical, Salafist interpretation of Islam ([LBY-OTP-0070-3925](#), p. 5)—neither his leadership nor the membership of SDF/RADA presently appears to have been purely or solely ideological: [LBY-OTP-0053-1369](#), p. 12 (as marked); [LBY-OTP-0069-0584](#), para. 31. Cf. [LBY-OTP-0070-4009](#), pp. 4, 14; [LBY-OTP-0070-3941](#), p. 10.

¹²⁹ [LBY-OTP-00018826](#), p. 32; [LBY-OTP-0070-3941](#), p. 11.

¹³⁰ [LBY-OTP-00018910](#) (trans. [LBY-OTP-00019374](#)); [LBY-OTP-00018892](#) (trans. [LBY-OTP-00019372](#)); [LBY-OTP-00018864](#); [LBY-OTP-00018893](#) (trans. [LBY-OTP-00019125](#)). See also [LBY-OTP-0070-4009](#), pp. 7, 9, 14.

¹³¹ See above para. 24.

¹³² [LBY-OTP-0070-3752](#), pp. 2-3; [LBY-OTP-0070-3925](#), p. 13.

¹³³ [LBY-OTP-00018913](#) (trans. [LBY-OTP-00019375](#)); [LBY-OTP-00018889](#); [LBY-OTP-0053-0990](#), para. 37.

¹³⁴ See below para. 98. For this reason, ISIS itself attacked SDF/RADA at Mitiga Prison: [LBY-OTP-00018894](#) (trans. [LBY-OTP-00019373](#)); [LBY-OTP-00018888](#). See also *Al Werfalli* Second Arrest Warrant, para. 10.

¹³⁵ [LBY-OTP-00018953](#) (trans. [LBY-OTP-00019191](#)); [LBY-OTP-0065-0667](#), p. 3; [LBY-OTP-0049-0205](#), p. 7.

¹³⁶ See e.g. [LBY-OTP-0044-0518](#) (trans. [LBY-OTP-0070-0543](#)).

¹³⁷ [LBY-OTP-0070-5931](#) (trans. [LBY-OTP-00019075](#)); [LBY-OTP-00018882](#), p. 18; [LBY-OTP-0070-4009](#), pp. 5, 7; [LBY-OTP-00019027](#).

¹³⁸ See below fn. 594.

¹³⁹ See below paras. 124-129.

¹⁴⁰ See below paras. 130-134.

¹⁴¹ [LBY-OTP-0070-4009](#), p. 7; [LBY-OTP-0049-0205](#), p. 7; [LBY-OTP-00018738](#), p. 18.

¹⁴² While no copy of this decision (known as decision 260/2016) can presently be found, it is mentioned in later decisions such as [LBY-OTP-00018655](#) (trans. [LBY-OTP-00019369](#)). See also [LBY-OTP-00018738](#), p. 18.

¹⁴³ [LBY-OTP-0049-0205](#), p. 5.

36. By 2017, SDF/RADA was one of four major armed groups controlling Tripoli, where most ministries, major state institutions, and corporate headquarters were located.¹⁴⁴ This was reflected in the compromise further perpetuating SDF/RADA's grip on Mitiga Prison—while the prison itself was formally adopted by the Ministry of Justice (“MoJ”) as the Tripoli Main Correction and Rehabilitation Institution on 15 October 2017,¹⁴⁵ the MoJ did not exercise control over it.¹⁴⁶ Instead, on 30 October 2017, the Attorney General tasked SDF/RADA to secure the *external* perimeter of the prison.¹⁴⁷ But in practice, SDF/RADA's control continued to pervade the prison as a whole—which, by 2018, was estimated to hold 2,600 detainees.¹⁴⁸

37. On 7 May 2018, SDF/RADA was formally renamed the Deterrence Apparatus for Combatting Organised Crime and Terrorism (“DACOT”) under the MoI.¹⁴⁹ KARA remained in command. DACOT's mandate was further broadened to include organised crime, border security and protection, surveillance, terrorism, and public order. All SDF/RADA members and assets were now part of DACOT, without any vetting or further training, with law enforcement powers of arrest and investigation.¹⁵⁰ DACOT was granted independent financial personality with funding both from the national budget and the proceeds of seized assets.

38. SDF/RADA continued to use Mitiga Prison to hold detainees for various purposes, including those directly related to the ongoing crisis in Libya.¹⁵¹ As well as suspected members of ‘sleepers’, these continued to include GADDAFI-era security officials and others perceived as affiliated with the former regime¹⁵²—including (from as recently as August 2021), GADDAFI's former head of intelligence Abdullah AL-SENUSSI.¹⁵³ SDF/RADA also detained persons suspected of affiliation to the LNA, which was the adverse party in the conflict.¹⁵⁴ Notwithstanding GNA claims to have taken public action purporting to resolve the status of detainees at Mitiga Prison,¹⁵⁵ SDF/RADA's control continued unchecked.

¹⁴⁴ [LBY-OTP-0070-4009](#), pp. 3, 12; [LBY-OTP-0070-3752](#), pp. 3-4.

¹⁴⁵ See [LBY-OTP-00018157](#) (trans: [LBY-OTP-00019183](#)) (referring to decision 699/2017).

¹⁴⁶ [LBY-OTP-00018657](#) (trans: [LBY-OTP-00019174](#)), pp. 15, 26.

¹⁴⁷ [LBY-OTP-00018157](#) (trans: [LBY-OTP-00019183](#)).

¹⁴⁸ [LBY-OTP-00018738](#), pp. 3-4.

¹⁴⁹ [LBY-OTP-0069-0146](#) (trans: [LBY-OTP-0070-0004](#)).

¹⁵⁰ See [LBY-OTP-0065-0667](#). See also [LBY-OTP-00018738](#), p. 8 (on integration of armed groups in general).

¹⁵¹ See also below paras. 50, 98.

¹⁵² See above para. 32; below paras. 61, 98. See also e.g. [LBY-OTP-0070-3752](#), p. 4; [LBY-OTP-00018637](#) (trans: [LBY-OTP-00018899](#)); [LBY-OTP-0070-3547](#); [LBY-OTP-00018603](#) (trans: [LBY-OTP-00018902](#)); [LBY-OTP-00018624](#) (trans: [LBY-OTP-00018623](#)), 00:45:40-00:49:00; [LBY-OTP-00018981](#) (trans: [LBY-OTP-00019182](#)). See also [LBY-OTP-00018892](#) (trans: [LBY-OTP-00019372](#)).

¹⁵³ [LBY-OTP-00019878](#); [LBY-OTP-00019138](#).

¹⁵⁴ See below paras. 61, 98. See also [LBY-OTP-00018983](#) (trans: [LBY-OTP-00019378](#)) (post of 12 May 2021 on the official Facebook page of Mitiga Prison, announcing release of 78 prisoners involved in the “Tripoli offensive”).

¹⁵⁵ [LBY-OTP-0069-0150](#) (trans: [LBY-OTP-0070-0008](#)); [LBY-OTP-0069-0151](#) (trans: [LBY-OTP-0070-0010](#)).

F.3. THE COURT'S EXERCISE OF JURISDICTION OVER SIMILAR CASES IN LIBYA HAS REPEATEDLY BEEN ENDORSED

39. The International Court of Justice has held that the interpretation of Security Council resolutions “may require the Court to analyse statements by representatives of members of the Security Council made at the time of their adoption, other resolutions of the Security Council on the same issue, as well as the subsequent practice of relevant United Nations organs and of States affected by those given resolutions”.¹⁵⁶

40. The UNSC has repeatedly recognised ongoing crimes in Libya since 2011, such as arbitrary detention and torture, and called for accountability.¹⁵⁷ It has consistently received reports from the UN Secretary-General (“UNSG”) alleging ongoing detention crimes in Libya each year from 2012 to 2021, including arbitrary detention, inadequate conditions, torture, sexual violence, and murder.¹⁵⁸ Furthermore, the UNSG has specifically advised the UNSC of the serious allegations concerning the conduct of SDF/RADA at Mitiga Prison, including in 2015,¹⁵⁹ 2016,¹⁶⁰ 2017,¹⁶¹ 2018,¹⁶² 2019,¹⁶³ and 2021.¹⁶⁴

41. In this context, UNSC Member States consistently affirmed the Court's ongoing mandate under UNSCR 1970, especially in the context of the Prosecutor's regular reports on his investigation. UNSCR 1970 invited the Prosecutor to report on “actions taken pursuant to this resolution”, which the Prosecutor has done repeatedly in the years since. Member States consistently encouraged the Office's investigations into ongoing criminal conduct. This further supports the view that the alleged crimes committed in the context of the ongoing crisis in Libya fall within the Court's exercise of jurisdiction. Relevant statements include but are not limited to those from Japan,¹⁶⁵ Slovenia,¹⁶⁶ France,¹⁶⁷ and the Republic of Korea.¹⁶⁸

42. The scope of UNSCR 1970 can also be informed by the subsequent practice of relevant

¹⁵⁶ Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, I.C.J. Reports 2010, p. 403 at p. 442, para. 94.

¹⁵⁷ See e.g. [LBY-OTP-0027-0405](#), paras. 4-7; [LBY-OTP-0039-0614](#), Preamble; [LBY-OTP-00019005](#), paras. 5, 8; [LBY-OTP-00018878](#), Preamble; [LBY-OTP-00018879](#), Preamble; [LBY-OTP-00018880](#), Preamble.

¹⁵⁸ See e.g. [LBY-OTP-0070-4182](#), para. 24; [LBY-OTP-0053-1116](#), paras. 28-29; [LBY-OTP-0070-4201](#), paras. 30-31; [LBY-OTP-0053-1134](#), paras. 38, 40-41; [LBY-OTP-0053-1098](#), paras. 33, 93; [LBY-OTP-0053-1204](#), para. 97; [LBY-OTP-0070-4219](#), paras. 45, 58; [LBY-OTP-00018877](#), para. 63; [LBY-OTP-0070-4235](#), paras. 34, 40, 43; [LBY-OTP-0053-1170](#), paras. 38-44; [LBY-OTP-0053-1152](#), paras. 33, 39-40; [LBY-OTP-0053-1187](#), paras. 37, 40-44; [LBY-OTP-0070-4075](#), paras. 29-33; [LBY-OTP-00000537](#), paras. 30-32, 39; [LBY-OTP-00000425](#), paras. 45-46, 51; [LBY-OTP-00000427](#), para. 55; [LBY-OTP-00000428](#), paras. 48-50; [LBY-OTP-00018762](#), para. 53, 58-64.

¹⁵⁹ [LBY-OTP-0070-4219](#), para. 58.

¹⁶⁰ [LBY-OTP-0070-4235](#), paras. 27, 43; [LBY-OTP-0053-1170](#), para. 40; [LBY-OTP-0053-1152](#), para. 40.

¹⁶¹ [LBY-OTP-0070-4253](#), para. 32.

¹⁶² [LBY-OTP-0062-0060](#), paras. 17, 46; [LBY-OTP-0070-4059](#), paras. 39-40, 53; [LBY-OTP-0070-4075](#), para. 32.

¹⁶³ [LBY-OTP-00000537](#), paras. 34, 39.

¹⁶⁴ [LBY-OTP-00018762](#), para. 63.

¹⁶⁵ [LBY-OTP-00018876](#), p. 5 (acknowledging investigation of the 2014-2020 operations under UNSCR 1970).

¹⁶⁶ [LBY-OTP-00018876](#), p. 8 (welcoming investigation of detention crimes “related to the 2014-2020 operations”).

¹⁶⁷ [LBY-OTP-00018876](#), pp. 8-9 (welcoming new arrest warrants for the “priority lines of inquiry”).

¹⁶⁸ [LBY-OTP-00018876](#), pp. 11-12 (highlighting the investigation's “continuing relevance” for “ongoing” crimes).

United Nations Organs. The Security Council in UNSCR 1970 welcomed the Human Rights Council decision of 25 February 2011 to establish an independent international commission of inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya.¹⁶⁹ The report of the independent commission of inquiry dated 1 June 2011 stated that its mandate “is not limited and therefore includes violations **before, during and after** the demonstrations witnessed in a number of cities in Libya in February 2011. With an armed conflict having developed in late February in Libya and continuing during the Commission’s operations, the Commission looked into both violations of international human rights law and relevant provisions of international humanitarian law, the *lexus specialis* which applies during armed conflict.”¹⁷⁰ The Commission further stated that “the Security Council referred the situation of Libyan Arab Jamahiriya to the Prosecutor of the Court in resolution 1970 (2011). The Court can exercise jurisdiction over war crimes, crimes against humanity and genocide as defined in the Rome Statute. There have been no allegations of genocide in the context of Libya thus far. However, there have been allegations of facts which may constitute war crimes and crimes against humanity under the Statute”.¹⁷¹

43. Further, as part of the UN Office of the High Commissioner for Human Rights’ (UNOHCHR) investigation into the crimes committed in Libya in 2014 and 2015, it noted that the UNSC’s referral of the situation of Libya to the ICC extended to the same period. Moreover, it supported resourcing the ICC further to enable its investigations into these events.¹⁷² Similarly, the Independent Fact-Finding Mission on Libya recognised the Court’s investigation into events since 2016.¹⁷³

G. SUMMARY OF THE EVIDENCE, NARRATIVE AND ANALYSIS

44. In order to establish reasonable grounds to believe that **AL HISHRI** committed the crimes alleged in this Application, the Prosecution relies primarily on witness statements from [REDACTED] former detainees at Mitiga Prison.¹⁷⁴ These are supported and supplemented by other materials, including: decrees and other official documents; photographs of SDF/RADA members and the Mitiga Compound; images and sketches of the Mitiga Compound annotated or made by witnesses; press statements; United Nations reports; NGO reports, research and victim interviews; and open source material including social media.

¹⁶⁹ [LBY-OTP-0001-0004](#), Preamble.

¹⁷⁰ [LBY-OTP-0009-0015](#), para. 4 [emphasis added].

¹⁷¹ [LBY-OTP-0009-0015](#), para. 78.

¹⁷² A/HRC/31/47, 15 February 2016, para 69.

¹⁷³ The Report of the Independent Fact-Finding Mission on Libya dated 29 November 2021 also noted that the ICC’s investigations referred to it by UNSCR 1970 extended to events falling within the Mission’s temporal mandate: A/HRC/48/83, Annex I, (29 November 2021) para. 1.

¹⁷⁴ See **Annex 5**, Prosecution Crime Base Witnesses.

G.1. THE ALLEGED CRIMES OCCURRED IN THE CONTEXT OF A NIAC

45. There are reasonable grounds to believe that the conduct described in this Application amounted to war crimes. At all material times, there was a relevant NIAC, and a nexus between the alleged crimes and that NIAC. This conflict had commenced at least by February 2015, and continued until at least October 2020, without prejudice to its continuation thereafter.

G.1.a. There was a relevant NIAC from at least February 2015

46. A NIAC exists when there is protracted armed violence between governmental authorities and one or more non-State organised armed groups, or between such groups.¹⁷⁵ This requires an assessment of two criteria: the organisation of the group(s) involved, and the intensity of the hostilities.¹⁷⁶ Consistent with the events described above, materially for this Application, from at least February 2015, there was protracted armed violence between the GNC/GNA bloc and the LNA bloc.¹⁷⁷ Each of these blocs was sufficiently organised: not only did they act upon the basis of a unified policy or strategy, but they repeatedly demonstrated their military operational capacity to carry out large-scale operations, control territory, and maintain complex supply chains supporting military equipment. The hostilities between the LNA and GNC/GNA were likewise sufficiently intense. They each conducted multiple serious attacks utilising large numbers of forces and heavy weapons, exercised control over certain territories, were the object of the attention of the UNSC and considered themselves bound by IHL. The intense hostilities between them undoubtedly affected the civilian population.

G.1.b. The NIAC did not end with the October 2020 ceasefire

47. Given the temporal period of this Application (from around February 2015 to at least early 2020),¹⁷⁸ it is unnecessary to address whether the NIAC occurring at the material times ended as a result of the ceasefire agreement concluded in October 2020. Thus, this issue will not be addressed further, without prejudice to the Prosecution's position that the NIAC did not in fact end,¹⁷⁹ because the ceasefire agreement did not achieve a peaceful settlement,¹⁸⁰ or any lasting

¹⁷⁵ See e.g. *Ongwen* TJ, para. 2683.

¹⁷⁶ See e.g. *Ongwen* TJ, paras. 2684-2685.

¹⁷⁷ See e.g. *above* paras. 23-26 (and citations). This is without prejudice to the conflict commencing as early as 2011, or to the existence of other relevant conflicts: see e.g. *above* paras. 12, 15-27. See also *below* para. 47.

¹⁷⁸ See e.g. *above* paras. 1, 4, 8.

¹⁷⁹ Transitions out of conflict are often progressive, and thus determinations of the termination of a conflict are highly fact-sensitive and should be approached with caution. See further ICRC Conflict Definition Guidance, p. 19 (identifying factors including: the effective implementation of a peace agreement or ceasefire; declarations by the parties renouncing violence, if not contradicted by the facts on the ground; the implementation of disarmament, demobilisation, and/or reintegration programmes; and the increasing duration of the period without hostilities). A conflict does not end simply because the legal criteria required for its commencement may temporarily fall below the threshold initially required: see e.g. ICRC Conflict Definition Guidance, pp. 18-19; ICRC GCI Commentary (2016), para. 494. To the contrary, violence in an armed conflict need not be continuous or uninterrupted: *Bemba* TJ, para. 140. See further e.g. Grignon, p. 98; ICRC GCI Commentary (2016), para. 492; ICRC *Challenges* Report, p. 10; *Ongwen* TJ, para. 2684; Dwyer and McCormack, p. 56. But see Lewis et al., pp. 96-103 (summarising different theories on the end of a NIAC).

¹⁸⁰ See e.g. *Tadić* Jurisdiction Decision, para. 70; *Bemba* TJ, para. 141; *Lubanga* TJ, para. 533.

absence of armed confrontations between the parties without real risk of resumption.¹⁸¹

G.1.c. The alleged crimes took place in the context of the conflict

48. To establish a war crime, it is necessary to show that IHL applied at the material times and in the material places, by means of proving the existence of a conflict, as above. Beyond that, war crimes are appropriately delineated by the requirement to prove a nexus between the conflict and the alleged crime.¹⁸² This means that, while it may factually be relevant that a person was detained for reasons related to the conflict, it is not dispositive in establishing whether a war crime was committed against them¹⁸³—in particular under common article 3 of the Geneva Conventions, which guarantees humane treatment “in all circumstances” to all “[p]ersons taking no active part in the hostilities”.

49. Determining the existence of a nexus between alleged crimes and the conflict is a fact-sensitive inquiry, which requires that the existence of the armed conflict, “at a minimum, [...] played a substantial part in the perpetrator’s ability to commit [the crime], [their] decision to commit it, the manner in which it was committed or the purpose for which it was committed”.¹⁸⁴ None of these factors, however, is essential.

50. The alleged crimes in Mitiga Prison all had the requisite nexus. In particular, SDF/RADA members could not have committed the crimes without the conflict—which enabled SDF/RADA to maintain its exclusive control of Mitiga Prison where the crimes occurred, to play a leading role in the security of Tripoli so it could itself arrest many victims, and to exercise influence over the Libyan authorities in order to maintain its independence (including by controlling key strategic assets such as Tripoli’s only functioning airport).¹⁸⁵ Without the conflict, the Libyan authorities would not have permitted SDF/RADA to function as it did.¹⁸⁶ As such, the conflict was an essential condition for the prolonged and systematic commission of crimes at Mitiga Prison. Furthermore, while victims were targeted for crimes for various reasons, these included reasons associated with the conflict such as their perceived affiliation to the GADDAFI regime, to the LNA, or as opposing SDF/RADA’s interests as a significant component of the GNC/GNA/GNU.¹⁸⁷

¹⁸¹ See e.g. ICRC Conflict Definition Guidance, pp. 18-19; ICRC GCI Commentary (2016), paras. 487, 489-491, 494; ICRC *Challenges* Report, pp. 10-11; Sivakumaran, pp. 253-254. See also ICRC GCIV Commentary (1958), p. 62 (in the context of international armed conflicts, featuring multiple parties); Grignon.

¹⁸² *Ntaganda* Jurisdiction AJ, para. 2. See further para. 68.

¹⁸³ See *Njeem* Arrest Warrant, paras. 51, 52, 76. It is only essential to prove that a person was detained for reasons related to the conflict in circumstances where the relevant criminal conduct against that person occurred at times after the conflict had terminated, in order to establish the continued application of IHL. This question does not even potentially arise within the temporal scope of this Application: see above para. 47.

¹⁸⁴ *Afghanistan* Article 15(4) AJ, paras. 69-70 (quoting *Kunarac* AJ, paras. 58-60). See also *Ntaganda* Jurisdiction AJ, para. 68 (recalling relevant factors in establishing the nexus, citing *Kunarac* AJ, para. 59).

¹⁸⁵ See above paras. 28-38.

¹⁸⁶ See above paras. 35-38.

¹⁸⁷ See above paras. 32, 38; below paras. 61, 98.

G.2. THE ALLEGED CRIMES OCCURRED AS PART OF A WIDESPREAD OR SYSTEMATIC ATTACK AGAINST ANY CIVILIAN POPULATION

51. There are reasonable grounds to believe that the conduct described in this Application amounted to crimes against humanity. The alleged crimes at Mitiga Prison in themselves amounted to an attack directed against a civilian population, which was both widespread and systematic in nature, and carried out by SDF/RADA pursuant to an organisational policy.¹⁸⁸

G.2.a. SDF/RADA committed multiple article 7(1) acts against the civilian population

52. The crimes alleged in this Application constitute “a course of conduct involving the multiple commission of acts referred to in [article 7(1)]”.¹⁸⁹ They include the unlawful detention and torture of thousands of civilians—encompassing the infliction not only of severe pain and suffering, but also rape and other forms of sexual violence—as well as dozens of murders.

53. These crimes undoubtedly targeted segments of the population in Libya perceived to be opposing SDF/RADA or its ideology.¹⁹⁰ At all material times, the victims were entirely under the control of SDF/RADA, including through the Mitiga prison guards. Irrespective of the sometimes varying reasons for which victims were detained, detainees were deliberately subjected to physical mistreatment and abuse, defying IHL and all other applicable laws, for purposes including the perpetrators’ gratification, self-interest, and desire to punish perceived opponents or wrongdoers. Likewise, the victims constituted a “civilian population”. While the victims of specific article 7(1) acts need not be civilians,¹⁹¹ the vast majority of the victims of the individual incidents actually were so. Moreover, even if some detainees were fighters rendered *hors de combat* by their detention, the proportion of any such persons in Mitiga Prison was sufficiently limited that it did not deprive the population of its overall civilian character.¹⁹²

G.2.b. The attack was both widespread and systematic

54. While the attack on the civilian population need only be widespread *or* systematic, in this case both requirements were established. The attack was widespread, since it involved the commission of crimes on a large scale.¹⁹³ Thousands of persons were victimised, and the perpetrators’ criminal conduct has continued for more than nine years.¹⁹⁴ The attack was also systematic.¹⁹⁵ Once persons were detained and brought to Mitiga Prison, the alleged crimes—

¹⁸⁸ See *Njeem* Arrest Warrant, para. 26.

¹⁸⁹ Statute, art. 7(2)(a). See also *Ongwen* TJ, para. 2674.

¹⁹⁰ *Ntaganda* AJ, para. 422 (noting that this is a fact-sensitive assessment, drawing on factors including “the means and methods used [...], the status of the victims, their number, [...] the nature of the crimes committed”). See also *Kunarac* AJ, para. 91. The civilian population need not be the main aim or sole object of attack: *Ntaganda* AJ, para. 424. See *Njeem* Arrest Warrant, para. 24.

¹⁹¹ *Ongwen* TJ, para. 2675. Such victims may also be “persons otherwise protected” under IHL such as common article 3, relevantly including those placed ‘hors de combat’ by “detention”: *Ntaganda* TJ, para. 669.

¹⁹² See e.g. *Ongwen* TJ, para. 2675.

¹⁹³ See *Ongwen* TJ, para. 2681; *Ntaganda* TJ, para. 691; *Katanga* TJ, para. 1098.

¹⁹⁴ See above paras. 6 (fn. 20), 8; below para. 58 (fn. 215).

¹⁹⁵ See *Ongwen* TJ, para. 2682 (“organised nature”); *Ntaganda* TJ, paras. 692-693; *Katanga* TJ, para. 1098.

especially those in counts 1-15—were carried out within the framework of an organised, controlled system. Witnesses consistently report the invariable routine of initial torture, followed by long periods of institutionalised mistreatment at the hands of SDF/RADA and the Mitiga guards.¹⁹⁶ Mitiga Prison functioned with discreet, horrifying efficiency, which helped ensure that SDF/RADA not only grew in power as the years went on but thrived. The power to detain opponents, and to apply unbearable pressure upon them, was key to SDF/RADA’s ability to secure and pursue its interests in Libya more broadly.

G.2.c. The attack was carried out pursuant to SDF/RADA’s organisational policy

55. Consistent with its systematic nature, the attack directed against the civilian population was committed pursuant to or in furtherance of an organisational policy to commit such an attack.¹⁹⁷ SDF/RADA was vested with “sufficiently efficient” structures or mechanisms such that it was able to carry out an attack on a civilian population¹⁹⁸—as demonstrated by its clear leadership under KARA,¹⁹⁹ its ability to command formidable resources (fighters, sophisticated weaponry, an international airport, prisons),²⁰⁰ and its deep links with the national authorities (reflected by the grant of commissions to senior SDF/RADA members, and its exercise of quasi-official functions).²⁰¹ The alleged crimes were not random but rather clearly related to one another,²⁰² since they all occurred in the common context of Mitiga Prison—which was tightly controlled by SDF/RADA—and took place in a largely similar way (including as a result of specific administrative arrangements made by SDF/RADA members such as **AL HISHRI**).²⁰³

G.3. SDF/RADA COMMITTED THE ALLEGED CRIMES AGAINST DETAINEES IN MITIGA PRISON

56. Mitiga Prison encompasses a main building (“Main Prison”) and several support buildings known as the “*Naqliah*” used to interrogate and torture detainees. Other relevant buildings include a mosque where some detainees were forced to attend religious lectures, and the

¹⁹⁶ See below e.g. paras. 62, 65-101.

¹⁹⁷ See Ongwen TJ, para. 2679. On systematicity, see above para. 54.

¹⁹⁸ Ongwen TJ, para. 2677; Katanga TJ, para. 1119.

¹⁹⁹ See below para. 110. [LBYP-OTP-0073-0025](#), paras. 22-23; [LBYP-OTP-0066-0951](#), paras. 19, 75; [LBYP-OTP-0069-0584](#), paras. 32, 129, 159; [LBYP-OTP-00007250](#), paras. 42, 60; [LBYP-OTP-0069-0506](#), paras. 82, 87-88; [LBYP-OTP-0072-0387](#), paras. 13-14; [LBYP-OTP-0080-0032](#), para. 122; [LBYP-OTP-0080-0169](#), paras. 19, 44; [LBYP-OTP-0074-0889](#), para. 28; [LBYP-OTP-0070-6952](#), paras. 127-128; [LBYP-OTP-0070-7295](#), paras. 181, 183; [LBYP-OTP-00015125](#), paras. 90-91; [LBYP-OTP-00007275](#), para. 80; [LBYP-OTP-00015420](#), para. 40.

²⁰⁰ See e.g. above paras. 29, 33-38 (and citations). See also [LBYP-OTP-0070-4009](#), p. 10.

²⁰¹ See above paras. 3, 31-38; below paras. 109, 122, 124, 130.

²⁰² Ongwen TJ, para. 2678 (explaining that the policy requirement serves to exclude unrelated and random crimes). The policy need not consist of a pre-established design, nor be formalised, but rather may be proven by inference: see e.g. Ntaganda TJ, para. 674; Bemba TJ, para. 160; Katanga TJ, para. 1109.

²⁰³ See below paras. 58-74, 112-119, 124-134

rehabilitation and training institute for certain detainees and “disobedient children”.²⁰⁴ The *Naqliah* contains offices, and rooms equipped for interrogating and/or torturing detainees.²⁰⁵ The Main Prison building covers an area of 80 by 100 metres surrounded by a high wall made of reinforced concrete blocks and multiple watchtowers.²⁰⁶ It is divided into 12 sections,²⁰⁷ each comprising multiple cells and solitary confinement cells.²⁰⁸ At all times relevant to this Application, the Main Prison held between at least 1700 and as many as 5140 detainees,²⁰⁹ including men, women, and children.²¹⁰ Separating some of the sections are at least four multi-purpose inner yards (also called “*Laryeas*”), used for torture, temporary accommodation, exercise, education, and prayers.²¹¹ One of these places was known colloquially as the “Islamic Neighbourhood”, referring to the area of Tripoli “where they sell meat and the carcasses of slaughtered animals are hanged”.²¹² In this yard in particular, Mitiga Prison staff would suspend detainees from hooks attached to the metal gridded roof, and beat them.²¹³ In 2017, SDF/RADA

²⁰⁴ See **Annex 7**, Satellite image of Tripoli, **Annex 8**, Satellite image of Mitiga Prison Complex at 1, 3, 4 and **Annex 9**, Satellite image of Main Prison Building. Witnesses refer to these buildings as the *Naqliah* (or similar terms), or as the Trailers or Containers (or similar terms), or Administration, Investigation, Interrogation, or Security Offices, but consistently place them in the same defined area of the Mitiga Compound.”.

²⁰⁵ [LBYP-OTP-0073-0025](#), paras. 84-89; [LBYP-OTP-0069-0584](#), paras. 18, 58-59, 95, 105; [LBYP-OTP-00007250](#), paras. 18, 39; [LBYP-OTP-0069-0506](#), paras. 25, 88, 116; [LBYP-OTP-0072-0387](#), paras. 47, 49-50, 64, 67; [LBYP-OTP-00018134](#), paras. 29-30; [LBYP-OTP-0080-0032](#), paras. 31, 53, 97; [LBYP-OTP-0080-0169](#), paras. 136-138, 165-166; [LBYP-OTP-0074-0889](#), paras. 52-53, 58; [LBYP-OTP-0070-6952](#), paras. 46, 48, 55, 91, 116, 121, 151-152 and [LBYP-OTP-0070-6995](#) (trans: [LBYP-OTP-00018807](#)); [LBYP-OTP-0080-0468](#), paras. 60-61, 86-89; [LBYP-OTP-00001491](#), paras. 39-43, 46-47, 61-63, 67, 83 and [LBYP-OTP-00001497](#); [LBYP-OTP-0080-0608](#), paras. 19, 71, 114; [LBYP-OTP-0070-7295](#), paras. 74, 82-83, 107, 129; [LBYP-OTP-0083-0052](#), paras. 125-127, 142; [LBYP-OTP-0085-0063](#), paras. 51, 61, 67, 76, 82; [LBYP-OTP-00015125](#), paras. 24, 26, 46-47, 49-51, 77; [LBYP-OTP-00007275](#), paras. 24-27, 54, 71-72, 78, 104 and [LBYP-OTP-00007280](#) (trans: [LBYP-OTP-00018804](#)); [LBYP-OTP-00015360](#), paras. 21-24, 27-28, 35, 39-40, 160-161, 182, 200 and [LBYP-OTP-00015372](#) (trans: [LBYP-OTP-00018771](#)); [LBYP-OTP-00018075](#), paras. 25-26, 71-73, 76-78, 85 and [LBYP-OTP-00018076](#); [LBYP-OTP-00015405](#), paras. 42, 77-81; [LBYP-OTP-00015420](#), paras. 24, 48; [LBYP-OTP-00016916](#), paras. 24, 67-68; [LBYP-OTP-00016896](#), para. 26; [LBYP-OTP-00018119](#), para. 36 and [LBYP-OTP-00018121](#). See below paras. 68-69.

²⁰⁶ See **Annex 9**, Satellite image of Main Prison Building; [LBYP-OTP-00015405](#), para. 44; [LBYP-OTP-0066-0332](#), at 0334. See also [LBYP-OTP-00019871](#).

²⁰⁷ See **Annex 9**, Satellite image of Main Prison Building at “S1-S11”.

²⁰⁸ [LBYP-OTP-0066-0951](#), paras. 31, 89, 90, 94; [LBYP-OTP-0069-0584](#), paras. 21, 23, 27-28, 64, 86-87, 128; [LBYP-OTP-0069-0506](#), paras. 34, 50, 113, 139; [LBYP-OTP-00018134](#), paras. 38, 42, 46, 60, 66; [LBYP-OTP-0080-0032](#), paras. 58, 80, 83, 138; [LBYP-OTP-0080-0169](#), paras. 33, 207, 221, 224; [LBYP-OTP-0074-0889](#), paras. 33-34, 63, 85; [LBYP-OTP-0070-6952](#), paras. 62, 64, 144, 160, 164; [LBYP-OTP-0080-0468](#), para. 73; [LBYP-OTP-0083-0663](#), paras. 127-132; [LBYP-OTP-00015152](#), para. 90; [LBYP-OTP-0080-0608](#), paras. 49, 135, 176; [LBYP-OTP-0070-7295](#), paras. 80, 135; [LBYP-OTP-0083-0052](#), paras. 39, 62, 68, 73, 100-101, 169-170; [LBYP-OTP-0085-0063](#), para. 70; [LBYP-OTP-00015125](#), paras. 31, 99; [LBYP-OTP-00007275](#), paras. 69, 99-100; [LBYP-OTP-00015360](#), para. 48, 199; [LBYP-OTP-00018075](#), paras. 34, 87; [LBYP-OTP-00015405](#), paras. 93, 118-119; [LBYP-OTP-00015420](#), paras. 27, 45; [LBYP-OTP-00016916](#), paras. 26, 36, 45, 48, 76-77; [LBYP-OTP-00016896](#), paras. 35-36, 62; [LBYP-OTP-00018119](#), paras. 40, 42. See also [LBYP-OTP-00019869](#) and [LBYP-OTP-00019872](#).

²⁰⁹ See above fn. 20.

²¹⁰ See e.g. [LBYP-OTP-00018738](#), pp. 3, 18.

²¹¹ See **Annex 9**, Satellite image of Main Prison Building at “Y2”, “Y3”, “Y4”, and “Y5”.

²¹² [LBYP-OTP-00007275](#), para. 43; [LBYP-OTP-00020267](#), para. 74.

²¹³ See **Annex 9**, Satellite image of Main Prison Building at “Y3”. [LBYP-OTP-0073-0025](#), paras. 149, 159-160; [LBYP-OTP-0066-0951](#), paras. 40, 93; [LBYP-OTP-0069-0584](#), paras. 24, 90-94; [LBYP-OTP-0069-0506](#), paras. 127-129; [LBYP-OTP-00018134](#), para. 38 (2); [LBYP-OTP-0080-0032](#), paras. 33-34; [LBYP-OTP-0080-0169](#), paras. 31, 51, 70, 242; [LBYP-OTP-0074-0889](#), paras. 35 (E), 73-75, 80-81; [LBYP-OTP-0083-0052](#), paras. 57-58, 80 (S); [LBYP-OTP-00020099](#), paras. 46-49; [LBYP-OTP-00015125](#), paras. 40-44, 99 (12); [LBYP-OTP-00007275](#), paras. 43, 99

created an outside yard immediately north of the Main Prison.²¹⁴

57. SDF/RADA members and those controlled by them carried out the alleged crimes against detainees in Mitiga Prison. As explained in the following paragraphs, this entailed both the systematic mistreatment of all detainees (counts 1-5) and the infliction of additional specific crimes upon certain detainees, such as: rape and other sexual violence (counts 6-9); murder (counts 10-11); summary punishment (count 12); enslavement and sexual slavery (counts 13-15), and; persecution (count 16). At least the crimes in counts 1-15 fell within the scope of the alleged common purpose, as described below. At all material times, the victims (SDF/RADA detainees) were civilians or persons *hors de combat* as a result of their detention.

G.3.a. SDF/RADA detainees were systematically mistreated: counts 1-5

58. There are reasonable grounds to believe that all SDF/RADA detainees at Mitiga Prison—calculated to be at least 5140 from February 2015 to at least early 2020, including a representative sample of 796²¹⁵—were systematically mistreated as alleged in counts 1-5.

59. Notably, detainees under SDF/RADA control were: imprisoned or otherwise severely deprived of their physical liberty in violation of fundamental rules of international law (in all cases due to the circumstances and conditions of detention, and in many cases also due to the absence of any lawful authority to detain them); subjected to great and severe physical or mental pain or suffering, and; humiliated and degraded. This severe mistreatment was inflicted for multiple prohibited purposes, including obtaining information or a confession, punishment, intimidation or coercion and for reasons based on discrimination. The pain or suffering inflicted did not arise only from, and was not inherent in or incidental to, any lawful sanction.²¹⁶

G.3.a.i. Detainees were held unlawfully

60. While some detainees may have been held at Mitiga Prison on a lawful basis (as criminal

(A4); [LBY-OTP-00018772](#), paras. 29-35; [LBY-OTP-00015360](#), paras. 48, 61, 199; [LBY-OTP-00015405](#), para. 62; [LBY-OTP-00015420](#), para. 25; [LBY-OTP-00016916](#), paras. 39, 77 (L); [LBY-OTP-00019195](#), paras. 105-108. Events in the “Islamic Neighbourhood” could be seen from several cells and corridors: see e.g. [LBY-OTP-0069-0584](#), paras. 24, 91-94; [LBY-OTP-0080-0032](#), para. 61; [LBY-OTP-00015125](#), para. 43; [LBY-OTP-00007275](#), paras. 43; [LBY-OTP-00016916](#), para. 39; [LBY-OTP-00019195](#), para. 108. See also [LBY-OTP-00018631](#).

²¹⁴ See **Annex 8**, Satellite image of Mitiga Prison Complex at “2” and **Annex 9**, Satellite image of Main Prison Building at “Y1”. See also [LBY-OTP-0066-0332](#), at 0333, 0342.

²¹⁵ See Non-exhaustive list of victims at Mitiga Prison, [LBY-OTP-00020680](#). This list of sample victims includes: (1) [REDACTED] Prosecution witnesses ([REDACTED]); (2) 111 victims of crimes seen by a Prosecution witness (23 women, 83 men, 4 boys, 1 girl); (3) 74 victims of crimes heard by a Prosecution witness or resulting injuries seen (15 women, 50 men, and 9 children, including 2 boys and 3 girls); (4) 33 victims who died in their cells as a result of torture and/or mistreatment (all men); (5) 328 victims detained in inadequate conditions in identified sections or cells (22 women, 298 men, and 8 children, including 3 boys and 2 girls); and (6) 215 victims detained in unspecified sections where conditions are inferred (38 women, 173 men, and 4 children, including 3 boys).

²¹⁶ For the purpose of count 1 (imprisonment), the fact of detention without lawful basis itself suffices to establish the crime, irrespective of the conditions of detention. In other cases, the Office has taken the position in principle that such unlawful conduct similarly constitutes humiliating or degrading treatment, irrespective of the conditions of detention, for the purpose of count 2 (outrages). Yet this legal question need not be decided in this case, since the conditions of detention were in any event such as to meet the requirements of count 2, among others.

suspects on remand, or serving a judicial sentence), most were not. This is evident from: the circumstances in which persons were arrested by SDF/RADA; the absence of due process once detainees were brought to Mitiga Prison, and; SDF/RADA's rejection of external authority, including arbitrary refusals to yield detainees to prosecutorial or judicial authorities.

61. Many detainees at Mitiga Prison were arrested by SDF/RADA members themselves, for perceived opposition to SDF/RADA interests, for behaviour inconsistent with the SDF/RADA leadership's radical *Madkhali* (Salafist) views, or for the purpose of extortion or coercion. SDF/RADA identified such persons by coercing others, or by covert surveillance, or entrapment operations.²¹⁷ Where necessary for its purposes, SDF/RADA would arrest family members of targeted persons, including women, children, and the elderly.²¹⁸ SDF/RADA would also examine the contacts, communications, and social media activities of those it arrested, and exploit them to arrest others.²¹⁹ Such arrests could take place anywhere, including at homes and workplaces. Other arrests took place merely on the basis of generalised suspicions, such as at roadblocks or demonstrations. SDF/RADA also detained people, including many migrants, to enslave them.²²⁰ In carrying out arrests, SDF/RADA members often disguised or failed to identify themselves.²²¹ They did not inform detainees of their rights, why they were arrested,

²¹⁷ [LBYP-OTP-0073-0025](#), paras. 78-80, 82, 109-110, 112; [LBYP-OTP-0068-0003](#), para. 17; [LBYP-OTP-0072-0387](#), paras. 33, 42, 51, 60, 63, 111; [LBYP-OTP-00018134](#), para. 28; [LBYP-OTP-0080-0032](#), para. 53; [LBYP-OTP-0080-0169](#), paras. 111, 120, 127, 171-172, 259-260; [LBYP-OTP-0074-0889](#), paras. 55, 231; [LBYP-OTP-0070-6952](#), paras. 52-53; [LBYP-OTP-00001491](#), paras. 28, 31-33, 64-66, 133-134; [LBYP-OTP-0085-0063](#), paras. 52-53; [LBYP-OTP-00015125](#), para. 82; [LBYP-OTP-00018075](#), para. 81. See also [LBYP-OTP-0070-3588](#), p. 8.

²¹⁸ [LBYP-OTP-0074-0889](#), para. 91; [LBYP-OTP-0083-0663](#), para. 143; [LBYP-OTP-00007275](#), para. 28; [LBYP-OTP-00018075](#), para. 38; [LBYP-OTP-00015405](#), para. 82; [LBYP-OTP-00015420](#), paras. 15, 29-30; [LBYP-OTP-00016916](#), para. 50. See also [LBYP-OTP-0070-3642](#), para. 38; [LBYP-OTP-00018738](#), p. 5.

²¹⁹ [LBYP-OTP-0073-0025](#), paras. 78, 80, 82-83; [LBYP-OTP-0068-0003](#), para. 17; [LBYP-OTP-00001366](#), p. 37, ln. 24 to p. 38, ln. 6; [LBYP-OTP-00018134](#), para. 28; [LBYP-OTP-0080-0032](#), paras. 48, 53; [LBYP-OTP-00001491](#), paras. 28, 31-34; [LBYP-OTP-00018787](#), para. 18.

²²⁰ [LBYP-OTP-00018745](#), p. 243; [LBYP-OTP-0066-1022](#), p. 48; [LBYP-OTP-00020173](#); [LBYP-OTP-0069-0506](#), paras. 136-137; [LBYP-OTP-0083-0052](#), paras. 20, 76-77, and [LBYP-OTP-0083-0090](#); [LBYP-OTP-00020267](#), para. 92; [LBYP-OTP-0080-0608](#), para. 99.

²²¹ [LBYP-OTP-0073-0025](#), paras. 74-76; [LBYP-OTP-0066-0951](#), paras. 15, 19; [LBYP-OTP-0068-0003](#), paras. 13-15; [LBYP-OTP-0069-0584](#), paras. 34-39, 45; [LBYP-OTP-00007250](#), paras. 14-15; [LBYP-OTP-0069-0506](#), para. 13; [LBYP-OTP-00001366](#), p. 17, ln. 9 to p. 19, ln. 8; [LBYP-OTP-00018134](#), paras. 20-23; [LBYP-OTP-0080-0032](#), paras. 43-48; [LBYP-OTP-0080-0169](#), paras. 119-123; [LBYP-OTP-0070-6952](#), paras. 43-44; [LBYP-OTP-0080-0468](#), paras. 84-85; [LBYP-OTP-00001491](#), paras. 23-26; [LBYP-OTP-0080-0608](#), paras. 15-19; [LBYP-OTP-0083-0189](#), paras. 114-128; [LBYP-OTP-0070-7295](#), paras. 59-65; [LBYP-OTP-0083-0052](#), paras. 19, 21-23; [LBYP-OTP-0085-0063](#), para. 48; [LBYP-OTP-00015125](#), paras. 18-21; [LBYP-OTP-00007275](#), paras. 18-24; [LBYP-OTP-00018772](#), paras. 17-18; [LBYP-OTP-00015360](#), paras. 14-18; [LBYP-OTP-00015405](#), para. 34; [LBYP-OTP-00018787](#), paras. 14-17; [LBYP-OTP-00015420](#), para. 16; [LBYP-OTP-00016916](#), paras. 15-17; [LBYP-OTP-00016896](#), para. 23; [LBYP-OTP-00018119](#), paras. 20-27. See also [LBYP-OTP-00018765](#), para. 5; [LBYP-OTP-00018764](#), paras. 8, 12.

or where they were taken.²²² Arrests were violent, intimidating, and abusive.²²³ Detainees' belongings were often seized and never returned.²²⁴

62. Following arrest by SDF/RADA, most detainees were taken directly to Mitiga.²²⁵ Detainees arrested and detained by other groups would also sometimes be transferred to Mitiga.²²⁶ In either scenario, the absence of due process or legal protection was again manifest on arrival at Mitiga Prison.²²⁷ Detainees were not informed why they were detained;²²⁸ frequently, they were subject to accusations which they did not understand or that changed.²²⁹ On arrival, detainees would systematically be subjected to an initial period of interrogation and torture, designed to extract information, to compel physical and mental submission, and to punish and demean.²³⁰

²²² [LBY-OTP-0068-0003](#), paras. 14, 16; [LBY-OTP-0069-0584](#), paras. 39, 55; [LBY-OTP-00001366](#), p. 31, lns. 16-21; [LBY-OTP-00018134](#), para. 24; [LBY-OTP-0074-0889](#), para. 51; [LBY-OTP-0080-0468](#), para. 86; [LBY-OTP-00001491](#), para. 39; [LBY-OTP-0083-0189](#), paras. 120, 122, 127; [LBY-OTP-00015125](#), paras. 22-23; [LBY-OTP-00007275](#), paras. 24, 36; [LBY-OTP-00015360](#), para. 19; [LBY-OTP-00018075](#), para. 29; [LBY-OTP-00018787](#), paras. 16, 26; [LBY-OTP-00016916](#), paras. 22, 24; [LBY-OTP-00016896](#), paras. 23-24; [LBY-OTP-00018119](#), para. 27; [LBY-OTP-00019195](#), para. 33; [LBY-OTP-00020358](#), para. 26. See also [LBY-OTP-00018738](#), p. 20; [LBY-OTP-00018764](#), paras. 8, 12.

²²³ [LBY-OTP-0073-0025](#), paras. 76-80; [LBY-OTP-0066-0951](#), para. 15; [LBY-OTP-0068-0003](#), paras. 14-15; [LBY-OTP-0069-0584](#), paras. 34-39; [LBY-OTP-0069-0506](#), paras. 12-14; [LBY-OTP-00018134](#), paras. 23-24; [LBY-OTP-0080-0169](#), paras. 121-122; [LBY-OTP-0074-0889](#), paras. 40-50; [LBY-OTP-0080-0468](#), paras. 84-85; [LBY-OTP-00001491](#), paras. 24-26; [LBY-OTP-0083-0189](#), paras. 114-128; [LBY-OTP-0070-7295](#), para. 70; [LBY-OTP-0083-0052](#), paras. 19, 21-23; [LBY-OTP-0085-0063](#), paras. 48-49; [LBY-OTP-00007275](#), paras. 19, 23; [LBY-OTP-00018772](#), paras. 17-18; [LBY-OTP-00015360](#), paras. 14-18; [LBY-OTP-00018075](#), para. 31; [LBY-OTP-00015405](#), para. 34; [LBY-OTP-00015420](#), para. 16; [LBY-OTP-00016916](#), para. 17; [LBY-OTP-00016896](#), para. 23; [LBY-OTP-00019195](#), paras. 28-33.

²²⁴ [LBY-OTP-0073-0025](#), para. 75; [LBY-OTP-0066-0951](#), paras. 15-17; [LBY-OTP-0068-0003](#), para. 14; [LBY-OTP-0080-0032](#), paras. 47-48; [LBY-OTP-0074-0889](#), para. 44; [LBY-OTP-0070-7295](#), paras. 64-65, 69-70; [LBY-OTP-00007275](#), para. 20; [LBY-OTP-00015360](#), para. 23; [LBY-OTP-00015405](#), paras. 34, 38-41; [LBY-OTP-00016916](#), para. 16; [LBY-OTP-00016896](#), para. 25; [LBY-OTP-00018119](#), paras. 24, 26, 37; [LBY-OTP-00020236](#), para. 15.

²²⁵ [LBY-OTP-0073-0025](#), para. 83; [LBY-OTP-0066-0951](#), para. 18; [LBY-OTP-0068-0003](#), para. 16; [LBY-OTP-00001366](#), p. 29, ln. 15 to p. 31, ln. 21; [LBY-OTP-00018134](#), para. 27; [LBY-OTP-0080-0032](#), paras. 48-49, 51; [LBY-OTP-00018119](#), para. 27.

²²⁶ [LBY-OTP-0069-0584](#), paras. 48-56; [LBY-OTP-00007250](#), paras. 15-18; [LBY-OTP-0069-0506](#), paras. 16-24; [LBY-OTP-00001491](#), paras. 27-39; [LBY-OTP-00016916](#), paras. 18-22; [LBY-OTP-00018745](#), p. 243.

²²⁷ [LBY-OTP-00019195](#), para. 92.

²²⁸ [LBY-OTP-0073-0025](#), paras. 128-129; [LBY-OTP-0066-0951](#), para. 23; [LBY-OTP-0068-0003](#), paras. 14, 16, 50; [LBY-OTP-0069-0506](#), paras. 15, 29, 47; [LBY-OTP-0080-0468](#), para. 105; [LBY-OTP-0083-0189](#), paras. 127-128; [LBY-OTP-00015125](#), para. 23; [LBY-OTP-00016896](#), para. 24. See also [LBY-OTP-0070-4009](#), p. 12.

²²⁹ [LBY-OTP-0073-0025](#), para. 86; [LBY-OTP-0069-0584](#), para. 101; [LBY-OTP-00007250](#), para. 39; [LBY-OTP-0069-0506](#), paras. 19, 47; [LBY-OTP-00018134](#), para. 51; [LBY-OTP-0080-0169](#), paras. 122, 124, 166; [LBY-OTP-0074-0889](#), paras. 50, 77; [LBY-OTP-0070-6952](#), paras. 45, 51; [LBY-OTP-0083-0052](#), para. 191; [LBY-OTP-0085-0063](#), para. 81; [LBY-OTP-00015125](#), para. 47; [LBY-OTP-00007275](#), paras. 30, 56, 71-72; [LBY-OTP-00015360](#), paras. 18, 40; [LBY-OTP-00018075](#), paras. 79-81, 91-94; [LBY-OTP-00015405](#), paras. 40-41, 77, 81, 92; [LBY-OTP-00016896](#), paras. 27, 32; [LBY-OTP-00018119](#), para. 33-34, 48, 56-58, 71-72, 100.

²³⁰ [LBY-OTP-0073-0025](#), paras. 101-113, 118, 120-126; [LBY-OTP-0066-0951](#), paras. 23-27, 29-30, 33; [LBY-OTP-0069-0584](#), paras. 95-97, 100-102; [LBY-OTP-00007250](#), paras. 18-23, 32-36, 39; [LBY-OTP-0069-0506](#), paras. 114-120; [LBY-OTP-0072-0387](#), paras. 52-54; [LBY-OTP-00018134](#), paras. 29-31, 51-53; [LBY-OTP-0080-0032](#), paras. 70-79; [LBY-OTP-0080-0169](#), paras. 160-175; [LBY-OTP-0074-0889](#), paras. 52-61, 73-75, 77-82, 107; [LBY-OTP-0070-6952](#), paras. 48-55, 92-97; [LBY-OTP-00001491](#), paras. 34, 39-46, 60-72, 76-87; [LBY-OTP-0080-0608](#), paras. 67-69; [LBY-OTP-0070-7295](#), paras. 71-78, 81-87; [LBY-OTP-0083-0052](#), paras. 124-128; [LBY-OTP-0085-0063](#), paras. 51-59, 67-69, 76-78, 81, 83; [LBY-OTP-00015125](#), paras. 41, 46-54; [LBY-OTP-00007275](#), paras. 25, 28-31, 40-41, 54, 56, 71-72; [LBY-OTP-00015360](#), paras. 26-43, 99-104; [LBY-OTP-00018075](#), paras. 79-85; [LBY-OTP-00015405](#), paras. 42-43, 74-92; [LBY-OTP-00018787](#), para. 33; [LBY-OTP-00016896](#), paras. 26-30, 40-44, 67-68; [LBY-OTP-00020236](#), para. 16; [LBY-OTP-00020267](#), paras. 32-33.

No legal assistance was provided.²³¹ Most detainees were never charged, or brought before a prosecutor or a judge,²³² with many lacking any record of their detention.²³³

63. Even for those detainees eventually brought before a prosecutor, transferred to another detention site, or released,²³⁴ these decisions were taken arbitrarily,²³⁵ and followed no regular procedure.²³⁶ Some detainees went on hunger strike to try and obtain a referral.²³⁷ While publicly claiming that “prisoners were systematically presented to the Attorney General in accordance with legal procedures”,²³⁸ SDF/RADA resisted external efforts to review detentions at Mitiga Prison.²³⁹ Some detainees were eventually released without explanation,²⁴⁰ some had simply been detained by mistake.²⁴¹ Others were ransomed by their families.²⁴²

²³¹ [LBY-OTP-0073-0025](#), para. 86; [LBY-OTP-0069-0584](#), paras. 118, 210; [LBY-OTP-00007250](#), para. 63; [LBY-OTP-00001366](#), p. 30, lns. 19-20; [LBY-OTP-00018134](#), para. 95; [LBY-OTP-0070-6952](#), para. 125; [LBY-OTP-0080-0468](#), para. 105; [LBY-OTP-0080-0608](#), paras. 73-74; [LBY-OTP-00007275](#), para. 77; [LBY-OTP-00020236](#), para. 16.

²³² [LBY-OTP-0065-0649](#), para. 37; [LBY-OTP-0069-0584](#), para. 210; [LBY-OTP-00007250](#), paras. 46, 63; [LBY-OTP-0069-0506](#), paras. 15, 32, 47, 66, 146; [LBY-OTP-00018134](#), para. 95; [LBY-OTP-0080-0032](#), paras. 90-92, 168; [LBY-OTP-0080-0169](#), para. 251; [LBY-OTP-0074-0889](#), para. 173; [LBY-OTP-0080-0468](#), paras. 94, 105; [LBY-OTP-00001491](#), para. 119; [LBY-OTP-0083-0189](#), paras. 127-128; [LBY-OTP-0070-7295](#), para. 142; [LBY-OTP-0083-0052](#), para. 191; [LBY-OTP-0085-0063](#), para. 88; [LBY-OTP-00018075](#), para. 95; [LBY-OTP-00015405](#), paras. 14, 91; [LBY-OTP-00016916](#), para. 29. *See also* [LBY-OTP-00018764](#), para. 11; [LBY-OTP-0070-3642](#), para. 62; [LBY-OTP-0070-4075](#), para. 32.

²³³ [LBY-OTP-0065-0649](#), para. 51; [LBY-OTP-0069-0584](#), para. 212; [LBY-OTP-00007250](#), para. 67; [LBY-OTP-0069-0506](#), para. 146; [LBY-OTP-0070-6952](#), para. 125; [LBY-OTP-0080-0468](#), para. 123; [LBY-OTP-0083-0189](#), para. 145; [LBY-OTP-0085-0063](#), paras. 90-91, 95; [LBY-OTP-00015420](#), para. 48.

²³⁴ [LBY-OTP-0069-0506](#), para. 66; [LBY-OTP-0080-0032](#), paras. 90-92; [LBY-OTP-0080-0608](#), paras. 72-76, 111-113; [LBY-OTP-0070-7295](#), paras. 99-114; [LBY-OTP-00015125](#), paras. 55, 58-59; [LBY-OTP-00007275](#), paras. 72, 74-78; [LBY-OTP-00015360](#), paras. 170-172, 177; [LBY-OTP-00016916](#), paras. 69-71; [LBY-OTP-00016896](#), paras. 83-84; [LBY-OTP-00018738](#), p. 18; [LBY-OTP-0070-4037](#), para. 35; [LBY-OTP-0070-3758](#), para. 57; [LBY-OTP-00018741](#), para. 49; [LBY-OTP-00018742](#), paras. 60; [LBY-OTP-00018743](#), para. 33.

²³⁵ [LBY-OTP-00018134](#), para. 80; [LBY-OTP-0080-0032](#), paras. 91-92; [LBY-OTP-00018772](#), para. 87-88; [LBY-OTP-00018787](#), para. 35; [LBY-OTP-00015420](#), para. 21.

²³⁶ [LBY-OTP-0080-0608](#), paras. 72-77; [LBY-OTP-0070-7295](#), paras. 115-118, 172; [LBY-OTP-0070-7346](#) (trans: [LBY-OTP-00019036](#)); [LBY-OTP-0083-0052](#), para. 185; [LBY-OTP-00015125](#), para. 59; [LBY-OTP-00015405](#), para. 72; [LBY-OTP-00015360](#), paras. 99-102, 168-175, 180, 185. *See also* [LBY-OTP-00018768](#), paras. 13-16; [LBY-OTP-00016916](#), para. 70.

²³⁷ [LBY-OTP-00016896](#), para. 64; [LBY-OTP-00020267](#), para. 132. *See also* [LBY-OTP-00018761](#), para. 51; [LBY-OTP-00020358](#), para. 83.

²³⁸ [LBY-OTP-00018739](#), paras. 39-43.

²³⁹ [LBY-OTP-0069-0150](#) (trans: [LBY-OTP-0070-0008](#)); [LBY-OTP-00019128](#) (trans: [LBY-OTP-00019173](#)); [LBY-OTP-0069-0151](#) (trans: [LBY-OTP-0070-0010](#)); [LBY-OTP-0065-0649](#), para. 49; [LBY-OTP-00018134](#), para. 87; [LBY-OTP-0080-0032](#), para. 98; [LBY-OTP-0074-0889](#), para. 173; [LBY-OTP-0080-0468](#), paras. 76, 99; [LBY-OTP-00015152](#), para. 47; [LBY-OTP-0080-0608](#), paras. 95, 153, 214; [LBY-OTP-0070-7295](#), paras. 127, 192; [LBY-OTP-0083-0052](#), para. 113; [LBY-OTP-00007275](#), paras. 45, 67 and [LBY-OTP-00007282](#) (trans: [LBY-OTP-00018871](#)); [LBY-OTP-00015360](#), paras. 164, 166-167; [LBY-OTP-00015405](#), paras. 93, 111; [LBY-OTP-00018787](#), para. 58; [LBY-OTP-00016896](#), para. 84. *See also* [LBY-OTP-0070-3642](#), para. 65; [LBY-OTP-0070-4037](#), paras. 33-34; [LBY-OTP-0070-3758](#), para. 57; [LBY-OTP-00018764](#), paras. 10, 15; [LBY-OTP-0044-0518](#) (trans: [LBY-OTP-0070-0543](#)); [LBY-OTP-00018738](#), p. 18.

²⁴⁰ [LBY-OTP-0069-0506](#), paras. 138-142; [LBY-OTP-0080-0032](#), paras. 90-92; [LBY-OTP-0080-0169](#), paras. 252-256; [LBY-OTP-0074-0889](#), paras. 227-229; [LBY-OTP-0080-0468](#), paras. 141-143; [LBY-OTP-0085-0063](#), paras. 84-86; [LBY-OTP-00007275](#), paras. 74-79; [LBY-OTP-00018075](#), paras. 121-126; [LBY-OTP-00015405](#), paras. 110-115; [LBY-OTP-00016896](#), paras. 81-85; [LBY-OTP-00016916](#), paras. 15, 69-72. *See also* [LBY-OTP-00016896](#), paras. 23, 81-85; [LBY-OTP-00015420](#), para. 48.

²⁴¹ [LBY-OTP-00018134](#), paras. 91-92; [LBY-OTP-0070-6952](#), paras. 118-124; [LBY-OTP-0070-7295](#), para. 172.

²⁴² [LBY-OTP-00018119](#), para. 92.

64. Whatever their status, detainees were often held for years without knowing their fate.²⁴³ Mitiga Prison was “a well with smooth walls that you cannot get out of”.²⁴⁴ As P-0650 stated, “there was no investigation, no attorney, no prosecution, no prisoner rights inside Mitiga”.²⁴⁵ Many detainees were held *incommunicado*,²⁴⁶ leaving families in fear for their loved ones.²⁴⁷ SDF/RADA would sometimes deny that it detained a particular person,²⁴⁸ or refuse all visitors.²⁴⁹ More often, family contact and visits were decided arbitrarily.²⁵⁰ Visits were rare and usually short.²⁵¹ Contact was sometimes permitted via video-link, closely monitored.²⁵²

G.3.a.ii. Detainees were held in inadequate conditions

65. Conditions at Mitiga Prison were dire. Detainees were held in overcrowded cells; or in solitary confinement, in such small spaces that their muscles atrophied; or in open yards, exposed to the weather.²⁵³ Most detainees were “packed like sardines” into cells, sleeping head to toe; while some slept, others had to stand for hours (including on one leg), and then swap. At most, detainees had a blanket, plastic refuse or cardboard to lie on. Conditions were so

²⁴³ [LBY-OTP-0080-0468](#), para. 94; [LBY-OTP-00020267](#), paras. 98-100. See also [LBY-OTP-0080-0608](#), para. 26; **Annex 5**, Prosecution Crime Base Witnesses (detention for periods ranging [REDACTED]).

²⁴⁴ [LBY-OTP-0069-0584](#), para. 210.

²⁴⁵ [LBY-OTP-0080-0468](#), para. 105.

²⁴⁶ [LBY-OTP-0066-0951](#), para. 25; [LBY-OTP-0069-0584](#), para. 67; [LBY-OTP-00007250](#), paras. 37-38; [LBY-OTP-0080-0169](#), paras. 178; [LBY-OTP-0070-6952](#), paras. 106-108; [LBY-OTP-00001491](#), paras. 52-53; [LBY-OTP-00015152](#), paras. 42, 46, 51, 109; [LBY-OTP-0085-0063](#), paras. 52-53; [LBY-OTP-00015125](#), para. 37; [LBY-OTP-00018075](#), para. 32; [LBY-OTP-00015405](#), paras. 110, 113-114.

²⁴⁷ [LBY-OTP-0080-0169](#), paras. 239, 246-250; [LBY-OTP-0070-6952](#), paras. 106-108.

²⁴⁸ [LBY-OTP-0069-0506](#), para. 131.

²⁴⁹ [LBY-OTP-0073-0025](#), paras. 133, 161; [LBY-OTP-0069-0584](#), para. 86; [LBY-OTP-0069-0506](#), para. 130; [LBY-OTP-00015405](#), para. 88.

²⁵⁰ [LBY-OTP-0080-0032](#), para. 87; [LBY-OTP-00015152](#), para. 59; [LBY-OTP-0085-0063](#), para. 91.

²⁵¹ [LBY-OTP-0066-0951](#), paras. 49-58; [LBY-OTP-0069-0584](#), paras. 116-117; [LBY-OTP-00018134](#), para. 62; [LBY-OTP-0080-0032](#), para. 88; [LBY-OTP-0070-6952](#), paras. 112-114; [LBY-OTP-0080-0608](#), para. 64; [LBY-OTP-0085-0063](#), paras. 84-85; [LBY-OTP-00015125](#), para. 37; [LBY-OTP-00007275](#), paras. 45, 57; [LBY-OTP-00018772](#), para. 86; [LBY-OTP-00015360](#), para. 150; [LBY-OTP-00018075](#), para. 119; [LBY-OTP-00015405](#), para. 112; [LBY-OTP-00018787](#), paras. 60-61; [LBY-OTP-00016916](#), para. 41; [LBY-OTP-00019195](#), paras. 124-125; [LBY-OTP-00020358](#), paras. 153-154.

²⁵² [LBY-OTP-0073-0025](#), para. 161; [LBY-OTP-0066-0951](#), paras. 49, 95; [LBY-OTP-0069-0584](#), paras. 29, 100, 116-117; [LBY-OTP-0080-0032](#), para. 88; [LBY-OTP-0080-0169](#), paras. 30, 34 (K), 153, 241; [LBY-OTP-0074-0889](#), paras. 35 (VR), 210; [LBY-OTP-0080-0608](#), paras. 64, 214; [LBY-OTP-0070-7295](#), para. 122; [LBY-OTP-0083-0052](#), paras. 65, 80 (L), 186; [LBY-OTP-00020099](#), paras. 52-53; [LBY-OTP-00007275](#), para. 99 (A20); [LBY-OTP-00016916](#), para. 41; [LBY-OTP-00018119](#), paras. 40, 76; [LBY-OTP-00020358](#), para. 153.

²⁵³ [LBY-OTP-0073-0025](#), paras. 95, 99-100; [LBY-OTP-0066-0951](#), paras. 31, 34; [LBY-OTP-0068-0003](#), paras. 20-21; [LBY-OTP-0069-0584](#), paras. 64, 66, 70, 74; [LBY-OTP-00007250](#), para. 27; [LBY-OTP-0069-0506](#), paras. 38-39, 42, 67-68; [LBY-OTP-00018134](#), paras. 40, 61, 66; [LBY-OTP-0080-0032](#), paras. 59, 61, 80, 86; [LBY-OTP-0080-0169](#), paras. 144, 158-159; [LBY-OTP-0074-0889](#), paras. 116, 155, 157; [LBY-OTP-0070-6952](#), paras. 68, 117; [LBY-OTP-0080-0468](#), paras. 94-95; [LBY-OTP-0083-0663](#), paras. 127-128; [LBY-OTP-00001491](#), paras. 55, 57-58, 97; [LBY-OTP-0080-0608](#), paras. 23-24, 27, 62; [LBY-OTP-0070-7295](#), paras. 79, 120; [LBY-OTP-00015125](#), paras. 31-32, 61; [LBY-OTP-00007275](#), paras. 33, 55, 69; [LBY-OTP-00018772](#), paras. 36, 40, 44; [LBY-OTP-00015360](#), paras. 49-50, 88-89; [LBY-OTP-00015420](#), paras. 19, 27; [LBY-OTP-00016916](#), para. 29; [LBY-OTP-00016896](#), paras. 35-42, 44, 52; [LBY-OTP-00018119](#), paras. 43, 54; [LBY-OTP-00019195](#), paras. 41-42, 44-45; [LBY-OTP-00020236](#), paras. 15, 30, 33, 51; [LBY-OTP-00020267](#), paras. 44, 56; [LBY-OTP-00020358](#), paras. 48, 50-51, 105. For photographs and drawing of cells at Mitiga Prison, see also [LBY-OTP-0080-0608](#), paras. 203-204 and [LBY-OTP-0080-0674](#), [LBY-OTP-0080-0675](#); [LBY-OTP-00001514](#) and [LBY-OTP-00001491](#), para. 145; [LBY-OTP-0066-0991](#) and [LBY-OTP-0066-0951](#), para. 37. See also [LBY-OTP-00018738](#), pp. 28, 30-31.

cramped that detainees often fought one another over space, food, or sleeping time.²⁵⁴

66. The cells stank; they were filthy, infested, and airless.²⁵⁵ Detainees looked “like they were living in a cave”.²⁵⁶ Wearing their only clothes, unshaven, detainees could rarely wash, and sometimes had to use the dirty water in the cell toilet.²⁵⁷ Some cells had just one toilet—often a hole in the ground, with no privacy—for up to 100 detainees.²⁵⁸ Held separately in the “Women’s Section” in the same unsanitary conditions, together with infants and children, women were denied basic menstrual care. Some women gave birth in these conditions.²⁵⁹

67. Food was inadequate and often inedible; “you wouldn’t even give it to a dog”.²⁶⁰ Food provided by the national authorities for the detainees was sold for the personal profit of the SDF/RADA leadership.²⁶¹ Detainees were malnourished and dehydrated, harming their health.

²⁵⁴ [LBY-OTP-00001491](#), paras. 57-58, 75; [LBY-OTP-00007250](#), para. 28; [LBY-OTP-00007275](#), para. 37; [LBY-OTP-00015125](#), para. 33; [LBY-OTP-00015405](#), para. 60; [LBY-OTP-00016896](#), paras. 36, 38, 44; [LBY-OTP-00016916](#), para. 31; [LBY-OTP-00018075](#), para. 51; [LBY-OTP-00018119](#), paras. 43-44, 49; [LBY-OTP-00018134](#), paras. 40, 42, 44-45; [LBY-OTP-00018787](#), paras. 29-30; [LBY-OTP-00019195](#), paras. 42, 44-45; [LBY-OTP-0066-0951](#), paras. 34-35; [LBY-OTP-0069-0506](#), para. 42; [LBY-OTP-0069-0584](#), paras. 66, 74, 111; [LBY-OTP-0070-6952](#), para. 117; [LBY-OTP-0073-0025](#), paras. 93, 95; [LBY-OTP-0080-0032](#), para. 59; [LBY-OTP-0080-0169](#), paras. 147, 159; [LBY-OTP-0080-0608](#), paras. 24, 27, 47; [LBY-OTP-0083-0052](#), para. 103; [LBY-OTP-0083-0663](#), paras. 128, 159; [LBY-OTP-0085-0063](#), para. 71; [LBY-OTP-00020358](#), paras. 56, 105. *See also* [LBY-OTP-0066-0991](#); [LBY-OTP-0066-0951](#), para. 37.

²⁵⁵ [LBY-OTP-0073-0025](#), paras. 95, 99; [LBY-OTP-0066-0951](#), paras. 31, 37, 94; [LBY-OTP-0068-0003](#), para. 20; [LBY-OTP-0069-0584](#), para. 65; [LBY-OTP-0069-0506](#), paras. 42, 71-73; [LBY-OTP-00018134](#), para. 55; [LBY-OTP-0080-0032](#), paras. 80-81; [LBY-OTP-0080-0468](#), para. 98; [LBY-OTP-0083-0663](#), paras. 127-128, 162; [LBY-OTP-00001491](#), para. 94; [LBY-OTP-0080-0608](#), para. 23; [LBY-OTP-0070-7295](#), para. 124; [LBY-OTP-0083-0052](#), para. 103; [LBY-OTP-00015125](#), paras. 31; [LBY-OTP-00015360](#), paras. 49-50, 88; [LBY-OTP-00018075](#), para. 57; [LBY-OTP-00015405](#), para. 56; [LBY-OTP-00016896](#), paras. 36, 77; [LBY-OTP-00019195](#), paras. 52-53; [LBY-OTP-00020236](#), para. 30; [LBY-OTP-00020267](#), para. 46; [LBY-OTP-00020358](#), para. 105.

²⁵⁶ [LBY-OTP-00015152](#), para. 70; [LBY-OTP-0080-0608](#), para. 24; [LBY-OTP-00018738](#), p. 28.

²⁵⁷ [LBY-OTP-0066-0951](#), para. 31; [LBY-OTP-0069-0584](#), paras. 65-66, 77, 120; [LBY-OTP-0069-0506](#), para. 41; [LBY-OTP-0080-0032](#), paras. 60, 80; [LBY-OTP-0080-0169](#), para. 147; [LBY-OTP-0070-6952](#), paras. 88, 117; [LBY-OTP-0083-0663](#), para. 132; [LBY-OTP-0080-0608](#), paras. 24, 27, 34; [LBY-OTP-0070-7295](#), paras. 120, 124, 128; [LBY-OTP-00015125](#), paras. 32, 34; [LBY-OTP-00007275](#), para. 38; [LBY-OTP-00018075](#), para. 57; [LBY-OTP-00015405](#), paras. 52, 60; [LBY-OTP-00018787](#), para. 39; [LBY-OTP-00016916](#), paras. 30, 32, 51; [LBY-OTP-00018119](#), para. 52; [LBY-OTP-00019195](#), para. 52.

²⁵⁸ [LBY-OTP-0073-0025](#), paras. 93, 95; [LBY-OTP-0066-0951](#), para. 35; [LBY-OTP-0068-0003](#), para. 20; [LBY-OTP-0069-0584](#), paras. 65-66, 77; [LBY-OTP-00007250](#), para. 28; [LBY-OTP-0069-0506](#), paras. 39, 74; [LBY-OTP-00018134](#), paras. 40, 46; [LBY-OTP-0080-0169](#), para. 147; [LBY-OTP-0070-6952](#), paras. 117, 164; [LBY-OTP-0080-0608](#), para. 28; [LBY-OTP-0070-7295](#), paras. 120; [LBY-OTP-0083-0052](#), para. 101; [LBY-OTP-0085-0063](#), para. 70; [LBY-OTP-00015125](#), paras. 34; [LBY-OTP-00007275](#), paras. 38, 49; [LBY-OTP-00018772](#), para. 36; [LBY-OTP-00015360](#), para. 50; [LBY-OTP-00016916](#), paras. 30, 52; [LBY-OTP-00016896](#), para. 36; [LBY-OTP-00019195](#), para. 135.

²⁵⁹ [LBY-OTP-0068-0003](#), para. 23; [LBY-OTP-0069-0584](#), para. 88; [LBY-OTP-0069-0506](#), para. 94; [LBY-OTP-0080-0032](#), para. 35; [LBY-OTP-0080-0169](#), paras. 86, 92; [LBY-OTP-0074-0889](#), paras. 197-198; [LBY-OTP-0070-6952](#), paras. 141, 143; [LBY-OTP-0080-0468](#), para. 128; [LBY-OTP-0083-0663](#), paras. 91, 145; [LBY-OTP-00015152](#), paras. 115, 118-119; [LBY-OTP-0080-0608](#), paras. 167-168, 174, 177; [LBY-OTP-0070-7295](#), paras. 160, 164; [LBY-OTP-0083-0052](#), paras. 169, 171, 173-174, 183, 186; [LBY-OTP-00007275](#), para. 30; [LBY-OTP-00018075](#), paras. 58, 102; [LBY-OTP-00015405](#), paras. 94-95, 100; [LBY-OTP-00018787](#), para. 40; [LBY-OTP-00015420](#), para. 24; [LBY-OTP-00016896](#), para. 78; [LBY-OTP-00018119](#), para. 102. *See Annex 9*, Satellite image of Main Prison Building at “S9/WS”.

²⁶⁰ [LBY-OTP-0069-0584](#), para. 122. *See also* [LBY-OTP-00018772](#), para. 43; [LBY-OTP-00020358](#), paras. 52-54.

²⁶¹ [LBY-OTP-00020358](#), para. 54; [LBY-OTP-0083-0052](#), paras. 162-165; [LBY-OTP-0069-0584](#), paras. 113-114; [LBY-OTP-0083-0052](#), para. 164; [LBY-OTP-00016916](#), para. 56; [LBY-OTP-00015420](#), para. 38; [LBY-OTP-00015405](#), paras. 97-98; [LBY-OTP-00015125](#), para. 74.

Some detainees died of acute diarrhoea.²⁶² According to P-0498, it was “a policy” to starve detainees until their “only focus is what [you] will eat today”.²⁶³ Disease was rampant, including tuberculosis, diarrhoea, haemorrhoids, kidney failure, scabies, rashes, and other skin conditions.²⁶⁴ Detainees were “covered in spots”, “scratch[ing] until they bled”.²⁶⁵ Medical care was non-existent or inadequate, and sometimes explicitly refused.²⁶⁶ Many detainees died.²⁶⁷

G.3.a.iii. Detainees were tortured

68. Torture at Mitiga was systematically imposed on all detainees.²⁶⁸ This manifested not only in specific acts of brutality—particularly on arrival, both in the *Naqliah* interrogation centre and at the Main Prison—but also in the consistent imposition of an atmosphere of terror and oppression for all detainees, including through the inadequate conditions of detention described above as well as verbal abuse, death threats, and conspicuous acts of violence.

²⁶² [LBY-OTP-00001491](#), paras. 60, 94; [LBY-OTP-00007250](#), paras. 30, 32; [LBY-OTP-00007275](#), para. 39; [LBY-OTP-00015125](#), paras. 61, 70; [LBY-OTP-00015360](#), paras. 55, 89, 152; [LBY-OTP-00015405](#), paras. 51, 56, 60, 96-98; [LBY-OTP-00016896](#), paras. 39, 46, 50, 96; [LBY-OTP-00016916](#), paras. 40, 55; [LBY-OTP-00018075](#), paras. 54-55, 129; [LBY-OTP-00018119](#), paras. 49-51, 66-67; [LBY-OTP-00018134](#), paras. 41, 68, 97; [LBY-OTP-00018772](#), para. 43; [LBY-OTP-00018787](#), paras. 28, 35; [LBY-OTP-00019195](#), paras. 49, 84; [LBY-OTP-0066-0951](#), para. 35; [LBY-OTP-0068-0003](#), para. 23; [LBY-OTP-0069-0506](#), paras. 40-41, 42, 122, 143; [LBY-OTP-0069-0584](#), paras. 65-66, 119-124; [LBY-OTP-0070-6952](#), paras. 77-79, 81, 143; [LBY-OTP-0070-7295](#), paras. 121; [LBY-OTP-0073-0025](#), paras. 93-94, 114, 163; [LBY-OTP-0080-0032](#), paras. 62, 80; [LBY-OTP-0080-0169](#), para. 256; [LBY-OTP-0080-0608](#), paras. 25, 27, 74, 83; [LBY-OTP-0083-0052](#), paras. 86, 115, 122, 190; [LBY-OTP-0083-0663](#), para. 158; [LBY-OTP-0085-0063](#), paras. 72, 89; [LBY-OTP-00020236](#), para. 36; [LBY-OTP-00020358](#), para. 53.

²⁶³ [LBY-OTP-0069-0506](#), para. 122. See also [LBY-OTP-0080-0608](#), para. 27.

²⁶⁴ [LBY-OTP-0073-0025](#), paras. 32, 162; [LBY-OTP-0066-0951](#), paras. 31, 37, 39; [LBY-OTP-0069-0584](#), para. 126; [LBY-OTP-00007250](#), para. 27; [LBY-OTP-0069-0506](#), paras. 40, 42, 49 and [LBY-OTP-0069-0550](#), at ‘Isolation’; [LBY-OTP-00018134](#), para. 66 and [LBY-OTP-00018135](#), at ‘5’; [LBY-OTP-0080-0032](#), paras. 62, 82, 86; [LBY-OTP-0080-0169](#), para. 34; [LBY-OTP-0074-0889](#), paras. 33-34, 180; [LBY-OTP-0070-6952](#), para. 160; [LBY-OTP-00001491](#), para. 94; [LBY-OTP-0080-0608](#), paras. 32, 34-35, 83, 109, 227; [LBY-OTP-0070-7295](#), paras. 128, 141; [LBY-OTP-0083-0052](#), paras. 72, 115 and [LBY-OTP-0083-0099](#), at ‘G’; [LBY-OTP-00020099](#), paras. 54-56; [LBY-OTP-00015125](#), para. 84; [LBY-OTP-00007275](#), paras. 49, 60, 99-100; [LBY-OTP-00018772](#), para. 56; [LBY-OTP-00015360](#), para. 199 and [LBY-OTP-00015371](#), at ‘14’; [LBY-OTP-00015405](#), paras. 56, 119 and [LBY-OTP-00015409](#), at ‘I’; [LBY-OTP-00016916](#), paras. 36-37, 48, 54; [LBY-OTP-00016896](#), para. 62; [LBY-OTP-00018119](#), paras. 40, 42, 85-86; [LBY-OTP-00020267](#), paras. 46, 48, 67; [LBY-OTP-00020236](#), para. 36. [LBY-OTP-00020358](#), para. 63. See also [LBY-OTP-00018274](#) (trans: [LBY-OTP-00018814](#)).

²⁶⁵ [LBY-OTP-0069-0506](#), para. 42. See also [LBY-OTP-0070-7295](#), para. 128.

²⁶⁶ [LBY-OTP-00001367](#), p. 20, ln. 14 to p. 21, ln. 8; [LBY-OTP-00001491](#), paras. 88, 94; [LBY-OTP-00007250](#), para. 31; [LBY-OTP-00007275](#), paras. 34, 52; [LBY-OTP-00015360](#), paras. 58-59, 108; [LBY-OTP-00015405](#), para. 57; [LBY-OTP-00015405](#), paras. 57, 101-102; [LBY-OTP-00016896](#), paras. 37, 75; [LBY-OTP-00016916](#), para. 43; [LBY-OTP-00018738](#), p. 29; [LBY-OTP-00018765](#), para. 15; [LBY-OTP-00018772](#), para. 58; [LBY-OTP-00018787](#), paras. 65-66; [LBY-OTP-0066-0951](#), paras. 31, 36-37; [LBY-OTP-0069-0506](#), para. 42; [LBY-OTP-0069-0584](#), para. 126; [LBY-OTP-0070-6952](#), paras. 98, 103-105; [LBY-OTP-0070-7295](#), paras. 128, 141, 145-146; [LBY-OTP-0074-0889](#), para. 266; [LBY-OTP-0080-0032](#), para. 37; [LBY-OTP-0080-0468](#), paras. 124-126; [LBY-OTP-0080-0608](#), paras. 32, 34, 36, 56-58, 83-84; [LBY-OTP-0083-0052](#), para. 106; [LBY-OTP-0083-0663](#), para. 164; [LBY-OTP-0085-0063](#), para. 75; [LBY-OTP-00020267](#), paras. 54-55, 66, 73; [LBY-OTP-00020236](#), paras. 18, 36; [LBY-OTP-00020358](#), para. 155. See also [LBY-OTP-00018766](#), para. 18; [LBY-OTP-00020358](#), para. 116.

²⁶⁷ [LBY-OTP-0066-0951](#), paras. 37-38; [LBY-OTP-0069-0584](#), paras. 69-70; [LBY-OTP-0069-0506](#), para. 65; [LBY-OTP-0074-0889](#), paras. 140-141, 155-180, 205-209; [LBY-OTP-0080-0608](#), para. 32; [LBY-OTP-0070-7295](#), para. 141; [LBY-OTP-00007275](#), paras. 51-52, 68; [LBY-OTP-00015405](#), para. 56-57; [LBY-OTP-00016896](#), paras. 50, 89-93; [LBY-OTP-00020236](#), para. 36; [LBY-OTP-00020267](#), paras. 49, 54-55, 65-66, 72; [LBY-OTP-00020236](#), para. 52.

²⁶⁸ See e.g. [LBY-OTP-0069-0584](#), para. 68; [LBY-OTP-00007250](#), para. 31; [LBY-OTP-00001491](#), para. 73; [LBY-OTP-00015125](#), paras. 35; [LBY-OTP-00007275](#), paras. 34, 41-42.

69. Detainees were brought to the *Naqliah* for interrogation on arrival,²⁶⁹ and often returned there for further interrogation.²⁷⁰ Questioning was accompanied by extreme physical, sexual and psychological violence,²⁷¹ inflicted by means including beating (with a plastic pipe known as a “PPR”, fists, batons, electrical cables, baseball bats), shooting, electrocution, and the use of stress positions (such as “*balanco*”,²⁷² “*farrouj*” or “*roisserie chicken*”,²⁷³ and “*falqa*”²⁷⁴) and close confinement in a metal box.²⁷⁵ Detainees were questioned about their political views and affiliations, moral and religious beliefs, sexual orientation, and about their relatives and

²⁶⁹ [LBY-OTP-0073-0025](#), para. 84; [LBY-OTP-0069-0584](#), paras. 56-59; [LBY-OTP-00007250](#), para. 18; [LBY-OTP-0069-0506](#), paras. 24-25; [LBY-OTP-00018134](#), paras. 29-31; [LBY-OTP-0080-0032](#), para. 52; [LBY-OTP-0074-0889](#), para. 52; [LBY-OTP-0070-6952](#), para. 44; [LBY-OTP-0080-0468](#), paras. 88-90; [LBY-OTP-00001491](#), paras. 39, 46; [LBY-OTP-0080-0608](#), para. 19; [LBY-OTP-0070-7295](#), para. 71; [LBY-OTP-0085-0063](#), para. 51; [LBY-OTP-00015125](#), paras. 24-26; [LBY-OTP-00007275](#), para. 24; [LBY-OTP-00015360](#), paras. 20-21, 23-25; [LBY-OTP-00015405](#), paras. 42-43; [LBY-OTP-00015420](#), para. 17; [LBY-OTP-00016896](#), para. 24; [LBY-OTP-00018119](#), paras. 29, 32-38; [LBY-OTP-00020358](#), paras. 27-38.

²⁷⁰ [LBY-OTP-0073-0025](#), paras. 101-113; [LBY-OTP-0069-0584](#), paras. 95-97, 100-102, 104-106; [LBY-OTP-00007250](#), para. 39, 42-43; [LBY-OTP-0069-0506](#), paras. 114-117, 119-120; [LBY-OTP-00018134](#), paras. 48-53; [LBY-OTP-0080-0032](#), paras. 70-79; [LBY-OTP-0070-6952](#), paras. 92-97; [LBY-OTP-00001491](#), paras. 60-72, 76-87, 95; [LBY-OTP-0080-0608](#), paras. 67-69; [LBY-OTP-0070-7295](#), paras. 81-87; [LBY-OTP-0083-0052](#), paras. 124-128, 130, 139-144; [LBY-OTP-0085-0063](#), paras. 67-69, 76-78, 83; [LBY-OTP-00015125](#), paras. 46-54; [LBY-OTP-00007275](#), paras. 40-41, 51, 56, 71-72; [LBY-OTP-00015360](#), paras. 64-66, 99-104, 160-167; [LBY-OTP-00015405](#), paras. 74-83, 92; [LBY-OTP-00018787](#), para. 32; [LBY-OTP-00018075](#), paras. 96-98, 111-112; [LBY-OTP-00016896](#), paras. 40-44, 67-68; [LBY-OTP-00018119](#), paras. 56-58, 71-72; [LBY-OTP-00020267](#), para. 64; [LBY-OTP-00020358](#), paras. 41-42, 58-61, 95, 111-114, 122, 145-146.

²⁷¹ See e.g. [LBY-OTP-0073-0025](#), paras. 53, 101-113; [LBY-OTP-0069-0584](#), paras. 59, 95-97, 100-102; [LBY-OTP-00007250](#), paras. 18-23, 39, 42-43, 65; [LBY-OTP-0069-0506](#), paras. 89, 114-117, 119-120; [LBY-OTP-00001366](#), p. 34, ln. 19 to p. 35, ln. 5; p. 37, lns. 1 to 8; p. 38, ln. 7 to p. 39, ln. 19; p. 40, lns. 1 to 11; p. 41, ln. 15 to 22; p. 42, ln. 25 to p. 44, ln. 14; p. 45, ln. 9 to p. 48, ln. 8; at p. 55, ln. 14 to p. 56, ln. 17; [LBY-OTP-00018134](#), paras. 30-31, 52, 76; [LBY-OTP-0080-0032](#), paras. 72-78; [LBY-OTP-0074-0889](#), paras. 52-61, 111; [LBY-OTP-0070-6952](#), paras. 47-55, 92-94; [LBY-OTP-00001491](#), paras. 39-46, 60-72, 76-87, 95; [LBY-OTP-0080-0608](#), paras. 67-69; [LBY-OTP-0070-7295](#), paras. 71-87; [LBY-OTP-0083-0052](#), paras. 105-106, 110-111, 124-128, 130, 141, 178; [LBY-OTP-0085-0063](#), paras. 51-59, 67-69, 76-78, 81-83 and [LBY-OTP-0085-0087](#); [LBY-OTP-00015125](#), paras. 46-48; [LBY-OTP-00007275](#), paras. 28-31, 40-41, 56, 71-72; [LBY-OTP-00018772](#), paras. 21-23, 27, 73; [LBY-OTP-00015360](#), paras. 26-43, 53, 64-66, 99-104; [LBY-OTP-00018075](#), paras. 72-75, 79-85, 87, 89, 97, 111-112; [LBY-OTP-00015405](#), paras. 42-43, 74-75, 78, 80-81, 83; [LBY-OTP-00018787](#), paras. 19-22, 33; [LBY-OTP-00015420](#), para. 17; [LBY-OTP-00016896](#), paras. 26-30, 34, 67-68; [LBY-OTP-00018119](#), para. 57; [LBY-OTP-00020236](#), paras. 16-17; [LBY-OTP-00020267](#), para. 33.

²⁷² This entailed the detainee’s suspension from a device commonly used for lifting the engines from cars, with the detainee’s hands tied or cuffed together, usually behind their back, and bearing their weight. In and of itself, this technique caused extreme pain and could result in shoulder dislocation, and lasting injuries, disfigurement, and physical impairment. See e.g. [LBY-OTP-00015360](#), para. 29. See further [LBY-OTP-00007250](#), paras. 18-21; [LBY-OTP-0069-0506](#), para. 89; [LBY-OTP-00018134](#), paras. 29-31; [LBY-OTP-0080-0032](#), paras. 31, 73-74; [LBY-OTP-0074-0889](#), paras. 56-57; [LBY-OTP-0070-6952](#), paras. 94, 152 and [LBY-OTP-0070-6995](#) (trans: [LBY-OTP-00018807](#)); [LBY-OTP-00001491](#), paras. 47, 67, 81 and [LBY-OTP-00001497](#) at ‘1(b)’; [LBY-OTP-0080-0608](#), para. 46; [LBY-OTP-0070-7295](#), para. 96; [LBY-OTP-0083-0052](#), para. 144; [LBY-OTP-0085-0063](#), paras. 56-57; [LBY-OTP-00007275](#), paras. 25, 28-31, 41, 56, 72, 104 and [LBY-OTP-00007280](#) (trans: [LBY-OTP-00018804](#)), at ‘E6’; [LBY-OTP-00015360](#), paras. 28-29, 200 and [LBY-OTP-00015372](#) (trans: [LBY-OTP-00018771](#)) at ‘13’; [LBY-OTP-00018075](#), paras. 70, 83, 85, 101, 112; [LBY-OTP-00015405](#), paras. 43, 77; [LBY-OTP-00015420](#), para. 17; [LBY-OTP-00016896](#), paras. 29, 67; [LBY-OTP-00020358](#), para. 32.

²⁷³ This entailed the detainee’s suspension from a metal bar pushed between the backs of their knees and their forearms: see e.g. [LBY-OTP-0085-0087](#).

²⁷⁴ This entailed the positioning of the detainee so they could be flogged on the soles of their feet, toes, legs, and buttocks: see e.g. [LBY-OTP-00018787](#), para. 46; [LBY-OTP-00015405](#), para. 83.

²⁷⁵ [LBY-OTP-0073-0025](#), para. 102; [LBY-OTP-0069-0506](#), paras. 89, 115; [LBY-OTP-00007275](#), para. 104 and [LBY-OTP-00007280](#) (trans: [LBY-OTP-00018804](#)) at ‘E5’; [LBY-OTP-00015360](#), para. 26, 200; [LBY-OTP-00018075](#), paras. 25 (A.3), 72-76; [LBY-OTP-00015420](#), para. 17.

acquaintances.²⁷⁶ Interrogators often seemed to know nothing about them or why they were there,²⁷⁷ and no answer could stop the torture.²⁷⁸ Detainees were forced to provide information about others, or to confess, or to sign documents without knowing their contents.²⁷⁹ Some of these forced confessions were video recorded and subsequently published online.²⁸⁰ Detainees were removed from the *Naqliah* in a “very bad state”, sometimes in a wheel barrow.²⁸¹

70. Following their initial interrogation and torture at the *Naqliah*, detainees were transferred to the Main Prison where the mistreatment continued.²⁸² Detainees (both male and female) were first brought to the “Scanner” room and subjected to strip and/or cavity searches, carried out in a manner described by many as humiliating and degrading.²⁸³ They were then placed in a section and cell.²⁸⁴ Again, throughout their time in the Main Prison, extreme physical and psychological violence was the norm. Beatings were an integral part of the daily life of detainees, beginning as soon as they arrived, and used routinely as detainees were moved

²⁷⁶ [LBY-OTP-0073-0025](#), paras. 84-88, 101-113; [LBY-OTP-0069-0584](#), paras. 95-97; [LBY-OTP-0080-0032](#), paras. 53-54; [LBY-OTP-0070-6952](#), paras. 48-55; [LBY-OTP-00001491](#), paras. 43, 60-72; [LBY-OTP-00007275](#), paras. 28-31; [LBY-OTP-00015360](#), para. 18; [LBY-OTP-00018075](#), paras. 79-81; [LBY-OTP-00018787](#), para. 19-22; [LBY-OTP-00015420](#), para. 17; [LBY-OTP-00016896](#), paras. 26-30.

²⁷⁷ [LBY-OTP-0069-0584](#), paras. 100-102; [LBY-OTP-0069-0506](#), paras. 114-120; [LBY-OTP-0070-6952](#), paras. 92-94; [LBY-OTP-00018119](#), para. 48.

²⁷⁸ [LBY-OTP-00001491](#), para. 45.

²⁷⁹ [LBY-OTP-0073-0025](#), paras. 84-88, 101-113; [LBY-OTP-0066-0951](#), para. 24; [LBY-OTP-0069-0584](#), paras. 95-97; [LBY-OTP-00007250](#), para. 39; [LBY-OTP-0069-0506](#), paras. 114-117; [LBY-OTP-0080-0032](#), paras. 53-55, 72-78; [LBY-OTP-0080-0169](#), para. 137; [LBY-OTP-0074-0889](#), para. 55; [LBY-OTP-0070-6952](#), paras. 48-55, 92-97; [LBY-OTP-0080-0468](#), paras. 89, 93, 142; [LBY-OTP-00001491](#), para. 40, 60-72, 76-87; [LBY-OTP-0080-0608](#), paras. 67-69; [LBY-OTP-0070-7295](#), paras. 71-78, 98; [LBY-OTP-0083-0052](#), paras. 124-128; [LBY-OTP-0085-0063](#), paras. 51-59; [LBY-OTP-00015125](#), paras. 46-54; [LBY-OTP-00007275](#), para. 72; [LBY-OTP-00015360](#), paras. 18, 30; [LBY-OTP-00018075](#), paras. 79-82, 98; [LBY-OTP-00015405](#), paras. 78, 92; [LBY-OTP-00018119](#), para. 38, 83.

²⁸⁰ [LBY-OTP-00015152](#), para. 64; [LBY-OTP-00015125](#), paras. 64, 49-54, 86-88.

²⁸¹ [LBY-OTP-0083-0052](#), para. 141; [LBY-OTP-00020099](#), para. 84. See also [LBY-OTP-0073-0025](#), para. 53.

²⁸² [LBY-OTP-0073-0025](#), para. 91; [LBY-OTP-0069-0584](#), para. 62; [LBY-OTP-00007250](#), para. 24; [LBY-OTP-0069-0506](#), para. 30; [LBY-OTP-00018134](#), paras. 31-35; [LBY-OTP-0080-0032](#), para. 56; [LBY-OTP-0074-0889](#), para. 62; [LBY-OTP-0070-6952](#), para. 56; [LBY-OTP-0080-0468](#), paras. 90-93; [LBY-OTP-00001491](#), paras. 46, 48; [LBY-OTP-0080-0608](#), para. 23; [LBY-OTP-0070-7295](#), paras. 78-79; [LBY-OTP-0085-0063](#), paras. 60-61; [LBY-OTP-00015125](#), paras. 26; [LBY-OTP-00007275](#), para. 32; [LBY-OTP-00018772](#), para. 27; [LBY-OTP-00015360](#), paras. 43-44; [LBY-OTP-00015405](#), para. 44; [LBY-OTP-00018787](#), para. 23; [LBY-OTP-00015420](#), para. 18; [LBY-OTP-00016896](#), paras. 31-33; [LBY-OTP-00018119](#), para. 39.

²⁸³ [LBY-OTP-0073-0025](#), para. 92; [LBY-OTP-0068-0003](#), paras. 18-19; [LBY-OTP-0069-0584](#), paras. 20, 63; [LBY-OTP-00007250](#), para. 26; [LBY-OTP-0069-0506](#), paras. 32-33, 82; [LBY-OTP-00018134](#), paras. 35-36; [LBY-OTP-0080-0032](#), para. 57; [LBY-OTP-0080-0169](#), paras. 29-30, 32, 34, 140, 142; [LBY-OTP-0074-0889](#), paras. 33-35; [LBY-OTP-0080-0468](#), paras. 72, 93; [LBY-OTP-0083-0663](#), paras. 84-88; [LBY-OTP-00001491](#), paras. 47-51; [LBY-OTP-0070-7295](#), paras. 204, 207; [LBY-OTP-0083-0052](#), para. 82; [LBY-OTP-00015125](#), paras. 30; [LBY-OTP-00007275](#), paras. 26-30, 49, 99; [LBY-OTP-00015360](#), paras. 44-45, 199; [LBY-OTP-00018075](#), paras. 37, 39-43; [LBY-OTP-00015405](#), paras. 18, 44, 118; [LBY-OTP-00016916](#), paras. 25, 77; [LBY-OTP-00016896](#), para. 34; [LBY-OTP-00018119](#), paras. 40-41; [LBY-OTP-00020267](#), para. 77; [LBY-OTP-00020358](#), para. 45. See further below para. 76. See also **Annex 9**, Satellite image of Main Prison Building at “R4”. See also *Njeem Arrest Warrant*, para. 59.

²⁸⁴ [LBY-OTP-0073-0025](#), paras. 92-93; [LBY-OTP-0066-0951](#), para. 21; [LBY-OTP-0069-0584](#), para. 63; [LBY-OTP-00007250](#), para. 27; [LBY-OTP-0069-0506](#), para. 33; [LBY-OTP-0080-0032](#), para. 58; [LBY-OTP-0080-0169](#), paras. 143-144; [LBY-OTP-0070-6952](#), paras. 57-58; [LBY-OTP-0080-0608](#), para. 23; [LBY-OTP-0083-0052](#), paras. 89, 93-94; [LBY-OTP-0085-0063](#), para. 61; [LBY-OTP-00007275](#), para. 33; [LBY-OTP-00015360](#), paras. 47-48; [LBY-OTP-00015405](#), para. 44; [LBY-OTP-00015420](#), para. 18; [LBY-OTP-00016916](#), para. 26.

around, to punish them for resistance, or for the entertainment of the guards.²⁸⁵ Guards continued to use techniques such as *falqa*²⁸⁶ and stress positions to torment the detainees,²⁸⁷ often suspending them from the metal grid covering the inner yards.²⁸⁸ Detainees were shot in the arms or legs, maiming or killing them.²⁸⁹

71. SDF/RADA not only tortured male detainees, but also women and children. While women and younger children were segregated from the rest of the detainee population, in the “Women’s Section” controlled by **AL HISHRI**, male detainees still sometimes witnessed violent incidents occurring outside, or against older male children in the Main Prison.²⁹⁰ They could also hear sounds of violence in the Women’s Section.²⁹¹ [REDACTED].²⁹² Conspicuous violence on close family members—such as a pregnant mother—also amounted to mental torture of those, including children, forced to witness it, compounded by verbal abuse and threats.²⁹³

²⁸⁵ [LBY-OTP-0073-0025](#), paras. 115, 121-126; [LBY-OTP-0066-0951](#), para. 23; [LBY-OTP-0069-0506](#), paras. 75, 95, 98, 102, 121; [LBY-OTP-00018134](#), para. 55; [LBY-OTP-0080-0169](#), paras. 160-163; [LBY-OTP-0074-0889](#), paras. 62, 75, 210-213; [LBY-OTP-0070-6952](#), paras. 95-97, 138, 158; [LBY-OTP-0080-0468](#), paras. 52-53, 97-101, 103-104, 114; [LBY-OTP-00001491](#), paras. 49-50, 92; [LBY-OTP-0080-0608](#), paras. 42, 44-45, 92; [LBY-OTP-0070-7295](#), paras. 80, 153-154, 160-164, 204; [LBY-OTP-0083-0052](#), para. 179; [LBY-OTP-00015125](#), paras. 29; [LBY-OTP-00007275](#), para. 32; [LBY-OTP-00018772](#), paras. 27-28, 94; [LBY-OTP-00015360](#), paras. 46, 119, 129-136; [LBY-OTP-00018075](#), paras. 45, 106-108; [LBY-OTP-00015405](#), para. 61; [LBY-OTP-00018787](#), para. 47; [LBY-OTP-00016916](#), paras. 36, 46; [LBY-OTP-00016896](#), paras. 31-33, 45, 53, 63-66; [LBY-OTP-00018119](#), paras. 94-95; [LBY-OTP-00019195](#), paras. 65-68; [LBY-OTP-00020267](#), paras. 51, 58.

²⁸⁶ [LBY-OTP-0073-0025](#), paras. 118, 120; [LBY-OTP-0080-0169](#), para. 57; [LBY-OTP-0070-6952](#), para. 135; [LBY-OTP-00015360](#), paras. 121-125; [LBY-OTP-00018787](#), para. 46. *See also* [LBY-OTP-00015420](#), para. 43 (detainees were left unable to walk for weeks); [LBY-OTP-0074-0889](#), paras. 214-218 (one female detainee screamed so hard she lost her voice).

²⁸⁷ [LBY-OTP-0066-0951](#), para. 40; [LBY-OTP-0080-0468](#), paras. 118-119; [LBY-OTP-0070-7295](#), para. 106; [LBY-OTP-00018119](#), para. 65.

²⁸⁸ [LBY-OTP-0069-0584](#), paras. 91-92; [LBY-OTP-00007250](#), paras. 32-36; [LBY-OTP-0074-0889](#), paras. 63, 73-74, 78-82; [LBY-OTP-00001491](#), paras. 90-91; [LBY-OTP-0083-0052](#), paras. 58, 84-89, 95, 97-99, 133; [LBY-OTP-00020099](#), paras. 28-29; [LBY-OTP-00015125](#), paras. 39-43; [LBY-OTP-00007275](#), para. 43; [LBY-OTP-00018772](#), paras. 29-35; [LBY-OTP-00015360](#), paras. 61-64; [LBY-OTP-00015420](#), para. 41; [LBY-OTP-00016916](#), para. 47; [LBY-OTP-00018119](#), para. 64; [LBY-OTP-00020358](#), paras. 67-68.

²⁸⁹ [LBY-OTP-0073-0025](#), para. 97; [LBY-OTP-0066-0951](#), para. 41; [LBY-OTP-0069-0584](#), paras. 108-112; [LBY-OTP-0069-0506](#), para. 92; [LBY-OTP-0080-0169](#), paras. 214-218; [LBY-OTP-0074-0889](#), paras. 117-126; [LBY-OTP-0070-6952](#), paras. 95-97; [LBY-OTP-0080-0468](#), para. 121; [LBY-OTP-0083-0663](#), para. 93; [LBY-OTP-00001491](#), paras. 89-91; [LBY-OTP-0080-0608](#), para. 84; [LBY-OTP-0083-0052](#), para. 117; [LBY-OTP-00020099](#), paras. 59-64; [LBY-OTP-00007275](#), paras. 63, 66; [LBY-OTP-00018772](#), para. 49; [LBY-OTP-00015360](#), paras. 68-71; [LBY-OTP-00018075](#), para. 105; [LBY-OTP-00016896](#), paras. 65-66; [LBY-OTP-00019195](#), para. 98; [LBY-OTP-00020358](#), paras. 92-94, 118.

²⁹⁰ *See e.g.* [LBY-OTP-0074-0889](#), paras. 210-213; [LBY-OTP-0070-6952](#), paras. 148-150; [LBY-OTP-0083-0663](#), paras. 85, 100-101, 103, 105, 139-140, 162; [LBY-OTP-00001491](#), paras. 102, 108-111; [LBY-OTP-0083-0052](#), paras. 178-179; [LBY-OTP-00007275](#), para. 91; [LBY-OTP-00015360](#), paras. 30, 46, 114, 119; [LBY-OTP-00018075](#), para. 106-108; [LBY-OTP-00015405](#), paras. 78, 85, 94; [LBY-OTP-00015420](#), para. 28.

²⁹¹ [LBY-OTP-0073-0025](#), para. 31; [LBY-OTP-0066-0951](#), para. 74; [LBY-OTP-0069-0584](#), paras. 73, 88; [LBY-OTP-0069-0506](#), para. 129; [LBY-OTP-0080-0032](#), para. 35; [LBY-OTP-0080-0169](#), paras. 90-91; [LBY-OTP-00018134](#), para. 69; [LBY-OTP-0074-0889](#), para. 194; [LBY-OTP-0083-0663](#), para. 124; [LBY-OTP-0080-0608](#), para. 170; [LBY-OTP-0070-7295](#), paras. 164, 171; [LBY-OTP-00007275](#), para. 92; [LBY-OTP-00018772](#), para. 52; [LBY-OTP-00015360](#), para. 120; [LBY-OTP-00018075](#), paras. 103-105, 109; [LBY-OTP-00015405](#), paras. 77, 94; [LBY-OTP-00018787](#), para. 38; [LBY-OTP-00015420](#), paras. 24-25; [LBY-OTP-00016896](#), para. 79; [LBY-OTP-00018119](#), para. 102; [LBY-OTP-00020267](#), paras. 77, 79-80.

²⁹² [LBY-OTP-0083-0663](#), paras. 100-101, 139-140.

²⁹³ [LBY-OTP-00015405](#), para. 78. *See also* [LBY-OTP-0066-0951](#), paras. 15, 17; [LBY-OTP-0069-0584](#), paras. 36-38, 203; [LBY-OTP-00019195](#), para. 109.

72. Discipline among detainees was likewise maintained violently, with punishments meted out even for minor infractions such as making noise, using light when not permitted, and arguing—in short, “[a]ny excuse was used to beat us”.²⁹⁴ Detainees were punished individually or collectively,²⁹⁵ including by taking an entire cell or section outside and beating them as they were forced to roll through the mud; afterwards, they were prevented from washing and forced to remain wet and filthy.²⁹⁶ One guard forced prisoners to lick up their own vomit.²⁹⁷

73. Corresponding to the extreme violence inflicted upon them, detainees not only suffered extreme pain but also many other ailments and injuries including loss of consciousness, vomiting, deep lacerations, bruising and swelling, dislocation of joints, broken bones and teeth, and loss of toenails.²⁹⁸ Some detainees became functionally disabled, and had to rely on others to care for them.²⁹⁹ Wounds often became infected, causing further medical complications.³⁰⁰

74. The pervasive atmosphere of violence and cruelty in Mitiga Prison also meant that detainees lived in a state of constant fear and terror.³⁰¹ Even when they were not victimised themselves, or could not see others being victimised, they could still often hear the sounds of torture and

²⁹⁴ [LBY-OTP-00016896](#), para. 52.

²⁹⁵ [LBY-OTP-00018134](#), para. 56; [LBY-OTP-0073-0025](#), paras. 56, 115; [LBY-OTP-0066-0951](#), para. 40; [LBY-OTP-0069-0584](#), paras. 65, 137, 139; [LBY-OTP-0069-0506](#), paras. 72, 121; [LBY-OTP-00018134](#), para. 56; [LBY-OTP-0080-0032](#), paras. 133-135, 140; [LBY-OTP-0080-0169](#), paras. 57, 109, 211; [LBY-OTP-0080-0468](#), paras. 107, 119; [LBY-OTP-00015152](#), paras. 84; [LBY-OTP-00015125](#), paras. 66, 92; [LBY-OTP-00018772](#), para. 52; [LBY-OTP-00015420](#), para. 44; [LBY-OTP-00016896](#), para. 47; [LBY-OTP-00020267](#), paras. 57; [LBY-OTP-00020236](#), paras. 58-59; [LBY-OTP-00020358](#), paras. 72, 79, 123, 170.

²⁹⁶ [LBY-OTP-00015420](#), para. 44; [LBY-OTP-00015360](#), paras. 72-76; [LBY-OTP-00018787](#), para. 34; [LBY-OTP-00016916](#), para. 57; [LBY-OTP-00016896](#), paras. 47, 63, 88. See also [LBY-OTP-00007275](#), para. 101 and [LBY-OTP-0080-0468](#), para. 115; [LBY-OTP-00020267](#), para. 133.

²⁹⁷ [LBY-OTP-00015420](#), para. 44.

²⁹⁸ [LBY-OTP-0073-0025](#), paras. 35, 120, 124, 143-144, 148; [LBY-OTP-0069-0584](#), paras. 92, 102-103; [LBY-OTP-00007250](#), paras. 21, 36, 65; [LBY-OTP-0069-0506](#), paras. 95, 127; [LBY-OTP-00018134](#), paras. 30-31, 74, 76; [LBY-OTP-0074-0889](#), paras. 55, 81, 110-115, 200-203; [LBY-OTP-0070-6952](#), para. 96; [LBY-OTP-0080-0468](#), paras. 101, 124; [LBY-OTP-0083-0663](#), paras. 100-101, 108-109, 141-142, 155; [LBY-OTP-0080-0608](#), para. 106; [LBY-OTP-0083-0052](#), paras. 88, 95-96, 105, 108; [LBY-OTP-0085-0063](#), para. 59; [LBY-OTP-00015125](#), paras. 67, 75; [LBY-OTP-00007275](#), para. 34; [LBY-OTP-00018772](#), paras. 66-69; [LBY-OTP-00015360](#), paras. 29, 33, 38, 53, 58-59, 81, 101, 103, 124-125; [LBY-OTP-00018075](#), paras. 45, 82; [LBY-OTP-00015405](#), paras. 80, 108; [LBY-OTP-00015420](#), para. 43; [LBY-OTP-00016916](#), para. 44; [LBY-OTP-00016896](#), paras. 37, 48, 65, 67, 76-77; [LBY-OTP-00018119](#), paras. 71-72; [LBY-OTP-00020358](#), paras. 46, 81.

²⁹⁹ [LBY-OTP-0069-0584](#), paras. 102-103; [LBY-OTP-0069-0506](#), para. 127; [LBY-OTP-00018134](#), para. 73; [LBY-OTP-0080-0032](#), paras. 74-75; [LBY-OTP-0080-0468](#), para. 98; [LBY-OTP-0083-0663](#), paras. 101, 139-142, 165; [LBY-OTP-0080-0608](#), para. 106; [LBY-OTP-0083-0052](#), paras. 106, 110-111; [LBY-OTP-00015125](#), para. 67; [LBY-OTP-00015405](#), para. 80; [LBY-OTP-00015360](#), paras. 29, 53; [LBY-OTP-00018075](#), para. 89; [LBY-OTP-00015420](#), para. 43; [LBY-OTP-00016896](#), paras. 37, 48, 77; [LBY-OTP-00020358](#), para. 46. See also [LBY-OTP-00018738](#), p. 29.

³⁰⁰ [LBY-OTP-0073-0025](#), para. 97; [LBY-OTP-0066-0951](#), para. 41; [LBY-OTP-0069-0584](#), paras. 102-103, 109; [LBY-OTP-0069-0506](#), para. 92; [LBY-OTP-00018134](#), para. 73; [LBY-OTP-0070-6952](#), para. 98; [LBY-OTP-0083-0663](#), paras. 93, 144; [LBY-OTP-00001491](#), para. 88-89, 96; [LBY-OTP-0080-0608](#), paras. 41, 84; [LBY-OTP-0083-0052](#), paras. 88, 110-111, 120, 122; [LBY-OTP-00007275](#), paras. 34, 63-64, 66; [LBY-OTP-00018787](#), paras. 48-50; [LBY-OTP-00016916](#), para. 44; [LBY-OTP-00016896](#), paras. 76-77.

³⁰¹ [LBY-OTP-00001491](#), para. 76; [LBY-OTP-0080-0468](#), para. 105; [LBY-OTP-0080-0608](#), para. 157; [LBY-OTP-00015360](#), para. 123; [LBY-OTP-00015405](#), para. 72.

human suffering.³⁰² This atmosphere was deliberately exacerbated by the conduct of the guards, who played “psychological games”³⁰³ with the detainees and humiliated, insulted, and threatened them with indefinite captivity, violence including rape and sexual assault, and death.³⁰⁴ Finally, SDF/RADA also weaponised the psychological disturbance or sickness (tuberculosis, hepatitis, HIV, skin diseases) of some detainees, by placing other detainees in the same cells as a punishment.³⁰⁵ This applied particularly to a cell known as “House Zero”, where SDF/RADA housed violent detainees who committed aggressive acts against other detainees, including rape.³⁰⁶ As a result, survivors of Mitiga Prison felt psychologically devastated or destroyed.³⁰⁷ Some tried to kill themselves while detained and/or after they were released.³⁰⁸ The enforced separation from parental care also harmed detainees’ children.³⁰⁹ Detainees’ families frequently lost most of their income, and children’s education was often disrupted.³¹⁰

G.3.b. SDF/RADA detainees were raped and subject to sexual violence: counts 6-9

75. The threat of sexual violence, including rape, was pervasive in Mitiga Prison. From the outset, forced nudity and sometimes cavity searches—carried out in inappropriate and degrading conditions, including by or in front of other detainees (sometimes including relatives and children)—were part of the systematic process for inducting each detainee. In the context

³⁰² [LBY-OTP-0069-0584](#), paras. 59, 73, 88, 93-94, 96, 109; [LBY-OTP-0069-0506](#), para. 129; [LBY-OTP-0080-0169](#), paras. 242, 244-245; [LBY-OTP-0070-6952](#), paras. 148; [LBY-OTP-0080-0468](#), paras. 121-122; [LBY-OTP-0080-0608](#), paras. 157, 170; [LBY-OTP-00015360](#), para. 120; [LBY-OTP-00018075](#), paras. 103, 104, 109; [LBY-OTP-00015405](#), para. 94.

³⁰³ [LBY-OTP-0080-0608](#), para. 33. See also [LBY-OTP-0070-7295](#), para. 87; [LBY-OTP-00016896](#), para. 44.

³⁰⁴ [LBY-OTP-0073-0025](#), paras. 38-39, 55, 86, 110, 112, 118, 122-123, 137, 150; [LBY-OTP-0066-0951](#), paras. 23, 27, 28; [LBY-OTP-0069-0584](#), paras. 52-53, 55, 95; [LBY-OTP-00007250](#), para. 34; [LBY-OTP-0069-0506](#), paras. 32, 46; [LBY-OTP-0080-0032](#), paras. 74-75; [LBY-OTP-0080-0169](#), paras. 84, 124, 155, 166-168; [LBY-OTP-0074-0889](#), paras. 89, 201, 203-204, 290; [LBY-OTP-0070-6952](#), paras. 52-53, 150, 170; [LBY-OTP-0080-0468](#), paras. 63, 89, 93, 98, 100, 104, 143; [LBY-OTP-00001491](#), paras. 40, 68, 84; [LBY-OTP-0080-0608](#), paras. 33, 144, 170-171; [LBY-OTP-0070-7295](#), paras. 74, 83, 85, 107, 116, 205; [LBY-OTP-0083-0052](#), paras. 87, 97, 128, 130, 142; [LBY-OTP-00015125](#), paras. 41, 47-48, 50, 75; [LBY-OTP-00007275](#), para. 72; [LBY-OTP-00015360](#), paras. 29, 37, 45, 58, 77, 109-110; [LBY-OTP-00018075](#), paras. 98, 112, 138; [LBY-OTP-00015405](#), paras. 41, 43, 78, 80, 85; [LBY-OTP-00015420](#), para. 27; [LBY-OTP-00016896](#), paras. 27-29; [LBY-OTP-00018119](#), para. 57; [LBY-OTP-00020267](#), para. 95.

³⁰⁵ [LBY-OTP-0083-0052](#), para. 72; [LBY-OTP-00020099](#), paras. 54-56. See also [LBY-OTP-00020267](#), para. 69; [LBY-OTP-00020236](#), para. 34; [LBY-OTP-00020358](#), paras. 49, 66, 88, 90.

³⁰⁶ [LBY-OTP-0066-0951](#), paras. 36-38, 44-48, 89; [LBY-OTP-0069-0584](#), paras. 21, 86; [LBY-OTP-0069-0506](#), paras. 46, 49, 51; [LBY-OTP-0080-0169](#), para. 155; [LBY-OTP-0080-0608](#), para. 53; [LBY-OTP-00007275](#), para. 99; [LBY-OTP-00018772](#), para. 54; [LBY-OTP-00016916](#), para. 26; [LBY-OTP-00019195](#), paras. 69-70. See also [LBY-OTP-00020267](#), para. 50.

³⁰⁷ [LBY-OTP-0069-0584](#), para. 206; [LBY-OTP-0080-0032](#), para. 94; [LBY-OTP-00016896](#), para. 97; [LBY-OTP-00018119](#), paras. 117. See also e.g. [LBY-OTP-0073-0025](#), para. 142; [LBY-OTP-0066-0951](#), para. 99; [LBY-OTP-0069-0506](#), para. 144; [LBY-OTP-00001367](#), p. 48, ln. 7 to p. 50, ln. 4; [LBY-OTP-00018134](#), para. 97; [LBY-OTP-0080-0169](#), para. 257; [LBY-OTP-0074-0889](#), para. 235; [LBY-OTP-00015125](#), para. 85; [LBY-OTP-00007275](#), para. 79; [LBY-OTP-00015360](#), para. 196; [LBY-OTP-00018075](#), paras. 131-132; [LBY-OTP-00020267](#), para. 135; [LBY-OTP-00020236](#), para. 88; [LBY-OTP-00020358](#), para. 163.

³⁰⁸ [LBY-OTP-00001367](#), p. 6, lns. 8-24; [LBY-OTP-0074-0889](#), paras. 219-222; [LBY-OTP-00018075](#), paras. 49, 132.

³⁰⁹ [LBY-OTP-0069-0506](#), paras. 147-149; [LBY-OTP-0080-0468](#), paras. 148-151, 156-157; [LBY-OTP-00007275](#), para. 79; [LBY-OTP-00016916](#), para. 69; [LBY-OTP-00018119](#), paras. 15, 115.

³¹⁰ [LBY-OTP-00018134](#), paras. 96-98; [LBY-OTP-0070-7295](#), paras. 129-130; [LBY-OTP-00016916](#), paras. 73-74; [LBY-OTP-00016896](#), paras. 94-95; [LBY-OTP-00020358](#), para. 165.

of Libyan society, where strict gender and sexual norms apply, these crimes were experienced as especially humiliating and left a lasting impact on the victims.³¹¹ Torture was frequently sexualised, either by threat or conduct. Guards raped detainees, and also exploited the risk of further rape and sexual assault between detainees themselves.³¹² There are reasonable grounds to believe that at least 28 persons,³¹³ including a 5-year-old boy, were subjected to sexual violence by the guards, and at least eight persons,³¹⁴ including a 15-year-old boy, were raped. 76. Thus, on arrival at Mitiga Prison, detainees were forced to fully undress, bend down or squat, sometimes in the presence of other detainees,³¹⁵ and were insulted, threatened or beaten when they did not immediately comply.³¹⁶ Some had their anal cavity visually and/or physically searched by guards or other detainees.³¹⁷ These cavity searches were objectively humiliating and degrading; they cannot be characterised as legitimate security measures. [REDACTED].³¹⁸ Forcing a child to watch an act of sexual violence, especially against a parent, is itself an act of sexual violence. [REDACTED].³¹⁹ [REDACTED].³²⁰

77. While tortured, many victims were partially undressed and forced to assume stress positions (such as *balanco* and *falqa*) exposing sensitive body parts, including their genitals, and increasing their vulnerability.³²¹ Torture targeted all body parts, including and sometimes especially sexual and reproductive organs.³²² [REDACTED].³²³ [REDACTED].³²⁴

³¹¹ [LBYP-OTP-0068-0003](#), para. 18; [LBYP-OTP-0069-0584](#), para. 63; [LBYP-OTP-00007250](#), para. 26; [LBYP-OTP-0069-0506](#), para. 32; [LBYP-OTP-0080-0032](#), para. 57; [LBYP-OTP-0083-0663](#), paras. 87-88; [LBYP-OTP-00015360](#), para. 45; [LBYP-OTP-00018075](#), para. 98; [LBYP-OTP-00019195](#), para. 123; [LBYP-OTP-00020358](#), para. 45.

³¹² [LBYP-OTP-0069-0506](#), para. 126; [LBYP-OTP-0080-0169](#), paras. 149-150; [LBYP-OTP-0080-0608](#), para. 27; [LBYP-OTP-00007275](#), para. 37; [LBYP-OTP-00018772](#), para. 45-47; [LBYP-OTP-00018787](#), paras. 30, 36; [LBYP-OTP-00016916](#), para. 31; [LBYP-OTP-00019195](#), paras. 99-100.

³¹³ [REDACTED] and 11 other victims (F-2156, F-2161, F-2181, F-2200, F-2228, F-2284, F-2369, F-2387, F-2388, F-2431 and F-2601). See Non-exhaustive list of victims at Mitiga Prison, [LBYP-OTP-00020680](#).

³¹⁴ [REDACTED] and three other victims (F-2212, F-2228 and F-2431). See Non-exhaustive list of victims at Mitiga Prison, [LBYP-OTP-00020680](#).

³¹⁵ [LBYP-OTP-0073-0025](#), para. 92; [LBYP-OTP-0068-0003](#), para. 18; [LBYP-OTP-0069-0584](#), paras. 62-63; [LBYP-OTP-00007250](#), para. 26; [LBYP-OTP-0069-0506](#), para. 32; [LBYP-OTP-0080-0032](#), para. 57; [LBYP-OTP-0080-0169](#), paras. 140-142; [LBYP-OTP-0074-0889](#), para. 64; [LBYP-OTP-0080-0468](#), para. 93; [LBYP-OTP-0083-0663](#), paras. 84-88; [LBYP-OTP-00001491](#), para. 51; [LBYP-OTP-0080-0608](#), para. 23; [LBYP-OTP-0083-0052](#), para. 82; [LBYP-OTP-00020099](#), paras. 67-68; [LBYP-OTP-00015125](#), paras. 30; [LBYP-OTP-00007275](#), paras. 26-27, 32; [LBYP-OTP-00015360](#), para. 45; [LBYP-OTP-00015405](#), para. 44; [LBYP-OTP-00018787](#), paras. 23-24; [LBYP-OTP-00015420](#), para. 18; [LBYP-OTP-00016896](#), para. 34; [LBYP-OTP-00018119](#), para. 41.

³¹⁶ [LBYP-OTP-00007250](#), para. 26; [LBYP-OTP-0080-0468](#), para. 93; [LBYP-OTP-0080-0169](#), paras. 140-142; [LBYP-OTP-00015360](#), para. 45; [LBYP-OTP-00015405](#), para. 44.

³¹⁷ [LBYP-OTP-0080-0169](#), paras. 140-142; [LBYP-OTP-0080-0468](#), para. 93; [LBYP-OTP-00007275](#), paras. 26-27, 32.

³¹⁸ [LBYP-OTP-00007275](#), paras. 26-27, 32.

³¹⁹ [LBYP-OTP-0083-0663](#), paras. 84-88.

³²⁰ [LBYP-OTP-00018075](#), paras. 39-43. See also [LBYP-OTP-00018738](#), pp. 5, 36.

³²¹ [LBYP-OTP-00015125](#), paras. 39-43; [LBYP-OTP-00018075](#), para. 100; [LBYP-OTP-00016896](#), paras. 67-68.

³²² [LBYP-OTP-00018134](#), para. 75.

³²³ [LBYP-OTP-00001491](#), paras. 68-70. See also [LBYP-OTP-00015360](#), para. 38; [LBYP-OTP-00015420](#), para. 41.

³²⁴ [LBYP-OTP-00015420](#), para. 28. See also [LBYP-OTP-00015360](#), para. 103.

[REDACTED].³²⁵ [REDACTED].³²⁶ [REDACTED].³²⁷ Male detainees [REDACTED] were [REDACTED] raped by guards at Mitiga Prison. [REDACTED].³²⁸ [REDACTED].³²⁹ [REDACTED].³³⁰ [REDACTED].³³¹ [REDACTED].³³² [REDACTED].³³³

78. Boys under 18 (but not regarded as sufficiently young to be held in the Women's Section) and some of the younger men were held in a separate area of the prison,³³⁴ allegedly to protect them from sexual assault by adult detainees.³³⁵ Yet this was a sham. Such detainees were still targeted by guards who sexually exploited them in exchange for "favours" such as better food, leisure time, or a phone call to their mothers.³³⁶ [REDACTED].³³⁷

79. Female detainees held in the Women's Section, controlled by **AL HISHRI**, with no female guards,³³⁸ were subjected to similar sexual abuse.³³⁹ [REDACTED], he could hear "screams and noises that *sounded* like rape".³⁴⁰ [REDACTED].³⁴¹ Women could not talk about the sexual violence they suffered as it was considered "shameful".³⁴²

80. Detainees were also frequently threatened with rape and sexual violence, either against themselves or against family members still at liberty. [REDACTED].³⁴³ [REDACTED].³⁴⁴

³²⁵ [LBY-OTP-00015405](#), para. 80. See also [LBY-OTP-00020099](#), para. 88.

³²⁶ [LBY-OTP-00016896](#), paras. 67-68. See also [LBY-OTP-0070-6952](#), para. 153.

³²⁷ [LBY-OTP-00001367](#), p. 3, ln. 7 to p. 6, ln. 6.

³²⁸ [LBY-OTP-0066-0951](#), para. 28.

³²⁹ [LBY-OTP-0066-0951](#), paras. 44-48. See also above para. 74. A "capo" was a trusted detainee appointed by the guards to manage and inform upon other detainees in the same cell: see e.g. [LBY-OTP-0066-0951](#), para. 37.

³³⁰ [LBY-OTP-0066-0951](#), paras. 44-48; [LBY-OTP-0069-0506](#), para. 51.

³³¹ [LBY-OTP-00001367](#), p. 11, ln. 18 to p. 17, ln. 17.

³³² [LBY-OTP-00001367](#), p. 16, lns. 3-7; p. 17, lns. 6-17.

³³³ [LBY-OTP-0070-6952](#), para. 170. See also [LBY-OTP-0070-6952](#), para. 167.

³³⁴ Section 11: [LBY-OTP-0080-0032](#), para. 34; [LBY-OTP-0080-0608](#), para. 102; [LBY-OTP-00015405](#), para. 70; [LBY-OTP-00018119](#), para. 40 and [LBY-OTP-00018122](#). Section 12: [LBY-OTP-0073-0025](#), paras. 93, 159-160; [LBY-OTP-0080-0032](#), para. 34; [LBY-OTP-00015125](#), para. 44. The "Dar Hatem" cell: [LBY-OTP-0070-6952](#), paras. 160, 168; [LBY-OTP-0080-0608](#), para. 104; [LBY-OTP-0083-0052](#), paras. 80, 197; [LBY-OTP-00015125](#), para. 89; [LBY-OTP-00007275](#), paras. 93-94, 99; [LBY-OTP-00015360](#), para. 199; [LBY-OTP-00015405](#), paras. 67-68, 70; [LBY-OTP-00018787](#), para. 27; [LBY-OTP-00016916](#), para. 77. Other cells: [LBY-OTP-0069-0584](#), para. 192; [LBY-OTP-00007275](#), para. 48; [LBY-OTP-00015360](#), paras. 88-90; [LBY-OTP-00020267](#), para. 41; [LBY-OTP-00020236](#), para. 54.

³³⁵ [LBY-OTP-0073-0025](#), paras. 159-160; [LBY-OTP-0080-0032](#), para. 34; [LBY-OTP-00015125](#), para. 44.

³³⁶ [LBY-OTP-0073-0025](#), paras. 28-29, 34, 197; [LBY-OTP-0069-0584](#), para. 192; [LBY-OTP-0069-0506](#), para. 102; [LBY-OTP-0080-0169](#), paras. 81-83, 102-103; [LBY-OTP-0074-0889](#), paras. 33, 88, 181-191; [LBY-OTP-0070-6952](#), para. 168; [LBY-OTP-0080-0608](#), paras. 102-104; [LBY-OTP-00020099](#), paras. 71-78; [LBY-OTP-00007275](#), paras. 93-95; [LBY-OTP-00018772](#), para. 48; [LBY-OTP-00015360](#), paras. 91-95; [LBY-OTP-00015405](#), paras. 64-65; [LBY-OTP-00020267](#), paras. 43, 94; [LBY-OTP-00020236](#), para. 61; [LBY-OTP-00020358](#), para. 85.

³³⁷ [LBY-OTP-0074-0889](#), paras. 181-190.

³³⁸ [LBY-OTP-0069-0506](#), para. 129; [LBY-OTP-00018134](#), para. 71; [LBY-OTP-0080-0608](#), para. 135; [LBY-OTP-0070-7295](#), para. 162; [LBY-OTP-00015360](#), para. 118; [LBY-OTP-00018787](#), paras. 37-38; [LBY-OTP-00016896](#), para. 78; [LBY-OTP-00018119](#), para. 102. See also [LBY-OTP-00018738](#), p. 5; [LBY-OTP-0070-5942](#).

³³⁹ [LBY-OTP-0083-0052](#), paras. 174-177; [LBY-OTP-00015405](#), para. 95. See also, [LBY-OTP-00018762](#), para. 63; [LBY-OTP-00018763](#), para. 68; [LBY-OTP-0070-5942](#).

³⁴⁰ [LBY-OTP-0070-7295](#), para. 164.

³⁴¹ [LBY-OTP-00018075](#), para. 100.

³⁴² [LBY-OTP-0083-0663](#), para. 156. See also [LBY-OTP-00015152](#), para. 122.

³⁴³ [LBY-OTP-0083-0052](#), paras. 124-128. See also [LBY-OTP-00019195](#), para. 79.

³⁴⁴ [LBY-OTP-00015405](#), para. 85.

Guards threatened to record and publicise degrading images or video of detainees³⁴⁵ or to rape family members in front of them.³⁴⁶

G.3.c. SDF/RADA detainees were murdered: counts 10-11

81. There are reasonable grounds to believe that at least 56 SDF/RADA detainees at Mitiga Prison were murdered, or subjected to specific acts of attempted murder.³⁴⁷ Some were simply executed. [REDACTED].³⁴⁸ [REDACTED].³⁴⁹ [REDACTED].³⁵⁰

82. Many detainees died as a direct result of torture.³⁵¹ [REDACTED].³⁵² [REDACTED] **AL HISHRI** chain a man to the wall of an inner yard and beat him, and then leave him in the cold wearing only underwear; the man died of his injuries.³⁵³ [REDACTED], P-0497 saw another torture victim urinating on himself and struggling to breathe; the man died.³⁵⁴ [REDACTED] a guard “beat [a female detainee] to pulp”, leaving her unconscious with blood coming from her mouth, and doubts she could have lived.³⁵⁵ [REDACTED].³⁵⁶

83. Detainees also died due to the deliberate infliction of lethal conditions of detention and neglect, especially in the aftermath of torture.³⁵⁷ **AL HISHRI** once shot a man and ordered, “dump him away in section 10 and let it become infected”.³⁵⁸ Many detainees with serious injuries were simply left to die in the cells. SDF/RADA failed to provide and even denied any adequate medical care. P-0692 saw the dead body of a detainee whom he knew was recently beaten;³⁵⁹ P-0872 likewise recalled the discovery of the body of a detainee, who had died during the night, having been beaten the previous day.³⁶⁰ Detainees were left with untreated gunshot wounds which in the ordinary course of events became infected, killing at least three

³⁴⁵ [LBY-OTP-0073-0025](#), paras. 38, 122-123, 137; [LBY-OTP-0080-0032](#), paras. 72-78.

³⁴⁶ [LBY-OTP-00016896](#), paras. 26-30. See also [LBY-OTP-00001491](#), paras. 64, 80, 83; [LBY-OTP-0070-7295](#), para. 84.

³⁴⁷ [REDACTED] and 55 other victims (F-2034, F-2063, F-2088, F-2100, F-2161, F-2166, F-2178, F-2179, F-2180, F-2184, F-2185, F-2186, F-2198, F-2205, F-2211, F-2229, F-2233, F-2266, F-2279, F-2367, F-2368, F-2370, F-2383, F-2393, F-2436, F-2437, F-2438, F-2439, F-2440, F-2441, F-2442, F-2443, F-2445, F-2446, F-2447, F-2448, F-2449, F-2470, F-2482, F-2495, F-2502, F-2504, F-2545, F-2546, F-2581, F-2582, F-2583, F-2584, F-2612, F-2721, F-2729, F-2733, F-2740, F-2781, F-2793). See Non-exhaustive list of victims at Mitiga Prison, [LBY-OTP-00020680](#).

³⁴⁸ [LBY-OTP-0083-0052](#), paras. 36, 116-117; [LBY-OTP-00020099](#), paras. 43-45 and 59-64.

³⁴⁹ [LBY-OTP-0074-0889](#), paras. 127-139.

³⁵⁰ [LBY-OTP-00018772](#), paras. 34-35.

³⁵¹ [LBY-OTP-00015405](#), para. 106; [LBY-OTP-00019195](#), paras. 115-116.

³⁵² [LBY-OTP-00007275](#), para. 43.

³⁵³ [LBY-OTP-0083-0052](#), para. 133.

³⁵⁴ [LBY-OTP-00007250](#), paras. 32-36.

³⁵⁵ [LBY-OTP-0083-0052](#), para. 179.

³⁵⁶ [LBY-OTP-0074-0889](#), paras. 205-209.

³⁵⁷ [LBY-OTP-0074-0889](#), para. 165; [LBY-OTP-0070-6952](#), paras. 162-163; [LBY-OTP-0070-7295](#), paras. 147-149; [LBY-OTP-00007275](#), paras. 60, 68; [LBY-OTP-00016896](#), paras. 91, 93. See also [LBY-OTP-0070-7295](#), para. 153; [LBY-OTP-00020358](#), para. 89; [LBY-OTP-0080-0608](#), para. 40.

³⁵⁸ [LBY-OTP-0080-0169](#), paras. 214-216.

³⁵⁹ [LBY-OTP-0080-0608](#), para. 40.

³⁶⁰ [LBY-OTP-00007275](#), para. 60.

detainees.³⁶¹ Guards would punish requests for help from detainees,³⁶² dismissing the resulting deaths among detainees as “normal” and abusing detainees for “causing all this trouble”.³⁶³

84. Guards took the same callous attitude to serious illness among the detainees.³⁶⁴ For example, help was denied regarding two separate incidents of detainees who had contracted tuberculosis: on one occasion, the guards dismissed the request as a ‘mental’ problem;³⁶⁵ on the other, fellow detainees were told “not to knock on the door unless the prisoner was dead”.³⁶⁶ A similar refusal was made concerning an old and sick prisoner, who then died in the cell.³⁶⁷ Even if detainees reached the infirmary, they were still unlikely to be helped: [REDACTED].³⁶⁸ [REDACTED].³⁶⁹

85. Lethal abuse and neglect also took other forms. Some detainees were left outside to die in the cold in the middle of winter;³⁷⁰ others starved to death.³⁷¹ [REDACTED].³⁷² [REDACTED].³⁷³

G.3.d. SDF/RADA detainees were summarily punished: count 12

86. One form of conduct punishable by article 8(2)(c)(iv) of the Statute is the passing of a “sentence” without a “previous judgment pronounced by a court”.³⁷⁴ For this purpose, a “sentence” is “a punishment”, potentially of varying degrees of severity, imposed by a person in “some form of authority, derived from his or her position” or on some other relevant basis.³⁷⁵ SDF/RADA summarily punished at least 16 detainees, by imprisoning, mistreating and/or murdering them.³⁷⁶ There was a nexus between this conduct and the armed conflict, because the existence of the conflict was essential in permitting SDF/RADA to act as it did,³⁷⁷ and there

³⁶¹ [LBY-OTP-0080-0169](#), paras. 214-218; [LBY-OTP-00007275](#), para. 66; [LBY-OTP-00018119](#), paras. 59-61. See also [LBY-OTP-00015405](#), para. 55.

³⁶² [LBY-OTP-00015405](#), para. 55; [LBY-OTP-0080-0468](#), paras. 124-126.

³⁶³ [LBY-OTP-00015360](#), paras. 158-159.

³⁶⁴ [LBY-OTP-0066-0951](#), para. 37; [LBY-OTP-0080-0032](#), para. 82; [LBY-OTP-0074-0889](#), paras. 161-164, 174-177, 178-179; [LBY-OTP-00016896](#), paras. 90, 92; [LBY-OTP-00020358](#), para. 117.

³⁶⁵ [LBY-OTP-0070-7295](#), para. 141; [LBY-OTP-00007275](#), para. 51; [LBY-OTP-00018772](#), para. 55; [LBY-OTP-00016896](#), para. 89.

³⁶⁶ [LBY-OTP-00007275](#), para. 52. See also [LBY-OTP-00020358](#), para. 82.

³⁶⁷ [LBY-OTP-0069-0584](#), paras. 69-70.

³⁶⁸ [LBY-OTP-0074-0889](#), paras. 155-160.

³⁶⁹ [LBY-OTP-0074-0889](#), para. 167-173.

³⁷⁰ [LBY-OTP-0069-0584](#), para. 70.

³⁷¹ [LBY-OTP-00015405](#), para. 51; [LBY-OTP-00016896](#), para. 50; [LBY-OTP-00015152](#), paras. 72-76 and [LBY-OTP-0066-0332](#), at 0346-0347.

³⁷² [LBY-OTP-00015360](#), paras. 142-147.

³⁷³ [LBY-OTP-00018787](#), paras. 42-43. See also [LBY-OTP-00020358](#), para. 84.

³⁷⁴ *Al Hassan* TJ, para. 1157.

³⁷⁵ *Al Hassan* TJ, paras. 1160-1168.

³⁷⁶ **P-0054, P-0439, P-0486, P-0498, P-0595, P-0644, P-0667, P-0720, P-0942, P-0992, P-1026** and five other victims (F-2383, F-2397, F-2400, F-2406 and F-2787). See Non-exhaustive list of victims at Mitiga Prison, [LBY-OTP-00020680](#).

³⁷⁷ See above para. 50.

is no doubt that IHL applied at the material times.³⁷⁸

87. From the circumstances of this sample of individual incidents, it is clear that SDF/RADA members exercised their *de facto* authority to punish the victims,³⁷⁹ satisfying the *actus reus* of the first form of conduct prohibited by article 8(2)(c)(iv). Manifestly, there was no prior court judgment in these cases. Being in Mitiga was itself the punishment, [REDACTED].³⁸⁰ It was likewise made clear to others that their extrajudicial detention was itself a punishment for their perceived behaviour or for criticizing SDF/RADA.³⁸¹ Since cumulative charging is permissible, it is immaterial for the purposes of this application under article 58 whether the conduct amounting to a summary punishment may also form the *actus reus* for other alleged crimes.³⁸²

G.3.e. SDF/RADA detainees were enslaved and sexually enslaved: counts 13-15

88. SDF/RADA subjected at least 43 detainees to enslavement by exercising powers attaching to the right of ownership over them.³⁸³ This is a fact-sensitive assessment, looking to the reality of the relationship between the perpetrator(s) and victim(s). Indicia showing the exercise of powers of ownership include, but are not limited to: control or restrictions of movement; measures to deter or prevent escape; control of physical environment; psychological control or pressure; force, threat of force or coercion; control of sexuality; starvation; forced labour; torture; subjugation to medical experimentation; and cruel treatment and abuse.³⁸⁴

89. Detainees at Mitiga Prison were not simply deprived of their physical liberty; as described above,³⁸⁵ the power Mitiga Prison officials exercised over the detainees was almost absolute. They held them, arbitrarily, in confined, strictly controlled cells, subjecting them to constant psychological pressure, threats, physical violence, and starvation. Prisoners ate, slept, and

³⁷⁸ See *Njeem* Arrest Warrant, para. 76. Notably, while the relevant persons were detained in a variety of circumstances, they were all detained well before 2020—for example, **P-0054**, **P-0439**, **P-0486**, **P-0498**, **P-0595**, **P-0644**, **P-0667**, **P-0720**, **P-0942**, **P-0992**, **P-1026** and victims F-2383, F-2397, F-2400, F-2406 and F-2787 [REDACTED]. See also *above* paras. 47-48 (recalling that there was a NIAC at all times material to this Application, and that consequently as a matter of law the particular reason why victims were detained need not be established).

³⁷⁹ [LBY-OTP-0073-0025](#), paras. 68-70, 75, 77, 84-88, 115, 133-137; [LBY-OTP-0066-0951](#), para. 40; [LBY-OTP-0069-0584](#), paras. 39-42, 197-199; [LBY-OTP-0069-0506](#), para. 75; [LBY-OTP-0074-0889](#), paras. 49-50, 61, 66, 73, 77, 210-213; [LBY-OTP-00001491](#), paras. 39-40, 102, 108-111; [LBY-OTP-0083-0052](#), paras. 106-107, 179; [LBY-OTP-00015360](#), paras. 123-125; [LBY-OTP-00018787](#), paras. 46-47; [LBY-OTP-00016896](#), paras. 47, 63-68; [LBY-OTP-00020358](#), paras. 31-37, 49, 57-61, 66, 88, 95, 116, 138, 145-146.

³⁸⁰ [LBY-OTP-00001491](#), paras. 39-46.

³⁸¹ [LBY-OTP-0073-0025](#), paras. 133-137; [LBY-OTP-0069-0584](#), para. 198; [LBY-OTP-00001491](#), para. 125.

³⁸² See *Njeem* Arrest Warrant, para. 76.

³⁸³ Elements of Crimes, Article 7(1)(c)-1. See also *Katanga* TJ, para. 975; Germany, Düsseldorf Higher Regional Court, Judgment, 7 StS 3/19, 16 June 2021, para. 661; Colombia, Jurisdicción Especial para la Paz (Special Jurisdiction for Peace), Macrocase 01: Toma de rehenes, graves privaciones de la libertad y otros crímenes concurrentes cometidos por las FARC-EP, Auto TP-SeRVR-AI-No.003-2024, 29 April 2024, para. 308.

³⁸⁴ See *Ntaganda* TJ, para. 952; *Katanga* TJ, para. 976; *Katanga* Confirmation Decision, para. 431; *Al Hassan* Confirmation Decision, paras. 546-547; *Al Hassan* TJ, para. 1194; *Ongwen* TJ, paras. 2712, 2715-2716; *Kunarac et al.* TJ, paras. 542-543; *Kunarac et al.* AJ, paras. 119-124; *Sesay et al.* TJ, paras. 160-161, 199; *Taylor* TJ, para. 420; *Case 001* TJ, para. 342; Sellers and Kestenbaum, pp. 157-158, 163-168; Grey, pp. 255-256; *Ongwen* Prosecution Response to Amici, paras. 37-38.

³⁸⁵ See *above*, paras. 60-86.

prayed when ordered to. Whether they complied with instructions or not, the guards beat them. While violence was the norm, any sign of disobedience resulted in yet more severe detention conditions, torture, rape and even death. Thus, detainees were placed in a situation of dependence, depriving them of any form of autonomy.³⁸⁶

90. Whilst the Prosecution does not allege that the entire prison population was enslaved, there are reasonable grounds to believe that SDF/RADA enslaved at least 43 detainees,³⁸⁷ including a nine-year-old boy. In addition to depriving these detainees of their autonomy in the manner described above, SDF/RADA forced them to assist in running Mitiga Prison (including participating in crimes against other detainees), to participate in other forms of labour, and/or exploited their bodies for their own purposes (such as providing blood, and sexually). SDF/RADA members and prison guards frequently used detainees to search, restrain, guard, and transport detainees, and to assist in their torture,³⁸⁸ as well as to attend to the sick and wounded, help dispose of dead bodies, or perform other tasks such as distributing food, and cleaning toilets and sewers.³⁸⁹ Outside the Main Prison, SDF/RADA also used detainees as free labour, especially in the construction of SDF/RADA facilities and the private residences of its

³⁸⁶ *Katanga* TJ, para. 975.

³⁸⁷ **P-0439, P-0595, P-0692, P-0719, P-0720, P-0730, P-0990, P-1026, P-1041** and 31 other victims (F-2177, F-2218, F-2221, F-2226, F-2227, F-2231, F-2236, F-2403, F-2404, F-2405, F-2456, F-2471, F-2474, F-2475, F-2480, F-2500, F-2527, F-2565, F-2671, F-2672, F-2673, F-2674, F-2675, F-2676, F-2677, F-2678, F-2681, F-2722, F-2760, F-2761 and F-2767). See Non-exhaustive list of victims at Mitiga Prison, [LBY-OTP-00020680](#).

³⁸⁸ Victims F-2675 and F-2678 ([LBY-OTP-00016896](#), paras. 29-30): [REDACTED]; Victims F-2676 and F-2677 ([LBY-OTP-00016896](#), para. 67): [REDACTED]; Victim F-2456 ([LBY-OTP-00007275](#), para. 41-42): [REDACTED]; Victim F-2837 ([LBY-OTP-00018134](#), para. 30): [REDACTED]; Victim F-2838 ([LBY-OTP-00015125](#), para. 41): [REDACTED]; Victims F-2474 and F-2475 ([LBY-OTP-0069-0584](#), paras. 101-102): [REDACTED]; Victim F-2673 ([LBY-OTP-00018772](#), paras. 30-31): [REDACTED]; Victim F-2565 ([LBY-OTP-00007275](#), paras. 40, 43; [LBY-OTP-0069-0506](#), para. 115): [REDACTED]; Victim F-2480 ([LBY-OTP-0073-0025](#), paras. 53, 84, 88, 91, 102, 105-108; [LBY-OTP-0080-0032](#), paras. 52-54, 56, 58; [LBY-OTP-00018787](#), p. 20, para. 93): [REDACTED]; Victim F-2671 ([LBY-OTP-00007275](#), paras. 26-28): [REDACTED]; Victim F-2672 ([LBY-OTP-00007275](#), para. 32): [REDACTED]; Victim F-2471 ([LBY-OTP-0083-0663](#), paras. 85-87): [REDACTED]; Victim F-2767 ([LBY-OTP-00020358](#), para. 45): [REDACTED]; Victims F-2218 and F-2674 ([LBY-OTP-0080-0032](#), para. 57; [LBY-OTP-00019195](#), para. 132): [REDACTED]; Victim F-2011 ([LBY-OTP-0083-0052](#), paras. 126, 137-142; [LBY-OTP-00020099](#), paras. 34, 79-80, 84): [REDACTED]; Victim F-2839 ([LBY-OTP-0074-0889](#), paras. 52): [REDACTED]; Victim F-2091 ([LBY-OTP-0070-7295](#), paras. 133-138): [REDACTED]; Victims F-2177, F-2221, F-2226, F-2231, and F-2236 ([LBY-OTP-0070-6952](#), para. 100): [REDACTED]. See also [LBY-OTP-0085-0063](#), para. 57; [LBY-OTP-00018134](#), para. 76.

³⁸⁹ Victims F-2722, F-2227, and F-2052 ([LBY-OTP-00020267](#), para. 73; [LBY-OTP-00018134](#), para. 54; [LBY-OTP-0074-0889](#), paras. 91-92; 97-102, 105, 118, 122-123, 129, 130, 141, 144, 163, 173, 181, 190, 213, 240, 269; [LBY-OTP-0070-6952](#), para. 98; [LBY-OTP-0080-0608](#), paras. 36, 40, 56-57, 61; [LBY-OTP-0070-7295](#), para. 141; [LBY-OTP-00018772](#), paras. 40-41): [REDACTED]; Victim F-2062 ([LBY-OTP-0074-0889](#), paras. 83, 86-87, 90-192): [REDACTED]; Victims F-2681 and F-2527 ([LBY-OTP-00020099](#), para. 84(13); [LBY-OTP-00018119](#), para. 44(g)): [REDACTED]; Victims F-2760, F-2761 ([LBY-OTP-00020236](#), paras. 20-21): [REDACTED]; Victim F-2500 ([LBY-OTP-0083-0052](#), para. 173, [LBY-OTP-00020099](#), paras. 69, 70; [LBY-OTP-00016896](#), para. 78; [LBY-OTP-00019195](#), para. 121): [REDACTED]; Victim F-2090 ([LBY-OTP-00015125](#), paras. 29-30, 75, 80-81): [REDACTED]; Victim F-2052 ([LBY-OTP-0080-0608](#), para. 164): [REDACTED]; Victim F-2091 ([LBY-OTP-0070-7295](#), para. 149): [REDACTED]; Victim F-2011 ([LBY-OTP-0083-0052](#), paras. 160, 162, 167): [REDACTED]. See also [LBY-OTP-00018134](#), para. 76; [LBY-OTP-0074-0889](#), paras. 52, 166, 226; [LBY-OTP-0069-0506](#), para. 67; [LBY-OTP-0069-0584](#), paras. 194-195.

members,³⁹⁰ and forced some to transport ammunition and participate in combat operations.³⁹¹ Although some “working prisoners” were held in slightly better conditions than others, none had any choice to cooperate: either they worked for SDF/RADA or they suffered further torture and hardship. They were a resource to be used, irrespective of the degradation they felt.³⁹² Similarly, SDF/RADA members and guards exploited some detainees’ bodies as a resource, by forcing them to give blood to treat SDF/RADA soldiers wounded in combat.³⁹³ Some detainees subjected to rights of ownership were also caused to engage in acts of a sexual nature, additionally satisfying the elements of the crime against humanity and war crime of sexual slavery.³⁹⁴ [REDACTED],³⁹⁵ [REDACTED].³⁹⁶

G.3.f. SDF/RADA detainees were persecuted: count 16

91. There are reasonable grounds to believe that at least 39 persons were persecuted at Mitiga Prison.³⁹⁷ Detainees were targeted for the commission of some of the article 5 crimes alleged above on discriminatory grounds, namely: religion, gender, politics, nationality, race, and/or ethnicity.³⁹⁸ While these grounds *sometimes* intersected, it does not appear at this stage of the investigation that they always did so. The perpetrators’ discriminatory intent is evidenced by the profiles of the targeted victims as well as the perpetrators’ own verbal statements.³⁹⁹

³⁹⁰ Victim F-2159 ([LBYP-OTP-0066-0951](#), para. 63): [REDACTED]; Victim F-2484 ([LBYP-OTP-00016896](#), paras. 58-60): [REDACTED]; Victims F-2403, F-2404, and F-2405 ([LBYP-OTP-0080-0608](#), para. 39): [REDACTED]. See also [LBYP-OTP-0070-7295](#), para. 134; [LBYP-OTP-0069-0506](#), paras. 136-137; [LBYP-OTP-0083-0052](#), para. 158; [LBYP-OTP-0069-0584](#), paras. 194-195; [LBYP-OTP-0074-0889](#), para. 225; [LBYP-OTP-00016896](#), para. 54; [LBYP-OTP-00020267](#), para. 103; [LBYP-OTP-0083-0052](#), paras. 20, 28, 76-77, 170.

³⁹¹ Victim F-2694 ([LBYP-OTP-00020173](#), paras. 83-121): [REDACTED]. See also [LBYP-OTP-00016896](#), para. 60; [LBYP-OTP-00020267](#), paras. 61-62; [LBYP-OTP-00020358](#), para. 158; [LBYP-OTP-0083-0052](#), paras. 42, 187-189.

³⁹² [LBYP-OTP-0074-0889](#), para. 93; [LBYP-OTP-00020173](#), paras. 74-76, 79, 81, 83, 87, 110-121. See also [LBYP-OTP-0080-0608](#), para. 56.

³⁹³ Victim F-2114 ([LBYP-OTP-00015405](#), para. 51): [REDACTED]. See also [LBYP-OTP-00020099](#), paras. 41-42.

³⁹⁴ This specific allegation demonstrates the elements of both enslavement and sexual slavery. It relates to the control of sexuality as an indicia to establish the exercise of powers of ownership for the crime of enslavement. The act of being “caused to engage in an act of sexual nature” can also amount to sexual slavery when combined with the exercise of the powers of ownership. The Prosecution considers it appropriate to include this allegation separately at this early stage of proceedings, in the interest of clarity, and without prejudice to the final content of the DCC. See Non-exhaustive list of victims at Mitiga Prison, [LBYP-OTP-00020680](#).

³⁹⁵ See above, paras. 77. P-0439 ([LBYP-OTP-0066-0951](#), paras. 28, 44-48): [REDACTED]; P-0551 ([LBYP-OTP-00001367](#), p. 11, ln. 18 to p. 17, ln. 17, p. 20, lns. 6-21; [LBYP-OTP-0070-6952](#), paras. 167, 170): [REDACTED].

³⁹⁶ See above, paras. 75-80. P-0720 ([LBYP-OTP-0083-0052](#), paras. 124-128): [REDACTED] (see [LBYP-OTP-0083-0052](#), paras. 126, 137-142; [LBYP-OTP-00020099](#), paras. 34, 79-80, 84), [REDACTED]. P-0990 ([LBYP-OTP-00015405](#), para. 80): [REDACTED] (see [LBYP-OTP-00015405](#), para. 51), [REDACTED]. P-1026 ([LBYP-OTP-00016896](#), paras. 67-68): [REDACTED] (see [LBYP-OTP-00016896](#), paras. 58-60), [REDACTED].

³⁹⁷ P-0054, P-0486, P-0551, P-0571, P-0595, P-0635, P-0644, P-0650, P-0667, P-0720, P-0942, P-1041 and 24 other victims (F-2111, F-2177, F-2221, F-2226, F-2231, F-2236, F-2474, F-2475, F-2480, F-2517, F-2518, F-2527, F-2671, F-2672, F-2673, F-2674, F-2675, F-2676, F-2677, F-2678, F-2681, F-2706, F-2760, F-2761, F-2837, F-2838, F-2839). See Non-exhaustive list of victims at Mitiga Prison, [LBYP-OTP-00020680](#).

³⁹⁸ See also *Al Hassan* TJ, para. 1207.

³⁹⁹ [LBYP-OTP-0073-0025](#), paras. 79, 97, 105-106, 109; [LBYP-OTP-0072-0387](#), paras. 52-54, 65, 93; [LBYP-OTP-0080-0169](#), paras. 122, 124-126, 155; [LBYP-OTP-0074-0889](#), paras. 50, 73, 75; [LBYP-OTP-00001491](#), paras. 43-44; [LBYP-OTP-0083-0052](#), para. 84; [LBYP-OTP-00015360](#), paras. 18, 40; [LBYP-OTP-00018075](#), para. 80; [LBYP-OTP-00015405](#), paras. 40-41, 81, 92; [LBYP-OTP-00016896](#), paras. 27, 32; [LBYP-OTP-00020358](#), paras. 20-21, 31-38, 57-61, 66, 88.

92. Given the relative diversity in the instances of persecution, the victims may *either* be conceived as members of a single identifiable group or collectivity, based on their status as detainees in Mitiga Prison,⁴⁰⁰ or may alternatively be conceived as members of *multiple* identifiable groups, each defined as Mitiga detainees who were perceived to deviate from the perpetrators' expectations associated with the various grounds of discrimination. Without prejudice to future charges, the Prosecution cannot at this time exclude the possibility that various perpetrators of the alleged persecution did so on different grounds, and thus alleges a mode of liability for **AL HISHRI** accordingly.⁴⁰¹

93. Since the underlying acts of the alleged persecution are based on instances of article 5 crimes alleged above, they amount as such to deprivations of fundamental rights satisfying the minimum level of severity required.⁴⁰² For the same reason, the connection between the alleged persecution and the commission of crimes under the Statute is thus implicit.⁴⁰³

G.3.f.i. National, racial and/or ethnic persecution

94. At least 21 detainees were targeted for criminality on grounds of nationality, race and/or ethnicity.⁴⁰⁴ In particular, sub-Saharan African detainees received some of the worst treatment at Mitiga Prison.⁴⁰⁵ They were treated "like slaves"⁴⁰⁶ and assigned to hard labour including construction, carrying weapons, ammunition or supplies, and cleaning,⁴⁰⁷ while subjected to mistreatment and appalling detention conditions, including an extremely poor diet. P-0486 described this as "a form of torture".⁴⁰⁸ Some of these detainees were further degraded by being made to torture and/or assist in the torture of other detainees, including by undressing and searching them, suspending them in stress positions, beating them with the "*Falqa*" method, or putting them in the metal coffin-like box at the *Naqliah*.⁴⁰⁹ The particular targeting of sub-Saharan African detainees for this treatment was explicable only by the perpetrators' discrimination against them on the basis of their nationality, race and/or ethnicity.

⁴⁰⁰ *Al Hassan* TJ, para. 1206.

⁴⁰¹ *See below* para. 146.

⁴⁰² *Al Hassan* TJ, para. 1204.

⁴⁰³ *Al Hassan* TJ, para. 1208.

⁴⁰⁴ **P-1041** and 20 other victims (F-2177, F-2221, F-2226, F-2231, F-2236, F-2474, F-2475, F-2480, F-2527, F-2671, F-2672, F-2673, F-2674, F-2675, F-2676, F-2677, F-2678, F-2681, P-2760 and P-2761). *See* Non-exhaustive list of victims at Mitiga Prison, [LBY-OTP-00020680](#).

⁴⁰⁵ [LBY-OTP-00018134](#), para. 76.

⁴⁰⁶ [LBY-OTP-0074-0889](#), para. 166; [LBY-OTP-00015125](#), para. 65; [LBY-OTP-0085-0063](#), para. 57; [LBY-OTP-00020173](#), paras. 92, 105.

⁴⁰⁷ *See above* para. 90.

⁴⁰⁸ [LBY-OTP-0069-0584](#), paras. 194-195. *See also* [LBY-OTP-00020173](#), paras. 109-110.

⁴⁰⁹ Victims F-2177, F-2221, F-2226, F-2231, F-2236, F-2474, F-2475, F-2480, F-2527, F-2671, F-2672, F-2673, F-2674, F-2675, F-2676, F-2677, F-2678, F-2681. *See* Non-exhaustive list of victims at Mitiga Prison, [LBY-OTP-00020680](#). *See also* [LBY-OTP-00018119](#), para. 44; [LBY-OTP-00018787](#), para. 93; [LBY-OTP-00020099](#), para. 84; [LBY-OTP-00020173](#), paras. 85-121; [LBY-OTP-0073-0025](#), para. 91; [LBY-OTP-0080-0032](#), paras. 52-54, 56, 58; [LBY-OTP-00020358](#), para. 136.

G.3.f.ii. Religious, political, and/or gender persecution

95. Some detainees—and potentially a significant proportion of the detainee population at Mitiga—were targeted for criminality on grounds of religion, politics, and/or gender. In some cases, this was apparent from the reason why they were first detained, or the circumstances of their initial arrest; in other cases, this was apparent from the particular means by which they were victimised within Mitiga Prison itself. Moreover, while some members of the leadership of SDF/RADA such as KARA and **AL HISHRI** professed adherence to certain radical interpretations of Islam (a Salafist worldview known as *Madkhalism*), this was not necessarily universally shared among perpetrators. Accordingly, without prejudice to further clarification of this issue for the purpose of future proceedings, including in light of new evidence, the evidence presently shows a reasonable basis to believe that persecution was carried out on multiple different grounds, not necessarily intersecting, even if this may on occasion only have reflected the conduct of particular perpetrators or sub-groups of perpetrators.

96. There are reasonable grounds to believe that detainees—who disproportionately professed minority faiths in Libya (such as Christianity, or Shia or Sufi schools of Islam),⁴¹⁰ no faith at all,⁴¹¹ or were associated with particular practices such as religious healings⁴¹² and ‘sorcery’⁴¹³—were targeted for particular crimes on the grounds of religion, based on their perceived non-compliance with perpetrators’ religious expectations.⁴¹⁴ [REDACTED].⁴¹⁵ [REDACTED].⁴¹⁶ [REDACTED].⁴¹⁷ [REDACTED].⁴¹⁸ [REDACTED].⁴¹⁹ [REDACTED].⁴²⁰

97. The religious dimension of criminality at Mitiga Prison was also illustrated by the religious expectations imposed on all detainees, and actual or threatened punishment if detainees did not comply. Thus, detainees were forced to grow long beards, pray every day, and read the Koran or risk being beaten or shot.⁴²¹ Guards would come to the cells early in the morning, and beat

⁴¹⁰ [LBY-OTP-0069-0584](#), paras. 71, 166, 189; [LBY-OTP-0080-0032](#), para. 172; [LBY-OTP-0080-0169](#), paras. 119-122, 124-134, 137, 154-156, 163, 167, 173, 178, 190, 198; [LBY-OTP-0074-0889](#), paras. 67, 89, 97; [LBY-OTP-00001491](#), para. 103; [LBY-OTP-0080-0608](#), paras. 85-86, 105; [LBY-OTP-0070-7295](#), para. 141; [LBY-OTP-00020358](#), paras. 75-76, 103.

⁴¹¹ [LBY-OTP-0073-0025](#), para. 131; [LBY-OTP-0080-0169](#), paras. 190, 208; [LBY-OTP-0074-0889](#), paras. 60-61, 66-68, 73-75, 77-82, 230; [LBY-OTP-00001491](#), paras. 29, 32, 37-38, 92, 103, 125.

⁴¹² [LBY-OTP-0069-0584](#), para. 188.

⁴¹³ [LBY-OTP-0080-0608](#), para. 170; [LBY-OTP-0070-7295](#), para. 208; [LBY-OTP-00007275](#), para. 35.

⁴¹⁴ [LBY-OTP-0070-4009](#), p. 9; [LBY-OTP-00018767](#), paras. 10-11; [LBY-OTP-00018765](#), para. 6; [LBY-OTP-00018764](#), para. 13.

⁴¹⁵ [LBY-OTP-00020358](#), paras. 20-21, 31-38, 48, 57-61, 66, 88, 95, 112-114, 130-134, 138, 143, 148-149, 161.

⁴¹⁶ [LBY-OTP-0074-0889](#), paras. 73-74, 77-82.

⁴¹⁷ [LBY-OTP-00001491](#), paras. 43-44. *See also* para. 92.

⁴¹⁸ [LBY-OTP-0080-0169](#), paras. 54-55, 84, 119-122, 124-134, 160-175.

⁴¹⁹ [LBY-OTP-0080-0169](#), paras. 48, 58-59, 116-117, 131, 133-134, 173, 179-188, 190-191, 204-205, 209-211, 231; [LBY-OTP-0074-0889](#), paras. 77, 110, 242. *See also* [LBY-OTP-00007250](#), paras. 55-57; [LBY-OTP-0069-0506](#), para. 106; [LBY-OTP-00001491](#), paras. 99-101, 104-106, 121.

⁴²⁰ [LBY-OTP-0080-0169](#), para. 257; [LBY-OTP-0074-0889](#), para. 233; [LBY-OTP-00001491](#), paras. 132.

⁴²¹ [LBY-OTP-00007250](#), para. 56; [LBY-OTP-0080-0169](#), para. 68; [LBY-OTP-0080-0608](#), paras. 24, 86; [LBY-OTP-0070-7295](#), paras. 80, 124; [LBY-OTP-00015125](#), paras. 32, 66; [LBY-OTP-00015405](#), para. 52; [LBY-OTP-00018787](#), para. 39; [LBY-OTP-00016916](#), para. 32.

detainees to force them to pray.⁴²² P-0692 recalls, “[t]hey wouldn’t treat you when you itched and scratched yourself until you bled, but they’d force you to read the Koran”.⁴²³ [REDACTED].⁴²⁴

98. Detainees were also targeted for criminality at Mitiga on political grounds, based on their perceived non-compliance with perpetrators’ political stance, such as perceived opposition to SDF/RADA’s own agenda or interests, and/or perceived affiliation to SDF/RADA’s enemies.⁴²⁵ [REDACTED],⁴²⁶ [REDACTED].⁴²⁷ Anyone from or otherwise linked to the east of Libya might be suspected of being an ISIS or LNA supporter⁴²⁸ and potentially detained.⁴²⁹ [REDACTED].⁴³⁰ [REDACTED].⁴³¹ Many detainees were interrogated about their political allegiances, and accused of criticising SDF/RADA, its allies, or of being a member of an enemy militia.⁴³²

99. Detainees were also targeted for criminality at Mitiga Prison based on perpetrators’ expectations associated with the victim’s sex or gender, including their actual or perceived sexual preferences. In particular, a number of male detainees were targeted for actual or perceived homosexuality,⁴³³ and/or for aspects of their appearance considered inappropriate for men [REDACTED].⁴³⁴ [REDACTED].⁴³⁵ [REDACTED].⁴³⁶

100. There are likewise numerous examples of the arrest of women and girls for conduct deviating from perpetrators’ expectations of their sex or gender—[REDACTED],⁴³⁷ [REDACTED],⁴³⁸ [REDACTED],⁴³⁹ [REDACTED].⁴⁴⁰ Similarly, only women were

⁴²² [LBY-OTP-0080-0169](#), para. 68. See also [LBY-OTP-00020358](#), para. 78.

⁴²³ [LBY-OTP-0080-0608](#), para. 86.

⁴²⁴ [LBY-OTP-00007250](#), para. 56. See also [LBY-OTP-0070-6952](#), paras. 48-55.

⁴²⁵ [LBY-OTP-0073-0025](#), para. 94; [LBY-OTP-0065-0649](#), paras. 26-28; [LBY-OTP-0069-0584](#), paras. 39-42, 52, 173, 190; [LBY-OTP-0074-0889](#), para. 77; [LBY-OTP-0083-0052](#), para. 191; [LBY-OTP-00007275](#), para. 65.

⁴²⁶ [LBY-OTP-0080-0468](#), paras. 79-85.

⁴²⁷ [LBY-OTP-0069-0584](#), paras. 95-97, 104-106; [LBY-OTP-0083-0189](#), paras. 30-35, 37-42, 61, 66, 77-84, 89-91, 100, 119-132, 210, 219, 224, 233-236, 258; [LBY-OTP-0083-0052](#), paras. 18, 84; [LBY-OTP-00020099](#), paras. 13-20, 26-27.

⁴²⁸ [LBY-OTP-00001366](#), p. 20, ln. 10 to p. 22, ln. 6; [LBY-OTP-00015152](#), para. 107; [LBY-OTP-00018787](#), paras. 17, 19-22, 58; [LBY-OTP-00016896](#), para. 63.

⁴²⁹ [LBY-OTP-0074-0889](#), para. 103; [LBY-OTP-00015152](#), para. 96; [LBY-OTP-0070-7295](#), paras. 41, 51.

⁴³⁰ [LBY-OTP-0070-6952](#), paras. 43-51.

⁴³¹ [LBY-OTP-00015360](#), paras. 13, 24, 162.

⁴³² [LBY-OTP-0069-0584](#), paras. 95-97, 100-101, 104-106; [LBY-OTP-0070-6952](#), paras. 48-55; [LBY-OTP-00015360](#), para. 40; [LBY-OTP-00016896](#), paras. 22-23, 27.

⁴³³ [LBY-OTP-0073-0025](#), paras. 105, 109-110; [LBY-OTP-00001366](#), p. 37, ln. 14 to p. 38, ln. 6; p. 41, lns. 1-10; [LBY-OTP-0080-0608](#), para. 106; [LBY-OTP-00015125](#), para. 92.

⁴³⁴ [LBY-OTP-0073-0025](#), para. 79.

⁴³⁵ [LBY-OTP-0073-0025](#), paras. 77, 79-80, 84, 86-87, 105-113, 133-137.

⁴³⁶ [LBY-OTP-00001366](#), p. 34, ln. 19 to p. 35, ln. 8; p. 37, ln. 1 to p. 40, ln. 11; p. 41, ln. 15 to 22; p. 42, ln. 25 to p. 44, ln. 14; p. 45, ln. 9 to p. 48, ln. 8; p. 55, ln. 14 to p. 57, ln. 1; [LBY-OTP-00001367](#), p. 3, ln. 17 to p. 6, ln. 6; p. 11, ln. 18 to p. 17, ln. 17, p. 20, lns. 6-21.

⁴³⁷ See Victims F-2111, F-2517 and F-2518, Non-exhaustive list of victims at Mitiga Prison, [LBY-OTP-00020680](#).

⁴³⁸ [LBY-OTP-0070-7295](#), para. 160.

⁴³⁹ [LBY-OTP-00018134](#), para. 69.

⁴⁴⁰ [LBY-OTP-0083-0663](#), para. 155.

apparently detained in connection to alleged prostitution and adultery.⁴⁴¹

101. The particular means by which detainees at Mitiga Prison were abused also varied according to the sex or gender of the detainee. Thus, male detainees were singled out for anal rape and subjected to violence targeting their genitals.⁴⁴² Women were treated “like cattle”, and pulled around the prison with a rope,⁴⁴³ since at least some guards considered it prohibited to touch women outside their family.⁴⁴⁴ Women and girls were forced to cover themselves fully in dark clothing.⁴⁴⁵ They were abused with misogynistic references to their sex, and called “bitch”, “whore”, and “slut”.⁴⁴⁶ [REDACTED].⁴⁴⁷ No allowance was made even for pregnant women.⁴⁴⁸

G.4. AL HISHRI IS CRIMINALLY RESPONSIBLE

102. **AL HISHRI** is responsible for committing the crimes alleged in counts 1-15 of this Application, jointly with others, within the context of a common plan to imprison persons unlawfully in Mitiga Prison, and to violently mistreat them while in custody. **AL HISHRI** and the other co-perpetrators meant for these crimes to occur, or at least knew that they would occur in the ordinary course of events in the implementation of their common plan.⁴⁴⁹ **AL HISHRI** is thus responsible as a co-perpetrator pursuant to article 25(3)(a) of the Statute, either directly or indirectly, for the crimes alleged in counts 1-15.

103. Additionally and/or alternatively, **AL HISHRI** ordered or induced the commission of these alleged crimes under article 25(3)(b). Further or in the alternative, **AL HISHRI** is responsible as an accessory to these crimes under article 25(3)(d), committed by one or more groups acting with a common purpose. **AL HISHRI** aimed to further the criminal activities or purposes of the group(s), or at least knew of the intention of the group(s) to commit such crimes. Further or in the alternative, **AL HISHRI** is responsible as an aider and abettor of these crimes.

104. In any event, additionally, **AL HISHRI** is responsible for persecution (count 16) on gender and religious grounds as a direct perpetrator under article 25(3)(a), and for facilitating and encouraging persecution on political, national, racial and/or ethnic grounds under article

⁴⁴¹ [LBY-OTP-0074-0889](#), paras. 194, 200-204; [LBY-OTP-0080-0608](#), para. 170; [LBY-OTP-0070-7295](#), para. 160.

⁴⁴² [LBY-OTP-0069-0506](#), para. 126; [LBY-OTP-0070-6952](#), para. 170; [LBY-OTP-00001491](#), paras. 68-70; [LBY-OTP-0083-0052](#), para. 128; [LBY-OTP-00020099](#), para. 77; [LBY-OTP-00015360](#), paras. 27-43, 103-104; [LBY-OTP-00015405](#), para. 80; [LBY-OTP-00015420](#), paras. 28, 41; [LBY-OTP-00016896](#), paras. 67-68.

⁴⁴³ See victim F-2706, Non-exhaustive list of victims at Mitiga Prison, [LBY-OTP-00020680](#). See also [LBY-OTP-0070-7295](#), para. 164; [LBY-OTP-00019195](#), para. 123.

⁴⁴⁴ [LBY-OTP-0070-6952](#), para. 146.

⁴⁴⁵ [LBY-OTP-00001491](#), para. 112; [LBY-OTP-0080-0608](#), paras. 171, 213-214 and [LBY-OTP-0070-0827](#), at 03:05:16 (trans: [LBY-OTP-00019073](#)); [LBY-OTP-0083-0052](#), paras. 172, 184; [LBY-OTP-00007275](#), para. 91; [LBY-OTP-00018772](#), para. 78; [LBY-OTP-00015360](#), para. 119; [LBY-OTP-00018787](#), para. 39.

⁴⁴⁶ [LBY-OTP-0070-6952](#), paras. 148-150; [LBY-OTP-0080-0608](#), para. 171; [LBY-OTP-00018075](#), para. 98.

⁴⁴⁷ [LBY-OTP-00018075](#), para. 98.

⁴⁴⁸ [LBY-OTP-00015405](#), para. 78. See also [LBY-OTP-0074-0889](#), para. 197.

⁴⁴⁹ See *Ntaganda* TJ, para. 811.

25(3)(c). In the alternative, he is responsible under article 25(3)(c) for persecution on all the above grounds.

105. Since the Statute recognises no hierarchy in modes of liability,⁴⁵⁰ and since this Application precedes the confirmation of charges process, the Prosecution requests that the Chamber makes findings in relation to *each* of the alleged modes for the purpose of any warrant of arrest. The evidence supporting these allegations is set out in the following paragraphs, but in the interest of clarity and concision is not repeated unless necessary.

G.4.a. AL HISHRI is responsible for counts 1-15 under article 25(3)(a)

106. **AL HISHRI** is responsible as a direct and/or indirect co-perpetrator of the crimes alleged in counts 1-15. These crimes were carried out directly by **AL HISHRI**, by his co-perpetrators among the senior members of SDF/RADA, and/or by persons whom they controlled and used as tools. **AL HISHRI** was party to a common plan to carry out such crimes against detainees in Mitiga Prison, and made an essential contribution to that plan with the resulting power to frustrate the commission of the alleged crimes.⁴⁵¹ Without his contribution, “the crime[s] could not have been committed or would have been committed in a significantly different way.”⁴⁵²

G.4.a.i. The alleged crimes were carried out according to a common plan

107. The crimes alleged in counts 1-15 were committed as part of a common plan between senior SDF/RADA members, including KARA, **AL HISHRI**, N’ZAM, and NJEEM, to imprison persons unlawfully in Mitiga Prison, and to violently mistreat them while in custody. This encompassed at least the crimes including imprisonment, outrages upon personal dignity, torture, cruel treatment, sexual violence, rape, murder and attempted murder, summary punishment, enslavement, and sexual slavery. For the purpose of article 25(3)(a), such a common plan need not be written or explicit and may be inferred from circumstantial evidence, including the subsequent concerted action of the co-perpetrators and the actual commission of the alleged crimes.⁴⁵³ It may be previously arranged, or extemporaneous,⁴⁵⁴ and the co-perpetrators’ contributions may differ in nature and timing.⁴⁵⁵

108. Senior members of SDF/RADA—including KARA, **AL HISHRI**, N’ZAM, and NJEEM⁴⁵⁶—jointly controlled the commission of the crimes within the framework of the common plan, either by their own conduct (such as directly carrying out crimes, or contributing

⁴⁵⁰ *Bemba et al.* Sentencing AJ, paras. 59-60.

⁴⁵¹ *Lubanga* AJ, para. 469; *Al Mahdi* TJ, para. 19.

⁴⁵² *Bemba et al.* AJ, para. 820.

⁴⁵³ *Lubanga* TJ, paras. 984, 988; *Bemba et al.* TJ, para. 66; *Lubanga* Confirmation Decision, para. 345; *Kenyatta et al.* Confirmation Decision, para. 399; *Ruto et al.* Confirmation Decision, para. 301.

⁴⁵⁴ *Lubanga* AJ, para. 445.

⁴⁵⁵ See e.g. *Bemba et al.* AJ, paras. 810, 819-820 (finding that the contribution can be at the planning or preparation stage, but also at the execution stage).

⁴⁵⁶ See e.g. [LBY-OTP-0080-0032](#), para. 122.

to the creation and maintenance of the criminal system at Mitiga Prison) or indirectly through other persons whose conduct they controlled (such as SDF/RADA subordinates, the Mitiga Prison guards, and enslaved persons such as the sub-Saharan African detainees).

109. Notwithstanding the official positions of some co-perpetrators,⁴⁵⁷ the foundation for the common plan and the relationship between the co-perpetrators—and any hierarchy between them—was their membership in SDF/RADA.⁴⁵⁸ Thus, while **AL HISHRI** was specifically in charge of Mitiga Prison’s Women’s Section and was one of the most senior officials in the prison,⁴⁵⁹ within the SDF/RADA hierarchy he was either a superior, peer or subordinate of co-perpetrators such as KARA, NJEEM, and N’ZAM.⁴⁶⁰

110. In particular, KARA was the undisputed leader of SDF/RADA, and **AL HISHRI** and N’ZAM were his close associates.⁴⁶¹ Notwithstanding his role within the prison, NJEEM treated KARA, **AL HISHRI**, and N’ZAM with deference,⁴⁶² and sometimes sought their assent for decisions.⁴⁶³ **AL HISHRI**’s senior role in SDF/RADA is further underlined by his own family’s prominence among the various family networks which helped cement SDF/RADA as an organisation.⁴⁶⁴ **AL HISHRI**’s uncle, N’ZAM, is a top-level SDF/RADA member;⁴⁶⁵ his

⁴⁵⁷ Notably, consistent with his function in running Mitiga Prison, NJEEM was appointed to positions in the Judicial Police: *see e.g.* [LBY-OTP-0083-0052](#), para. 33; [LBY-OTP-00018772](#), para. 74; [LBY-OTP-00019245](#), para. 67. While the Judicial Police was subordinated to the Ministry of Justice, other SDF/RADA members, like **AL HISHRI**, may have been subordinated to the Ministry of Interior: *see e.g.* [LBY-OTP-0066-0951](#), paras. 71, 73; [LBY-OTP-0074-0889](#), para. 27; [LBY-OTP-0069-0584](#), para. 159; [LBY-OTP-0069-0506](#), para. 81. *But see* [LBY-OTP-0083-0052](#), paras. 33, 92.

⁴⁵⁸ [LBY-OTP-0069-0584](#), paras. 159-160. *See also* [LBY-OTP-0080-0169](#), paras. 44-45, 85; [LBY-OTP-0069-0506](#), paras. 80-83; [LBY-OTP-00015405](#), para. 53; [LBY-OTP-0080-0608](#), paras. 142, 151.

⁴⁵⁹ *See above* para. 3; *below* paras. 122, 124, 130.

⁴⁶⁰ *See e.g.* [LBY-OTP-0083-0052](#), para. 30; [LBY-OTP-00020099](#), para. 34; [LBY-OTP-0085-0063](#), para. 37; [LBY-OTP-00016916](#), para. 65; [LBY-OTP-00015420](#), para. 37; [LBY-OTP-0069-0506](#), para. 90; [LBY-OTP-00007275](#), paras. 80.

⁴⁶¹ [LBY-OTP-0070-6952](#), paras. 128-129, 137; [LBY-OTP-0069-0506](#), paras. 81-82, 87; [LBY-OTP-0080-0608](#), paras. 43, 142, 151; [LBY-OTP-0083-0052](#), para. 30; [LBY-OTP-00020099](#), para. 34; [LBY-OTP-00018119](#), paras. 96-98; [LBY-OTP-00016896](#), paras. 104-105; [LBY-OTP-00016916](#), para. 65; [LBY-OTP-00015405](#), paras. 36, 53; [LBY-OTP-0070-7295](#), paras. 181, 183-185; [LBY-OTP-0074-0889](#), para. 253; [LBY-OTP-00018134](#), paras. 78-79, 85. *See also* [LBY-OTP-0080-0032](#), paras. 99, 120-122, 125; [LBY-OTP-00007250](#), paras. 60-61. Concerning **AL HISHRI** specifically, *see e.g.* [LBY-OTP-0083-0052](#), para. 134; [LBY-OTP-0069-0506](#), paras. 92-93. *See also below* paras. 115, 124-129 (concerning **AL HISHRI**’s control over the Women’s Section of Mitiga Prison). Concerning N’ZAM, *see e.g.* [LBY-OTP-0080-0608](#), paras. 142, 151; [LBY-OTP-0070-6952](#), para. 129, [LBY-OTP-0080-0468](#), para. 139.

⁴⁶² *See e.g.* [LBY-OTP-0080-0608](#), paras. 142, 151 (NJEEM may have reported to N’ZAM), 151-152 (NJEEM was respectful to KARA). NJEEM produced detainees for KARA’s inspection: [LBY-OTP-00015420](#), para. 40; [LBY-OTP-00015405](#), para. 121. NJEEM produced detainees for **AL HISHRI**’s inspection: [LBY-OTP-0080-0169](#), paras. 87-88. *See also below* fns. 599-600.

⁴⁶³ [LBY-OTP-00015360](#), paras. 94-95; [LBY-OTP-00015420](#), para. 40; [LBY-OTP-00015405](#), para. 121; [LBY-OTP-0080-0169](#), paras. 87-88.

⁴⁶⁴ *See e.g.* [LBY-OTP-0080-0032](#), para. 125; [LBY-OTP-00015405](#), para. 53.

⁴⁶⁵ [LBY-OTP-0069-0584](#), paras. 32, 136; [LBY-OTP-0069-0506](#), paras. 95-96; [LBY-OTP-00018134](#), para. 79; [LBY-OTP-0080-0032](#), paras. 120-121, 125; [LBY-OTP-00001491](#), paras. 228, 150; [LBY-OTP-0083-0052](#), paras. 30, 34; [LBY-OTP-00015420](#), para. 35; [LBY-OTP-00016896](#), para. 105; [LBY-OTP-00018119](#), para. 97; [LBY-OTP-00001491](#), para. 117; [LBY-OTP-0080-0608](#), para. 151; [LBY-OTP-00016896](#), para. 105; [LBY-OTP-00020236](#), para. 72; [LBY-OTP-00020267](#), para. 130.

brother, Mounir AL HISHRI, was a shift commander;⁴⁶⁶ and his other brother, Mohamed AL HISHRI, also worked at Mitiga Prison.⁴⁶⁷

111. As the following paragraphs explain, the existence and scope of the common plan is shown primarily by four factors: (1) the use of Mitiga Prison to detain persons unlawfully and to violently mistreat them; (2) the systematic nature of the alleged crimes at Mitiga Prison, and the prolonged period of their commission; (3) the co-perpetrators' own conduct participating in the crimes at Mitiga Prison; and (4) the measures taken to conceal the crimes at Mitiga Prison, demonstrating the co-perpetrators' consciousness of guilt. The common plan had come into existence by at least February 2015, and continues to the present day.

(1) Mitiga was used to detain persons unlawfully and to violently mistreat them

112. In pursuit of its interests in Tripoli (and Libya) more broadly, SDF/RADA exploited its position in the GNA security architecture to target perceived opponents, and by this means to neutralise or punish them, to exploit them as assets for its own purposes (for example, to gain information or for extortion), and to intimidate others in the civilian population. This is the only reasonable inference from its conduct considered as a whole. As one witness noted, SDF/RADA aimed "to make money and to have power".⁴⁶⁸ KARA, likewise, expressly ordered crimes so the victim "knows who RADA is and understands the consequences of speaking ill about RADA".⁴⁶⁹ As senior members of SDF/RADA, the co-perpetrators used Mitiga Prison as a tool to serve this purpose, by detaining persons unlawfully and violently mistreating them. This is evident not only from the circumstances in which persons were arrested by SDF/RADA,⁴⁷⁰ but in particular from the flagrant and systematic manner in which crimes were committed against detainees in Mitiga Prison.⁴⁷¹ Since Mitiga Prison was completely controlled by SDF/RADA, and SDF/RADA was controlled by the co-perpetrators,⁴⁷² events at Mitiga necessarily reflected the co-perpetrators' intent. As senior members of SDF/RADA, the co-perpetrators were the architects and executors of this criminal design.

113. The fact that SDF/RADA may also have detained persons in Mitiga on behalf of the Libyan authorities, including within the framework of the Libyan criminal justice system, does

⁴⁶⁶ [LBY-OTP-0073-0025](#), para. 32; [LBY-OTP-0069-0584](#), para. 158; [LBY-OTP-0069-0506](#), para. 95; [LBY-OTP-0080-0032](#), para. 146; [LBY-OTP-0080-0169](#), para. 108; [LBY-OTP-00015125](#), para. 101; [LBY-OTP-00007275](#), para. 95; [LBY-OTP-00015360](#), para. 64; [LBY-OTP-00018787](#), para. 93; [LBY-OTP-00015420](#), para. 35; [LBY-OTP-00018119](#), para. 95; [LBY-OTP-0080-0468](#), para. 139; [LBY-OTP-0070-7295](#), para. 205; [LBY-OTP-0083-0052](#), para. 35; [LBY-OTP-0074-0889](#), para. 254; [LBY-OTP-0080-0169](#), para. 108; [LBY-OTP-00020236](#), para. 5; [LBY-OTP-00020267](#), para. 89; [LBY-OTP-00020358](#), para. 62

⁴⁶⁷ [LBY-OTP-0083-0052](#), para. 35; [LBY-OTP-0080-0032](#), para. 147.

⁴⁶⁸ [LBY-OTP-00007275](#), para. 80.

⁴⁶⁹ [LBY-OTP-0083-0052](#), paras. 84-89; [LBY-OTP-00020099](#), paras. 25-27.

⁴⁷⁰ See above paras. 60-64, 95, 98.

⁴⁷¹ See above paras. 54-55, 57-58, 65-101.

⁴⁷² See above paras. 28, 33-36, 38, 50, 108-110; below para. 115.

not undermine the existence of this common plan. First, since SDF/RADA sought to conceal the criminal conduct of its members as explained below, and to cloak itself with State authority, including ‘official’ detainees among those detained pursuant to SDF/RADA’s own agenda was entirely consistent with the aims of the common plan. Second, even those who were ‘officially’ detained in Mitiga were potentially still subject to the criminal aspects of the common plan—for example, they were subject to the same inadequate rations as the other detainees, to the same overcrowding, to the same torture and abuse. Even if detainees should have been released or referred for onward processing in the Libyan criminal justice system, the co-perpetrators could still maintain their detention if it suited their personal interests or those of SDF/RADA.

(2) Mitiga functioned as an unmistakable criminal system for a prolonged period

114. Mitiga Prison was organised so that the alleged crimes would be systematically inflicted on the detainees, and this can only have reflected the intent of the alleged co-perpetrators who were in control. In particular, evidence shows a striking degree of similarity in the treatment of detainees, including their induction, initial torture, subsequent mistreatment, the conspicuous nature of the abuse, and the perpetrators.⁴⁷³ This could not have transpired by accident, and no guard or SDF/RADA member working at Mitiga could have failed to understand how the system worked—especially as SDF/RADA maintained this system of unlawful detention and violent mistreatment for more than nine years. Notably, the layout and operating procedures of Mitiga Prison made it impossible for Mitiga Prison staff not to know what was going on. Mitiga Prison staff had offices along the prison’s western wall opposite the entrances of the detention sections and inner yards.⁴⁷⁴ Guards monitored detainees via cameras installed throughout the prison, in corridors, hallways, inner yards, and in specific cells.⁴⁷⁵ Guards were also stationed

⁴⁷³ See *above* paras. 54-55, 57-58, 65-101; *below* paras. 115, 121, 123, 132.

⁴⁷⁴ See **Annex 9**, Satellite image of Main Prison Building at “R1”. See also [LBY-OTP-0066-0951](#), paras. 42-43, 93, 95 and [LBY-OTP-0066-0989](#) (trans: [LBY-OTP-0070-7861](#)) at ‘11’; [LBY-OTP-0069-0506](#), para. 88; [LBY-OTP-00018134](#), para. 38 and [LBY-OTP-00018135](#), at ‘23’, ‘24’, ‘25’; [LBY-OTP-0080-0169](#), paras. 32, 34, 37, 97, 114 and [LBY-OTP-0080-0262](#) (trans: [LBY-OTP-00018813](#)) at ‘D’; [LBY-OTP-0074-0889](#), paras. 35-37, 124, 218, 238, 271 and [LBY-OTP-0074-0997](#) at ‘Osama’s office’, ‘N’, ‘C’; [LBY-OTP-0070-6952](#), para. 160 and [LBY-OTP-0070-6996](#) (trans: [LBY-OTP-00018808](#)) at H; [LBY-OTP-0080-0468](#), paras. 72, 74, 110, 141, [LBY-OTP-0080-0540](#) at ‘Offices for RADA’ and [LBY-OTP-0080-0541](#); [LBY-OTP-0083-0663](#), paras. 119, 136; [LBY-OTP-00001491](#), para. 94; [LBY-OTP-0080-0608](#), paras. 44, 183 and [LBY-OTP-0080-0656](#), at ‘Guards Room’; [LBY-OTP-0083-0052](#), paras. 65, 80, 90, 184 and [LBY-OTP-0083-0099](#) at ‘L’; [LBY-OTP-00015125](#), paras. 100-101 and [LBY-OTP-00015139](#), at ‘10’, ‘11’; [LBY-OTP-00007275](#), paras. 46, 99 and [LBY-OTP-00007276](#) (trans: [LBY-OTP-00018802](#)), at ‘A14’; [LBY-OTP-00018772](#), para. 36; [LBY-OTP-00015360](#), para. 199 and [LBY-OTP-00015371](#) at ‘27’; [LBY-OTP-00018787](#), para. 36; [LBY-OTP-00015420](#), para. 40; [LBY-OTP-00016916](#), para. 77 and [LBY-OTP-00016918](#) (trans: [LBY-OTP-00018806](#)) at C.

⁴⁷⁵ See **Annex 9**, Satellite image of Main Prison Building at “R5”. See also [LBY-OTP-0066-0951](#), paras. 42-43, 94; [LBY-OTP-0069-0506](#), para. 88; [LBY-OTP-0080-0169](#), paras. 32, 34 and [LBY-OTP-0080-0262](#) (trans: [LBY-OTP-00018813](#)) at ‘Q’; [LBY-OTP-0074-0889](#), paras. 35, 92, 182 and [LBY-OTP-0074-0997](#) at ‘CR’; [LBY-OTP-0080-0468](#), paras. 72, 110, 119; [LBY-OTP-0083-0663](#), paras. 77, 119, 136; [LBY-OTP-00001491](#), para. 94; [LBY-OTP-0080-0608](#), para. 183; [LBY-OTP-0083-0052](#), para. 184; [LBY-OTP-00018772](#), para. 36; [LBY-OTP-00015360](#), paras. 94, 199 and [LBY-OTP-00015371](#) at ‘27’; [LBY-OTP-00018787](#), para. 36.

in watchtowers and conducted regular patrols overlooking detention areas.⁴⁷⁶ SDF/RADA also appointed trusted detainees to work as section and cell “*capos*” who served as informants to collect information.⁴⁷⁷ There is no reasonable basis to consider that the widespread commission of the alleged crimes could have been mistaken or overlooked by Mitiga Prison staff.

(3) The co-perpetrators embraced the conspicuous criminal conduct in Mitiga

115. From their personal conduct, it is clear that KARA, NJEEM, and N’ZAM—like **AL HISHRI**⁴⁷⁸—all embraced and participated in the commission of the alleged crimes in Mitiga, demonstrating the existence of the common plan and their shared intent. Thus, as leader of SDF/RADA, KARA exercised overall control of Mitiga Prison, through his subordinates **AL HISHRI**, N’ZAM, and NJEEM. KARA personally attended the prison and interrogated detainees,⁴⁷⁹ ordered their torture,⁴⁸⁰ refused to allow medical care,⁴⁸¹ and permitted the violent commission of crimes by other co-perpetrators such as **AL HISHRI** and NJEEM.⁴⁸² For his part, NJEEM was Mitiga Prison’s director, and directly carried out or supervised numerous acts of torture and abuse.⁴⁸³ N’ZAM collaborated closely with KARA, his nephew **AL HISHRI**, and NJEEM. N’ZAM not only helped maintain control of Mitiga Prison but also the Mitiga Compound more broadly; he disciplined SDF/RADA members, and again participated in the torture of detainees together with **AL HISHRI** and NJEEM.⁴⁸⁴

(4) The co-perpetrators’ conduct reflected their consciousness of guilt

116. SDF/RADA consciously sought to preserve the distinction between its public reputation

⁴⁷⁶ [LBY-OTP-0080-0169](#), para. 56; [LBY-OTP-0080-0468](#), para. 126; [LBY-OTP-0083-0663](#), para. 135; [LBY-OTP-0083-0052](#), paras. 56, 131; [LBY-OTP-0085-0063](#), para. 70; [LBY-OTP-00015405](#), para. 47.

⁴⁷⁷ [LBY-OTP-0066-0951](#), paras. 37, 40, 44-45, 62; [LBY-OTP-0069-0584](#), paras. 64, 77-78, 162; [LBY-OTP-0069-0506](#), paras. 35, 42, 44, 49, 70, 73, 85, 121, 123-124, 138; [LBY-OTP-00018134](#), paras. 40-41, 46-48, 59-60, 64, 82-83; [LBY-OTP-0080-0169](#), paras. 53, 146, 148, 152, 157-158, 176; [LBY-OTP-00015125](#), paras. 33, 66; [LBY-OTP-00015360](#), paras. 133-134; [LBY-OTP-00015420](#), para. 22. *See also* [LBY-OTP-0073-0025](#), paras. 93, 96, 99-100, 114; [LBY-OTP-00007250](#), para. 29; [LBY-OTP-0080-0032](#), paras. 63, 83, 171; [LBY-OTP-0074-0889](#), paras. 85-86; [LBY-OTP-0080-0608](#), paras. 24, 166; [LBY-OTP-0070-7295](#), paras. 81-82, 162, 164; [LBY-OTP-0083-0052](#), paras. 139-141; [LBY-OTP-0085-0063](#), paras. 63-66, 69-70; [LBY-OTP-00018787](#), paras. 31, 34-36; [LBY-OTP-00015420](#), para. 22; [LBY-OTP-00016916](#), paras. 27-28, 34-35, 37, 40, 45, 52, 60, 76; [LBY-OTP-00016896](#), paras. 45, 78, 84; [LBY-OTP-00018119](#), paras. 44-45, 52, 56, 58-59, 64, 71, 85-86, 101-102; [LBY-OTP-00019195](#), paras. 43, 45-48, 50, 54-57, 60, 100, 118, 137, 158.

⁴⁷⁸ *See below* paras. 120-134.

⁴⁷⁹ [LBY-OTP-00015360](#), paras. 72-79. *See also above*, paras. 84, 112; *below* paras. 126, 133.

⁴⁸⁰ [LBY-OTP-0083-0052](#), paras. 84-89.

⁴⁸¹ [LBY-OTP-0074-0889](#), paras. 159-160. *See also above* para. 84.

⁴⁸² [LBY-OTP-00015405](#), para. 121; [LBY-OTP-00016896](#), para. 101; [LBY-OTP-0074-0889](#), paras. 117-126.

⁴⁸³ *See above* paras. 79-80, 82; *below* fns. 538-539. *See also e.g.* [LBY-OTP-00001491](#), paras. 90-92; [LBY-OTP-00007250](#), para. 62; [LBY-OTP-00007275](#), paras. 27-31, 43, 64, 91; [LBY-OTP-00015360](#), paras. 71, 78, 80, 81; [LBY-OTP-00015405](#), paras. 55, 121; [LBY-OTP-00016896](#), paras. 48, 64-68, 76, 87; [LBY-OTP-00016916](#), para. 49; [LBY-OTP-00018075](#), paras. 76-86; [LBY-OTP-00018119](#), para. 99; [LBY-OTP-0069-0506](#), paras. 90, 126; [LBY-OTP-0069-0584](#), paras. 63, 90-92, 100-103, 108-109, 135; [LBY-OTP-0070-6952](#), para. 135; [LBY-OTP-0070-7295](#), para. 208; [LBY-OTP-0074-0889](#), para. 238; [LBY-OTP-0080-0032](#), paras. 99, 102-104; [LBY-OTP-0080-0468](#), paras. 48, 141-142; [LBY-OTP-0080-0608](#), paras. 89, 91; [LBY-OTP-0083-0052](#), para. 113, 178.

⁴⁸⁴ *See above* paras. 82, 110 (fns. 461-462); *below* para. 123 (fn. 538). *See e.g.* [LBY-OTP-00007275](#), paras. 40-41, 43.

and its private misdeeds,⁴⁸⁵ and to conceal the commission of crimes at Mitiga. Individual perpetrators sought to conceal their own identity when committing crimes, by hooding victims,⁴⁸⁶ masking themselves,⁴⁸⁷ and using nicknames.⁴⁸⁸ They threatened or extorted detainees to remain quiet even once released,⁴⁸⁹ and adopted torture methods which could be more easily concealed.⁴⁹⁰ These characteristics all reflected the co-perpetrators' consciousness of guilt and their desire to continue to commit crimes with impunity. As the Appeals Chamber has recognised, such measures may help demonstrate the existence of a common plan.⁴⁹¹

117. At all times, SDF/RADA sought to maintain the public impression that, in dealing with crimes and terrorism, it treated its prisoners properly and lawfully.⁴⁹² This was a deliberate and self-serving falsehood. On the one hand, SDF/RADA regularly published online videos of alleged confessions to unlawful behaviour.⁴⁹³ However, these alleged confessions were coerced,⁴⁹⁴ and this was concealed.⁴⁹⁵ Likewise, SDF/RADA published online videos meant to reassure detainees' families of their wellbeing—yet images showing well-equipped clinics, abundant food, and sporting opportunities for detainees were a lie.⁴⁹⁶ [REDACTED].⁴⁹⁷

⁴⁸⁵ See e.g. [LBY-OTP-0080-0169](#), para. 199; [LBY-OTP-0080-0468](#), paras. 134-136; [LBY-OTP-0080-0608](#), para. 70.

⁴⁸⁶ [LBY-OTP-0073-0025](#), paras. 101-102; [LBY-OTP-0066-0951](#), paras. 21, 26; [LBY-OTP-0068-0003](#), para. 17; [LBY-OTP-0069-0584](#), paras. 95-97; [LBY-OTP-00007250](#), paras. 18-22-27, 43; [LBY-OTP-0069-0506](#), paras. 19, 24, 114-117, 119-120; [LBY-OTP-0080-0032](#), paras. 53-55; [LBY-OTP-0080-0169](#), para. 124; [LBY-OTP-0070-6952](#), paras. 44, 48; [LBY-OTP-00001491](#), paras. 61-62, 67-70, 76-78; [LBY-OTP-0080-0608](#), paras. 19, 67-68; [LBY-OTP-0070-7295](#), paras. 81-87; [LBY-OTP-0083-0052](#), paras. 124-128, 139-144; [LBY-OTP-0085-0063](#), paras. 67-69, 76-78; [LBY-OTP-00015125](#), paras. 46-47, 49, 54; [LBY-OTP-00007275](#), paras. 26, 28, 32-33, 42, 54, 72; [LBY-OTP-00015360](#), paras. 20-21, 23-25, 99-104; [LBY-OTP-00015405](#), paras. 42, 75, 78, 81, 83-85; [LBY-OTP-00018787](#), paras. 19, 63; [LBY-OTP-00016896](#), paras. 29, 32, 40; [LBY-OTP-00018119](#), paras. 56-58.

⁴⁸⁷ [LBY-OTP-0073-0025](#), para. 84; [LBY-OTP-0066-0951](#), para. 26; [LBY-OTP-0069-0584](#), paras. 100-102; [LBY-OTP-0074-0889](#), paras. 54-56, 63; [LBY-OTP-00001491](#), para. 36; [LBY-OTP-00015125](#), paras. 51-52; [LBY-OTP-00007275](#), para. 44.

⁴⁸⁸ [LBY-OTP-0069-0506](#), para. 118; [LBY-OTP-00018134](#), paras. 52, 55; [LBY-OTP-0080-0169](#), para. 199; [LBY-OTP-0080-0608](#), para. 70; [LBY-OTP-0083-0189](#), para. 141; [LBY-OTP-0085-0063](#), para. 56; [LBY-OTP-00015125](#), paras. 24, 47; [LBY-OTP-00015360](#), para. 32.

⁴⁸⁹ [LBY-OTP-00018119](#), para. 57; [LBY-OTP-00015360](#), para. 80; [LBY-OTP-0070-6952](#), para. 124; [LBY-OTP-0080-0468](#), para. 144; [LBY-OTP-00001491](#), para. 128; [LBY-OTP-0080-0608](#), para. 114; [LBY-OTP-00018075](#), para. 126.

⁴⁹⁰ [LBY-OTP-00015360](#), paras. 101, 124-125. See also [LBY-OTP-0066-0951](#), para. 27; [LBY-OTP-00007275](#), paras. 28-31; [LBY-OTP-00019195](#), para. 111.

⁴⁹¹ *Bemba et al.* AJ, para. 781.

⁴⁹² [LBY-OTP-0080-0468](#), para. 133; [LBY-OTP-00015360](#), para. 149. See also [LBY-OTP-00018318](#) (trans: [LBY-OTP-00018816](#)).

⁴⁹³ [LBY-OTP-0070-7295](#), paras. 116-118; [LBY-OTP-00015125](#), paras. 49-54, 86-88; [LBY-OTP-00015360](#), paras. 21-22. See also [LBY-OTP-00018738](#), p. 26; [LBY-OTP-0070-4059](#), para. 41.

⁴⁹⁴ See also e.g. [LBY-OTP-0083-0663](#), para. 142; [LBY-OTP-0066-0332](#), at 0346-0347; [LBY-OTP-00015152](#), paras. 73-76.

⁴⁹⁵ [LBY-OTP-0070-7295](#), paras. 116-118.

⁴⁹⁶ [LBY-OTP-0080-0608](#), para. 214 and [LBY-OTP-0070-0827](#) at 04:05:15 to 06:02:23 (trans: [LBY-OTP-00019073](#), pp. 1-2). See also [LBY-OTP-0069-0506](#), para. 78 and [LBY-OTP-0080-0468](#), para. 133.

⁴⁹⁷ [LBY-OTP-0083-0052](#), paras. 145-156; [LBY-OTP-0070-7295](#), paras. 155-158, 193-200; [LBY-OTP-0083-0134](#) (trans: [LBY-OTP-00019124](#)); [LBY-OTP-0080-0733](#) (trans: [LBY-OTP-00018809](#)).

[REDACTED]⁴⁹⁸ [REDACTED].⁴⁹⁹

118. Detainees were instructed to tell relatives that they were doing well, and to say nothing of torture or the conditions of detention.⁵⁰⁰ Visits were strictly monitored.⁵⁰¹ [REDACTED].⁵⁰² [REDACTED].⁵⁰³ [REDACTED].⁵⁰⁴

119. Likewise, SDF/RADA sought to limit external access to Mitiga Prison and, if such access could not be avoided,⁵⁰⁵ controlled what could be seen.⁵⁰⁶ Entire sections were physically hidden from inspection,⁵⁰⁷ and detainees in those cells instructed not to make any noise.⁵⁰⁸ During one visit, SDF/RADA showed inspectors a new and well-equipped clinic—but omitted that it was reserved for SDF/RADA members and their families, and that detainees were not treated there.⁵⁰⁹ As needed, SDF/RADA temporarily renovated parts of the prison,⁵¹⁰ removed detainees from cells,⁵¹¹ and left cell doors open⁵¹² to give the misleading impression that cells were not crowded. SDF/RADA would only let inspectors meet pre-selected prisoners whose cases had been transferred to a prosecutor,⁵¹³ and whom they were confident would speak only as instructed.⁵¹⁴ “As soon as [they] left, things would go back to how they were”.⁵¹⁵

G.4.a.ii. AL HISHRI made an essential contribution to the common plan

120. **AL HISHRI** made an essential contribution to the common plan. As such, he exercised joint control over the alleged crimes with the other co-perpetrators, who are each responsible in light of their mutual allocation of tasks. While **AL HISHRI**’s contributions were made at all material times, his essential role was clear to the co-perpetrators from the outset, even if some

⁴⁹⁸ [LBY-OTP-0069-0506](#), para. 146; [LBY-OTP-0070-7295](#), para. 142; [LBY-OTP-0085-0063](#), para. 95; [LBY-OTP-00015420](#), para. 48. See also [LBY-OTP-00018075](#), para. 128.

⁴⁹⁹ [LBY-OTP-0080-0169](#), para. 253; [LBY-OTP-00001491](#), paras. 126-127; [LBY-OTP-0080-0608](#), para. 115. See also [LBY-OTP-00018761](#), para. 51.

⁵⁰⁰ [LBY-OTP-0073-0025](#), paras. 116-117, 121-126; [LBY-OTP-0069-0584](#), para. 200; [LBY-OTP-00007250](#), paras. 37-38; [LBY-OTP-0074-0889](#), paras. 210-213; [LBY-OTP-0070-6952](#), para. 124; [LBY-OTP-00001491](#), paras. 52-53; [LBY-OTP-00018119](#), para. 76. See also [LBY-OTP-0069-0506](#), para. 98.

⁵⁰¹ [LBY-OTP-0080-0169](#), para. 241; [LBY-OTP-0074-0889](#), para. 213; [LBY-OTP-00015152](#), para. 66; [LBY-OTP-0080-0608](#), para. 64; [LBY-OTP-0083-0052](#), para. 65; [LBY-OTP-00007275](#), para. 45; [LBY-OTP-00018075](#), para. 118.

⁵⁰² [LBY-OTP-0073-0025](#), paras. 116-117, 121.

⁵⁰³ [LBY-OTP-0073-0025](#), para. 35.

⁵⁰⁴ [LBY-OTP-00015360](#), para. 148. See also [LBY-OTP-0080-0169](#), paras. 50, 241.

⁵⁰⁵ [LBY-OTP-0070-4253](#), para. 32; [LBY-OTP-0070-3642](#), para. 65; [LBY-OTP-00018738](#), pp. 5, 18; [LBY-OTP-0070-4059](#), para. 39; [LBY-OTP-0070-4075](#), para. 32; [LBY-OTP-0070-3758](#), para. 64.

⁵⁰⁶ [LBY-OTP-00015360](#), para. 112.

⁵⁰⁷ [LBY-OTP-0069-0584](#), para. 115; [LBY-OTP-0080-0032](#), para. 98; [LBY-OTP-00001491](#), paras. 101, 103; [LBY-OTP-0083-0052](#), paras. 67, 74, 113; [LBY-OTP-00020099](#), paras. 37-38; [LBY-OTP-00015360](#), paras. 105-112; [LBY-OTP-00015420](#), paras. 20, 22, 33; [LBY-OTP-00016896](#), para. 88; [LBY-OTP-00020236](#), para. 23; [LBY-OTP-00020358](#), paras. 109, 283 (24).

⁵⁰⁸ [LBY-OTP-00015420](#), para. 22; [LBY-OTP-00015360](#), para. 108.

⁵⁰⁹ [LBY-OTP-00015360](#), para. 108.

⁵¹⁰ [LBY-OTP-0066-0951](#), para. 39; [LBY-OTP-0069-0506](#), para. 45; [LBY-OTP-00015360](#), para. 105.

⁵¹¹ [LBY-OTP-00016896](#), para. 88.

⁵¹² [LBY-OTP-00015125](#), para. 74.

⁵¹³ [LBY-OTP-00015360](#), paras. 106, 109; [LBY-OTP-00015420](#), para. 20.

⁵¹⁴ [LBY-OTP-0066-0951](#), paras. 39, 71; [LBY-OTP-00015360](#), para. 109; [LBY-OTP-00018119](#), para. 101.

⁵¹⁵ [LBY-OTP-00015360](#), para. 111. See also [LBY-OTP-0069-0506](#), para. 45.

activities were shaped by later events.⁵¹⁶ Without **AL HISHRI**'s contribution, "the crime[s] could not have been committed or would have been committed in a significantly different way."⁵¹⁷ Specifically, **AL HISHRI**: (1) personally tortured and mistreated more than 188 detainees; (2) was in charge of the Women's Section; and (3) exercised his authority over all Mitiga Prison staff and detainees. By this conduct, **AL HISHRI** not only made an essential contribution to the commission of the crimes directly (through personal acts and omissions), but also indirectly (through controlling the Mitiga guards).

(1) AL HISHRI personally tortured and mistreated Mitiga detainees

121. **AL HISHRI** was widely known in Mitiga as a notorious torturer,⁵¹⁸ who was "[a]mong the wors[t] instigators of [...] violence" at Mitiga Prison.⁵¹⁹ Former detainees invariably describe him as a violent, cruel, and sadistic person who "enjoyed torturing people".⁵²⁰ Everyone, including the guards,⁵²¹ feared **AL HISHRI** and "no one in prison wanted to hear his voice",⁵²² because "he always [wore] his gun and [was] ready to execute people":⁵²³ He was particularly known for shooting – and even killing – people,⁵²⁴ for suspending detainees with their hands behind their backs,⁵²⁵ and beating them with a piece of wood.⁵²⁶ **AL HISHRI**'s violent reputation was justified by the abundant evidence of his repeated criminal conduct.⁵²⁷

122. As a top-level Mitiga Prison official and head of the Women's Section,⁵²⁸ **AL HISHRI** was well known by all detainees,⁵²⁹ many of whom were held for a prolonged period and saw **AL HISHRI** frequently. Consequently, the detainees' recognition of **AL HISHRI**, including as he carried out crimes, was reliable. He was active in carrying out his duties in the prison

⁵¹⁶ See e.g. *Bemba et al.* AJ, paras. 780-784.

⁵¹⁷ *Bemba et al.* AJ, para. 820.

⁵¹⁸ [LBY-OTP-0073-0025](#), para. 32; [LBY-OTP-0066-0951](#), paras. 41, 73; [LBY-OTP-0080-0169](#), para. 95; [LBY-OTP-0070-6952](#), paras. 129, 140; [LBY-OTP-0080-0468](#), para. 51.

⁵¹⁹ [LBY-OTP-00019195](#), para. 104 (together with NJEEM and BEZIZI). See also [LBY-OTP-00007250](#), para. 60.

⁵²⁰ [LBY-OTP-0070-6952](#), para. 137; [LBY-OTP-0074-0889](#), para. 246; [LBY-OTP-0080-0169](#), paras. 94-95; [LBY-OTP-0073-0025](#), para. 31; [LBY-OTP-00015405](#), para. 50. See also [LBY-OTP-0080-0169](#), para. 94; [LBY-OTP-0074-0889](#), para. 245, 246; [LBY-OTP-00020267](#), para. 80; [LBY-OTP-00015420](#), para. 49; [LBY-OTP-00018119](#), para. 98; [LBY-OTP-00019195](#), para. 53.

⁵²¹ [LBY-OTP-0073-0025](#), para. 32; [LBY-OTP-0069-0584](#), paras. 130-131; [LBY-OTP-0069-0506](#), para. 92; [LBY-OTP-0080-0169](#), paras. 90, 96; [LBY-OTP-0074-0889](#), paras. 245-246; [LBY-OTP-0070-6952](#), para. 137; [LBY-OTP-0080-0608](#), paras. 43, 138; [LBY-OTP-0083-0052](#), para. 36; [LBY-OTP-00020358](#), para. 71.

⁵²² [LBY-OTP-0069-0506](#), para. 92.

⁵²³ [LBY-OTP-0080-0608](#), para. 138. See also [LBY-OTP-0080-0169](#), para. 218; [LBY-OTP-0074-0889](#), paras. 135, 247; [LBY-OTP-00001491](#), para. 109; [LBY-OTP-00020358](#), para. 70.

⁵²⁴ See e.g. [LBY-OTP-0073-0025](#), paras. 32, 97; [LBY-OTP-0069-0584](#), para. 130; [LBY-OTP-0069-0506](#), para. 92; [LBY-OTP-0080-0608](#), para. 43; [LBY-OTP-00015405](#), para. 50; [LBY-OTP-00018787](#), paras. 50, 56; [LBY-OTP-00020358](#), paras. 92-94; [LBY-OTP-0080-0169](#), paras. 94-95; [LBY-OTP-0080-0468](#), para. 121; [LBY-OTP-00019195](#), para. 95; [LBY-OTP-0083-0663](#), para. 93.

⁵²⁵ [LBY-OTP-00015405](#), para. 50; [LBY-OTP-00018787](#), para. 56.

⁵²⁶ [LBY-OTP-0066-0951](#), paras. 41, 73; [LBY-OTP-0080-0169](#), para. 96.

⁵²⁷ See below para. 123.

⁵²⁸ See above para. 3; below paras. 124-129.

⁵²⁹ [LBY-OTP-00018772](#), para. 49.

(which included various dealings with the detainees directly),⁵³⁰ was present almost every day⁵³¹ and could be seen in various places in the prison as he or the detainees moved about.⁵³² While **AL HISHRI** would vary his dress, either in uniform or civilian clothes,⁵³³ he is often described as having an imposing, highly recognisable physical appearance,⁵³⁴ and no witness ever appears to have been in doubt of his identity. Indeed, even when **AL HISHRI** could not be seen, he could still sometimes be heard. He spoke loudly⁵³⁵ and from the cells, he could be heard screaming and shouting.⁵³⁶

123. **AL HISHRI** personally tortured and mistreated Mitiga detainees on numerous occasions, victimising more than 188 detainees. This not only directly contributed to the systematic violent mistreatment of Mitiga detainees, but also set a negative example for the Mitiga Prison guards, creating a culture of impunity for the alleged crimes. Among others,⁵³⁷ **AL HISHRI**'s direct

⁵³⁰ See below paras. 124-134.

⁵³¹ [LBY-OTP-00015360](#), para. 116; [LBY-OTP-0070-7295](#), para. 175; [LBY-OTP-0083-0052](#), para. 175; [LBY-OTP-0070-6952](#), para. 138; [LBY-OTP-0080-0169](#), para. 89.

⁵³² See e.g. [LBY-OTP-00015360](#), paras. 35-36, 116; [LBY-OTP-0080-0169](#), paras. 86, 117; [LBY-OTP-00018772](#), para. 78.

⁵³³ [LBY-OTP-0073-0025](#), paras. 31, 60; [LBY-OTP-0066-0951](#), para. 73; [LBY-OTP-0069-0584](#), paras. 32, 131, 159; [LBY-OTP-00007250](#), para. 60; [LBY-OTP-0069-0506](#), paras. 81, 93; [LBY-OTP-0080-0169](#), para. 86; [LBY-OTP-0074-0889](#), paras. 210, 247; [LBY-OTP-0070-6952](#), para. 139; [LBY-OTP-00001491](#), para. 109; [LBY-OTP-0080-0608](#), para. 43; [LBY-OTP-00007275](#), para. 84.

⁵³⁴ [LBY-OTP-0073-0025](#), para. 31; [LBY-OTP-0069-0584](#), para. 131; [LBY-OTP-00007250](#), para. 60; [LBY-OTP-0069-0506](#), para. 93; [LBY-OTP-0074-0889](#), paras. 127, 210, 247; [LBY-OTP-0070-6952](#), para. 139; [LBY-OTP-0083-0663](#), para. 73; [LBY-OTP-0080-0608](#), para. 43; [LBY-OTP-0070-7295](#), para. 171; [LBY-OTP-0083-0052](#), para. 133; [LBY-OTP-00007275](#), para. 84; [LBY-OTP-00015360](#), paras. 35-36; [LBY-OTP-00018075](#), para. 30. See also **Annex 4**, Photographs of Khaled **AL HISHRI**.

⁵³⁵ [LBY-OTP-0073-0025](#), para. 31; [LBY-OTP-00020358](#), para. 125.

⁵³⁶ See e.g. [LBY-OTP-0080-0169](#), paras. 94, 213-216, 245; [LBY-OTP-0080-0468](#), para. 120; [LBY-OTP-0083-0052](#), para. 36; [LBY-OTP-00018787](#), para. 56; [LBY-OTP-00019195](#), paras. 106-107; [LBY-OTP-00020267](#), paras. 77, 79-80.

⁵³⁷ A number of witnesses referred to the frequency with which **AL HISHRI** could be seen or heard beating detainees: see e.g. below, fn. 570 (see also above, fns. 291, 535-536); [LBY-OTP-0080-0032](#), para. 35; [LBY-OTP-0080-0169](#), paras. 90-91; [LBY-OTP-0074-0889](#), paras. 194, 244; [LBY-OTP-0080-0608](#), para. 170; [LBY-OTP-0070-7295](#), paras. 164, 171; [LBY-OTP-00007275](#), para. 92; [LBY-OTP-00018119](#), para. 102; [LBY-OTP-00020267](#), paras. 77, 79-80. See also [LBY-OTP-0073-0025](#), para. 31; [LBY-OTP-0066-0951](#), para. 74; [LBY-OTP-0069-0584](#), paras. 73, 88; [LBY-OTP-0069-0506](#), para. 129; [LBY-OTP-00018772](#), para. 52; [LBY-OTP-00015360](#), para. 120; [LBY-OTP-00018075](#), para. 103; [LBY-OTP-00015405](#), paras. 77, 94; [LBY-OTP-00015420](#), paras. 24-25; [LBY-OTP-00016896](#), para. 79; [LBY-OTP-00019195](#), para. 109.

victims included: [REDACTED];⁵³⁸ [REDACTED].⁵³⁹

(2) AL HISHRI was in charge of the Women's Section

124. **AL HISHRI** was the senior SDF/RADA official in charge of the Women's Section⁵⁴⁰ and exercised his authority there with an iron fist. The keys to the section were in his hands⁵⁴¹ and he strictly controlled access,⁵⁴² closely watching any guard or working prisoner whom he instructed to go there.⁵⁴³ In his absence, no one could enter or exit the section.⁵⁴⁴ KARA banned anyone but **AL HISHRI** from entering, including NJEEM.⁵⁴⁵ **AL HISHRI**'s grasp on the section was so tight that guards were prohibited from entering the section even to serve food or attend to medical emergencies, leading detainees, in some cases, to go hungry and even die due

⁵³⁸ [LBYP-OTP-0070-6952](#), paras. 92-93, 95-98, 160 ([REDACTED]); [LBYP-OTP-0083-0663](#), paras. 80, 85, 90, 99, 103, 162 ([REDACTED]); 84-88 ([REDACTED]); [LBYP-OTP-00001491](#), para. 112 ([REDACTED]); [LBYP-OTP-0070-7295](#), para. 106 ([REDACTED]); [LBYP-OTP-00007275](#), paras. 30-31 ([REDACTED]); [LBYP-OTP-00018772](#), paras. 32-34 ([REDACTED]); [LBYP-OTP-00018075](#), para. 68-70, 72-75 ([REDACTED]), 45, 106-108 ([REDACTED]), 37, 39-43 ([REDACTED]); [LBYP-OTP-00007275](#), paras. 27-30 ([REDACTED]); [LBYP-OTP-00001491](#), paras. 108-111 ([REDACTED]); [LBYP-OTP-0073-0025](#), para. 97 ([REDACTED]); [LBYP-OTP-00007275](#), para. 43; [LBYP-OTP-0083-0052](#), para. 113; [LBYP-OTP-00020099](#), para. 49; [LBYP-OTP-0070-7295](#), paras. 56, 211 ([REDACTED]); [LBYP-OTP-0083-0663](#), paras. 100 ([REDACTED]); [LBYP-OTP-0083-0663](#), paras. 101, 141 ([REDACTED]); [LBYP-OTP-00007275](#), para. 91 ([REDACTED]) and [LBYP-OTP-00020358](#), para. 128; [LBYP-OTP-00016896](#), para. 87 ([REDACTED]); [LBYP-OTP-0083-0052](#), paras. 116-117; [LBYP-OTP-00020099](#), paras. 59-64 ([REDACTED]) and [LBYP-OTP-0074-0889](#), paras. 142-151 ([REDACTED]); [LBYP-OTP-00018787](#), para. 50 ([REDACTED]); [LBYP-OTP-0069-0506](#), para. 50 ([REDACTED]); [LBYP-OTP-0083-0052](#), para. 36; [LBYP-OTP-00020099](#), paras. 43-45 ([REDACTED]); [LBYP-OTP-00020358](#), paras. 92-93 ([REDACTED]); [LBYP-OTP-00020358](#), para. 94 ([REDACTED]).

⁵³⁹ [LBYP-OTP-0069-0506](#), para. 92 ([REDACTED]); [LBYP-OTP-0080-0169](#), paras. 31 ([REDACTED]), 88 ([REDACTED]), 94 ([REDACTED]), 95 ([REDACTED]), 214-216 ([REDACTED]); [LBYP-OTP-0074-0889](#), paras. 117-123 ([REDACTED]), 127-135 ([REDACTED]), 200-204 ([REDACTED]), 210-213 ([REDACTED]), 246 ([REDACTED]); [LBYP-OTP-0070-6952](#), para. 138 ([REDACTED]); [LBYP-OTP-0080-0468](#), para. 119 ([REDACTED]); [LBYP-OTP-0080-0608](#), paras. 41-42 ([REDACTED]), 92 ([REDACTED]); [LBYP-OTP-0070-7295](#), para. 164 ([REDACTED]); [LBYP-OTP-0083-0052](#), paras. 132-133 ([REDACTED]), 178 ([REDACTED]); [LBYP-OTP-00007275](#), para. 92 ([REDACTED]); [LBYP-OTP-00015360](#), para. 119 ([REDACTED]); [LBYP-OTP-00018075](#), paras. 103 ([REDACTED]), 105 ([REDACTED]), 108 ([REDACTED]); [LBYP-OTP-00019195](#), para. 87 ([REDACTED]), 98 ([REDACTED]), 106-107 ([REDACTED]), 108 ([REDACTED]), 108-109 ([REDACTED]); [LBYP-OTP-00020267](#), paras. 77, 79-80 ([REDACTED]); [LBYP-OTP-00020358](#), para. 126 ([REDACTED]).

⁵⁴⁰ [LBYP-OTP-0073-0025](#), paras. 31, 33; [LBYP-OTP-0069-0584](#), para. 130; [LBYP-OTP-00007250](#), para. 53; [LBYP-OTP-0069-0506](#), para. 94; [LBYP-OTP-0080-0032](#), paras. 35, 120-121; [LBYP-OTP-0080-0169](#), para. 90; [LBYP-OTP-0074-0889](#), paras. 193, 245; [LBYP-OTP-0070-6952](#), paras. 137, 145; [LBYP-OTP-0083-0663](#), paras. 94, 120; [LBYP-OTP-00001491](#), para. 112; [LBYP-OTP-00015152](#), para. 115; [LBYP-OTP-0080-0608](#), paras. 43, 135; [LBYP-OTP-0070-7295](#), para. 162; [LBYP-OTP-0083-0052](#), paras. 35, 173; [LBYP-OTP-00015125](#), paras. 93, 101; [LBYP-OTP-00007275](#), paras. 80, 84; [LBYP-OTP-00018772](#), para. 78; [LBYP-OTP-00015360](#), para. 113; [LBYP-OTP-00018075](#), paras. 137; [LBYP-OTP-00018787](#), para. 56; [LBYP-OTP-00016916](#), para. 61; [LBYP-OTP-00016896](#), para. 105; [LBYP-OTP-00018119](#), para. 98; [LBYP-OTP-00019195](#), para. 122; [LBYP-OTP-00020236](#), para. 72; [LBYP-OTP-00020267](#), para. 76; [LBYP-OTP-00020358](#), para. 125.

⁵⁴¹ [LBYP-OTP-0069-0506](#), paras. 94, 129; [LBYP-OTP-0080-0169](#), paras. 90-91; [LBYP-OTP-0083-0052](#), para. 186; [LBYP-OTP-00015360](#), paras. 113-114; [LBYP-OTP-00020358](#), para. 125.

⁵⁴² [LBYP-OTP-0073-0025](#), para. 31; [LBYP-OTP-0069-0584](#), para. 88; [LBYP-OTP-00018134](#), paras. 70-71; [LBYP-OTP-0080-0169](#), paras. 90-91; [LBYP-OTP-0074-0889](#), para. 193; [LBYP-OTP-0080-0608](#), para. 135; [LBYP-OTP-00007275](#), para. 84; [LBYP-OTP-00015360](#), paras. 113-114. *See also*, [LBYP-OTP-0074-0889](#), para. 199; [LBYP-OTP-00018772](#), paras. 81, 134; [LBYP-OTP-00018119](#), para. 100; [LBYP-OTP-00015405](#), para. 95.

⁵⁴³ [LBYP-OTP-0069-0506](#), para. 129; [LBYP-OTP-0080-0032](#), paras. 35, 121; [LBYP-OTP-00015360](#), para. 113; [LBYP-OTP-00018075](#), paras. 65, 137.

⁵⁴⁴ [LBYP-OTP-0069-0506](#), para. 94; [LBYP-OTP-0080-0032](#), para. 121; [LBYP-OTP-0074-0889](#), para. 193; [LBYP-OTP-0080-0608](#), para. 43; [LBYP-OTP-0083-0052](#), paras. 18, 179; [LBYP-OTP-00018075](#), para. 65.

⁵⁴⁵ [LBYP-OTP-00015360](#), paras. 113-114.

to a lack of prompt medical care.⁵⁴⁶

125. Consistent with his role as head of the Women's Section, **AL HISHRI** exercised daily administrative control over the girls and women held in the Women's Section, including the conditions of their detention⁵⁴⁷ and the circumstances of their release.⁵⁴⁸ In this way, **AL HISHRI**'s personal conduct (including both his acts and omissions) was arguably the primary factor determining the actual treatment of detainees with regard to key issues for their welfare and vital interests such as: the quantity and quality of food provided; access to medical care; the conditions of detention, and their release.

126. In particular, **AL HISHRI** assisted in processing new detainees, [REDACTED], when they were brought to Mitiga Prison,⁵⁴⁹ including by physically searching women himself⁵⁵⁰ or ordering other women to undress and touch their (intimate) body parts while he was watching.⁵⁵¹ [REDACTED].⁵⁵² He also supervised the inspection of the cells⁵⁵³ and presented the detainees to senior SDF/RADA members as KARA.⁵⁵⁴ Day-to-day, **AL HISHRI** personally supervised, amongst others, the provision of food,⁵⁵⁵ clothes from the detainees' families,⁵⁵⁶ as well as limited medical care⁵⁵⁷ and menstrual pads.⁵⁵⁸ He facilitated and strictly monitored yard time,⁵⁵⁹ phone calls,⁵⁶⁰ and visits⁵⁶¹ with family members. He was also in charge of the young children held with their mothers in the section,⁵⁶² and some were put to work.⁵⁶³

127. **AL HISHRI** was 'hands on' in physically managing the girls and women. He was present at the Women's Section daily⁵⁶⁴ and personally handcuffed, blindfolded,⁵⁶⁵ and escorted

⁵⁴⁶ [LBY-OTP-0073-0025](#), para. 31; [LBY-OTP-0069-0506](#), para. 129; [LBY-OTP-0080-0032](#), paras. 35, 121; [LBY-OTP-0080-0169](#), paras. 90-91; [LBY-OTP-0083-0663](#), paras. 157, 167; [LBY-OTP-0080-0608](#), para. 135; [LBY-OTP-00015360](#), paras. 113-114; [LBY-OTP-00018075](#), paras. 65, 137.

⁵⁴⁷ See e.g. [LBY-OTP-0083-0663](#), paras. 157-159, 162-165; [LBY-OTP-00018075](#), paras. 52-58.

⁵⁴⁸ [LBY-OTP-0083-0663](#), paras. 80, 105.

⁵⁴⁹ [LBY-OTP-0083-0663](#), paras. 84-85, 89-90; [LBY-OTP-00018075](#), paras. 31, 33, 45. See also [LBY-OTP-0080-0608](#), para. 178; [LBY-OTP-0070-7295](#), para. 139.

⁵⁵⁰ [LBY-OTP-0083-0663](#), paras. 86-87.

⁵⁵¹ [LBY-OTP-0083-0663](#), paras. 84-88; [LBY-OTP-00018075](#), paras. 37, 39-43; [LBY-OTP-00020267](#), para. 77.

⁵⁵² [LBY-OTP-0083-0663](#), paras. 89-90.

⁵⁵³ [LBY-OTP-00018075](#), para. 108.

⁵⁵⁴ [LBY-OTP-0083-0663](#), para. 119.

⁵⁵⁵ [LBY-OTP-0083-0663](#), paras. 89, 157; [LBY-OTP-00018075](#), paras. 52, 65, 68; [LBY-OTP-00020236](#), para. 72.

⁵⁵⁶ [LBY-OTP-00016916](#), para. 61.

⁵⁵⁷ [LBY-OTP-0083-0663](#), para. 165; [LBY-OTP-00018075](#), para. 143.

⁵⁵⁸ [LBY-OTP-00018075](#), para. 58.

⁵⁵⁹ [LBY-OTP-00018075](#), para. 67.

⁵⁶⁰ [LBY-OTP-0074-0889](#), paras. 210-213; [LBY-OTP-0083-0663](#), paras. 97-98.

⁵⁶¹ [LBY-OTP-00018075](#), paras. 114-115, 117-118.

⁵⁶² [LBY-OTP-0069-0584](#), para. 88; [LBY-OTP-0080-0032](#), paras. 35, 121; [LBY-OTP-0080-0169](#), paras. 86, 92; [LBY-OTP-0074-0889](#), para. 198; [LBY-OTP-0083-0663](#), para. 145; [LBY-OTP-00020099](#), paras. 69-70, 173; [LBY-OTP-00015405](#), para. 95; [LBY-OTP-00020236](#), para. 74.

⁵⁶³ [LBY-OTP-00019195](#), para. 121; [LBY-OTP-0083-0052](#), para. 173; [LBY-OTP-00020099](#), paras. 69-70. See also [LBY-OTP-00015405](#), para. 100; [LBY-OTP-00016896](#), para. 78.

⁵⁶⁴ [LBY-OTP-0080-0608](#), para. 135; [LBY-OTP-00015360](#), paras. 113-114; [LBY-OTP-00018075](#), paras. 34(B.17), 65; [LBY-OTP-00020358](#), paras. 73, 125.

⁵⁶⁵ [LBY-OTP-00018075](#), paras. 31, 33, 69, 70, 72.

women and girls in and out of the Women's Section.⁵⁶⁶ When they were out of their cells, **AL HISHRI**'s beatings were continuous and brutal:⁵⁶⁷ "[t]he PPR was always in his hand"⁵⁶⁸ and he "beat the females almost to death".⁵⁶⁹ Detainees held in or near the Women's Section describe regularly hearing **AL HISHRI** and guards beating the women;⁵⁷⁰ the women's screams were often so overwhelming that these prisoners would cry and cover their ears.⁵⁷¹ Some of the women died of their beatings.⁵⁷² **AL HISHRI** also shot women in the lower limbs.⁵⁷³ He insulted⁵⁷⁴ and threatened them with physical and psychological violence as well as death.⁵⁷⁵ He watched the women closely, sometimes sneaking up on them by opening the door very quietly,⁵⁷⁶ and severely punished them for arguing with him or complaining.⁵⁷⁷

128. **AL HISHRI** personally took girls and women out of the section to the Islamic Neighbourhood⁵⁷⁸ or the Naqliah,⁵⁷⁹ or elsewhere,⁵⁸⁰ and participated in their interrogation⁵⁸¹ and torture.⁵⁸² He took girls and women out of their cells, returning them hours later covered with bruises and swellings.⁵⁸³ [REDACTED].⁵⁸⁴

129. In managing the section, **AL HISHRI** applied strict religious and gender norms,

⁵⁶⁶ See e.g. [LBY-OTP-0069-0506](#), para. 94; [LBY-OTP-0070-6952](#), para. 146; [LBY-OTP-0070-7295](#), para. 164; [LBY-OTP-00018772](#), para. 78; [LBY-OTP-00018075](#), para. 106; [LBY-OTP-00019195](#), para. 123; [LBY-OTP-00020267](#), para. 124.

⁵⁶⁷ [LBY-OTP-0074-0889](#), paras. 200-204, 210-213; [LBY-OTP-0083-0663](#), paras. 80, 84-85, 99, 103, 105, 162; [LBY-OTP-0070-7295](#), para. 164; [LBY-OTP-0083-0052](#), para. 178; [LBY-OTP-00007275](#), para. 91; [LBY-OTP-00015360](#), para. 119; [LBY-OTP-00018075](#), paras. 45, 103-109; [LBY-OTP-00020267](#), paras. 77, 79-80; [LBY-OTP-00020358](#), para. 126.

⁵⁶⁸ [LBY-OTP-0083-0663](#), para. 99.

⁵⁶⁹ [LBY-OTP-0083-0663](#), para. 103.

⁵⁷⁰ [LBY-OTP-0080-0032](#), para. 35; [LBY-OTP-0080-0169](#), paras. 90-91; [LBY-OTP-0074-0889](#), paras. 194, 244; [LBY-OTP-0080-0608](#), para. 170; [LBY-OTP-0070-7295](#), paras. 164, 171; [LBY-OTP-00007275](#), para. 92; [LBY-OTP-00018119](#), para. 102; [LBY-OTP-00020267](#), paras. 77, 79-80. See also [LBY-OTP-0073-0025](#), para. 31; [LBY-OTP-0066-0951](#), para. 74; [LBY-OTP-0069-0584](#), paras. 73, 88; [LBY-OTP-0069-0506](#), para. 129; [LBY-OTP-00018772](#), para. 52; [LBY-OTP-00015360](#), para. 120; [LBY-OTP-00015405](#), paras. 77, 94; [LBY-OTP-00015420](#), paras. 24-25; [LBY-OTP-00016896](#), para. 79; [LBY-OTP-00020358](#), para. 127.

⁵⁷¹ [LBY-OTP-00018075](#), para. 103; [LBY-OTP-00019195](#), para. 109; [LBY-OTP-00020267](#), paras. 77, 79-80.

⁵⁷² [LBY-OTP-0074-0889](#), paras. 205-208.

⁵⁷³ [LBY-OTP-0083-0663](#), para. 93.

⁵⁷⁴ [LBY-OTP-0074-0889](#), paras. 200-204; [LBY-OTP-0080-0608](#), paras. 170-171; [LBY-OTP-00020267](#), paras. 77, 79-80.

⁵⁷⁵ [LBY-OTP-0074-0889](#), paras. 200-204; [LBY-OTP-0083-0663](#), paras. 86-90; [LBY-OTP-00018075](#), para. 116.

⁵⁷⁶ [LBY-OTP-00018075](#), para. 34(B.1).

⁵⁷⁷ [LBY-OTP-0074-0889](#), paras. 210-213; [LBY-OTP-00018075](#), para. 116.

⁵⁷⁸ [LBY-OTP-0069-0506](#), para. 129.

⁵⁷⁹ [LBY-OTP-0070-6952](#), para. 146; [LBY-OTP-00001491](#), para. 112; [LBY-OTP-0083-0052](#), para. 178; [LBY-OTP-00007275](#), para. 91; [LBY-OTP-00018075](#), paras. 69, 70, 72, 91, 96.

⁵⁸⁰ [LBY-OTP-0083-0663](#), paras. 92, 100, 101, 141-142; [LBY-OTP-00018075](#), paras. 68-70, 72-75.

⁵⁸¹ [LBY-OTP-0080-0608](#), paras. 171-178; [LBY-OTP-0070-7295](#), para. 139; [LBY-OTP-00007275](#), para. 29.

⁵⁸² [LBY-OTP-00007275](#), para. 29; [LBY-OTP-00019195](#), para. 109; [LBY-OTP-00020267](#), para. 80. See also [LBY-OTP-00015420](#), paras. 24-25.

⁵⁸³ [LBY-OTP-0083-0663](#), paras. 100-101, 141.

⁵⁸⁴ [LBY-OTP-0083-0663](#), paras. 141-142.

[REDACTED],⁵⁸⁵ who had to fully cover themselves in dark clothing,⁵⁸⁶ or [REDACTED].⁵⁸⁷ **AL HISHRI** personally targeted women for conduct deviating from his expectations of their sex or gender. [REDACTED].⁵⁸⁸ [REDACTED].⁵⁸⁹ **AL HISHRI** treated women like cattle, pulling them around the prison, blindfolded and tied to a rope, while beating them along the way.⁵⁹⁰ **AL HISHRI** also linked religious observance with beatings and would often beat female detainees while playing recitations of the Quran on the radio.⁵⁹¹

(3) AL HISHRI exercised his authority over Mitiga Prison staff and detainees

130. As one of SDF/RADA's top leaders,⁵⁹² a "Sheikh",⁵⁹³ and one of the most powerful prison officials,⁵⁹⁴ **AL HISHRI**'s authority was by no means confined to Women's Section and, in fact, extended to the entire prison. **AL HISHRI** "controlled everything within the prison".⁵⁹⁵ From his conduct, as observed by the detainees, it is clear that **AL HISHRI** could issue orders to all Mitiga Prison staff, including shift commanders, guards, medical staff and working prisoners; all feared and obeyed him⁵⁹⁶ and no one could challenge him.⁵⁹⁷ Even NJEEM was afraid of and intimidated by **AL HISHRI** and sought to impress him.⁵⁹⁸ Several detainees state

⁵⁸⁵ [LBY-OTP-00001491](#), para. 112.

⁵⁸⁶ [LBY-OTP-00001491](#), para. 112; [LBY-OTP-0080-0608](#), paras. 171, 213-214 and [LBY-OTP-0070-0827](#), at 03:05:16 (trans: [LBY-OTP-00019073](#)); [LBY-OTP-0083-0052](#), paras. 172, 184; [LBY-OTP-00007275](#), para. 91; [LBY-OTP-00018772](#), para. 78; [LBY-OTP-00015360](#), para. 119; [LBY-OTP-00018787](#), para. 39.

⁵⁸⁷ [LBY-OTP-0074-0889](#), paras. 200-204.

⁵⁸⁸ [LBY-OTP-0080-0608](#), para. 177; [LBY-OTP-00007275](#), para. 91; [LBY-OTP-00018075](#), para. 104. *See also* [LBY-OTP-0083-0663](#), para. 155.

⁵⁸⁹ [LBY-OTP-0074-0889](#), paras. 200-204.

⁵⁹⁰ [LBY-OTP-0070-6952](#), para. 146; [LBY-OTP-0070-7295](#), para. 164; [LBY-OTP-00019195](#), para. 123.

⁵⁹¹ [LBY-OTP-0070-6952](#), paras. 146, 148-150; [LBY-OTP-00001491](#), para. 112; [LBY-OTP-0080-0608](#), para. 171; [LBY-OTP-0070-7295](#), para. 164; [LBY-OTP-00007275](#), para. 91; [LBY-OTP-00018075](#), para. 105-108; [LBY-OTP-00015420](#), para. 28; [LBY-OTP-00019195](#), para. 123.

⁵⁹² [LBY-OTP-0073-0025](#), para. 22; [LBY-OTP-00018134](#), para. 85; [LBY-OTP-0074-0889](#), para. 244; [LBY-OTP-0070-6952](#), paras. 129, 137; [LBY-OTP-0080-0608](#), paras. 43, 142-143; [LBY-OTP-0070-7295](#), para. 183; [LBY-OTP-0083-0052](#), para. 30; [LBY-OTP-00018772](#), para. 94 (18); [LBY-OTP-00015360](#), paras. 35-36; [LBY-OTP-00019245](#), para. 75; [LBY-OTP-00016916](#), para. 65; [LBY-OTP-00019195](#), paras. 53, 95; [LBY-OTP-00020236](#), paras. 62, 72.

⁵⁹³ *See e.g.* [LBY-OTP-0069-0584](#), paras. 131, 159; [LBY-OTP-0069-0506](#), para. 92; [LBY-OTP-0080-0169](#), paras. 45, 85; [LBY-OTP-0080-0608](#), paras. 43, 142, 179; [LBY-OTP-00018772](#), para. 49; [LBY-OTP-00020358](#), para. 73. Regarding the meaning within SDF/RADA of the term "Sheikh", *see* [LBY-OTP-0066-0951](#), para. 76; [LBY-OTP-0069-0584](#), para. 131; [LBY-OTP-0069-0506](#), para. 80; [LBY-OTP-0080-0169](#), para. 48; [LBY-OTP-0083-0052](#), para. 165; [LBY-OTP-00018772](#), para. 32.

⁵⁹⁴ *See e.g.* [LBY-OTP-0069-0584](#), paras. 32, 159; [LBY-OTP-00007250](#), para. 60; [LBY-OTP-0069-0506](#), paras. 88, 93; [LBY-OTP-0080-0032](#), paras. 120-122; [LBY-OTP-0074-0889](#), para. 244; [LBY-OTP-00018772](#), para. 49; [LBY-OTP-00019195](#), para. 95; [LBY-OTP-00020358](#), paras. 62, 70.

⁵⁹⁵ [LBY-OTP-0080-0032](#), paras. 120-121. *See also* [LBY-OTP-0069-0584](#), para. 160; [LBY-OTP-0069-0506](#), para. 93; [LBY-OTP-0080-0032](#), para. 122; [LBY-OTP-00019195](#), para. 95; [LBY-OTP-00018772](#), para. 49.

⁵⁹⁶ [LBY-OTP-0080-0169](#), para. 44. *See also e.g.* [LBY-OTP-0080-0169](#), paras. 88, 214; [LBY-OTP-0070-6952](#), paras. 92-93. *See also e.g.* [LBY-OTP-0074-0889](#), paras. 129-130, 205-206, 208; [LBY-OTP-0070-6952](#), para. 98; 0667, [LBY-OTP-00001491](#), paras. 108-111.

⁵⁹⁷ [LBY-OTP-00007250](#), para. 60.

⁵⁹⁸ [LBY-OTP-0069-0584](#), para. 160; [LBY-OTP-00020099](#), paras. 40-41; [LBY-OTP-00019195](#), para. 95.

that **AL HISHRI** was superior to NJEEM⁵⁹⁹ and had more power than even KARA himself.⁶⁰⁰ 131. Given the systematic nature of the alleged crimes in Mitiga, and **AL HISHRI**'s practical exercise of authority, it can only be inferred that the torture of detainees by Osama NJEEM, the shift commanders and the guards under them was not only condoned by **AL HISHRI** but was carried out in accordance with his personal example and his orders. For example, **AL HISHRI** often jointly mistreated detainees with NJEEM and N'ZAM.⁶⁰¹ **AL HISHRI**'s own brother Mounir⁶⁰² was a guard known to be as violent to detainees as **AL HISHRI** himself.⁶⁰³ Other violent prison staff closely working with him include shift commander Ziad BEZIZI⁶⁰⁴ and interrogators Mohamed AL KEEB and Mustapha AL TURKI.⁶⁰⁵

132. **AL HISHRI** took personal measures to punish guards who acted against his wishes or instructions, further illustrating his control over them. **AL HISHRI**'s measures were consistent with SDF/RADA's own self-interested priorities: thus, guards were punished with beatings, imprisonment, or re-assignment from Mitiga for being too "nice" to detainees,⁶⁰⁶ for taking bribes from detainees' families in the hope of securing better treatment when not authorised,⁶⁰⁷ but also for a lack of discipline (for example, stealing,⁶⁰⁸ or attempting to punish other guards when not authorised)⁶⁰⁹ or for conduct that SDF/RADA perceived as inappropriate or immoral (for example, offering sexual contact with another guard).⁶¹⁰ **AL HISHRI** himself imprisoned and shot a guard in the leg for allegedly helping or accepting a bribe from a prisoner;⁶¹¹ he and N'ZAM also shot all the guards in charge of the prison when a prisoner escaped from the infirmary.⁶¹² When his brother Mounir AL HISHRI confronted and opened fire on a shift guard

⁵⁹⁹ [LBY-OTP-0080-0169](#), paras. 44, 87; [LBY-OTP-0074-0889](#), para. 28; [LBY-OTP-0080-0608](#), para. 142; [LBY-OTP-00018075](#), paras. 69-86; [LBY-OTP-00015405](#), paras. 50, 53;

⁶⁰⁰ [LBY-OTP-00007250](#), para. 60; [LBY-OTP-0069-0506](#), para. 93; [LBY-OTP-0080-0032](#), para. 99; [LBY-OTP-0083-0052](#), paras. 34, 134. *But see* [LBY-OTP-0069-0584](#), para. 160; [LBY-OTP-0080-0169](#), para. 44; [LBY-OTP-00019195](#), para. 87.

⁶⁰¹ *See e.g.* [LBY-OTP-0080-0032](#), para. 120; [LBY-OTP-0080-0169](#), para. 31; [LBY-OTP-0074-0889](#), para. 297; [LBY-OTP-0080-0608](#), para. 144; [LBY-OTP-00020099](#), paras. 40-41, 178; [LBY-OTP-00007275](#), paras. 29-30, 43, 91; [LBY-OTP-00018772](#), para. 65, 94 (18); [LBY-OTP-00018075](#), paras. 68-70, 72-75, 103; [LBY-OTP-00016896](#), para. 87, 106-107; [LBY-OTP-00019195](#), para. 96; [LBY-OTP-00020267](#), paras. 77, 79-80.

⁶⁰² *See above* fn. 466.

⁶⁰³ *See e.g.* [LBY-OTP-0074-0889](#), para. 81; [LBY-OTP-0070-7295](#), paras. 205-206; [LBY-OTP-00015125](#), paras. 27, 29; [LBY-OTP-00018772](#), para. 94 (18); [LBY-OTP-00020358](#), paras. 62-66.

⁶⁰⁴ *See e.g.* [LBY-OTP-0074-0889](#), paras. 117-123; [LBY-OTP-00007275](#), paras. 29-30; [LBY-OTP-00018772](#), para. 94 (18); [LBY-OTP-00015360](#), para. 119; [LBY-OTP-00019195](#), paras. 106-107; [LBY-OTP-00020267](#), paras. 77, 79-80.

⁶⁰⁵ [LBY-OTP-0080-0608](#), para. 171; [LBY-OTP-00015360](#), paras. 35-40; [LBY-OTP-00016896](#), para. 30. *See also* [LBY-OTP-00015125](#), paras. 47-48; [LBY-OTP-00015360](#), paras. 23-29, 37-38; [LBY-OTP-00015420](#), para. 28; [LBY-OTP-0070-6952](#), paras. 153-154; [LBY-OTP-0085-0063](#), paras. 51-59.

⁶⁰⁶ [LBY-OTP-0083-0052](#), para. 79.

⁶⁰⁷ [LBY-OTP-0083-0052](#), paras. 66, 69; [LBY-OTP-0069-0506](#), para. 37; [LBY-OTP-00015405](#), para. 109.

⁶⁰⁸ [LBY-OTP-0074-0889](#), para. 72.

⁶⁰⁹ [LBY-OTP-00015405](#), paras. 68-69; [LBY-OTP-00015360](#), para. 92.

⁶¹⁰ [LBY-OTP-00015360](#), paras. 94-95; [LBY-OTP-00015405](#), paras. 64-66.

⁶¹¹ [LBY-OTP-0069-0584](#), para. 138; [LBY-OTP-0080-0468](#), para. 116, 139, at "p"; [LBY-OTP-0080-0608](#), para. 144; [LBY-OTP-00018772](#), para. 65; [LBY-OTP-00019195](#), para. 97.

⁶¹² [LBY-OTP-00019195](#), para. 96. *See also* [LBY-OTP-0074-0889](#), para. 297.

for allegedly sexually abusing young male prisoners, **AL HISHRI** temporarily suspended him before bringing him back to the prison.⁶¹³

133. **AL HISHRI**'s authority over detainees was absolute. He "could do whatever he wanted, including shoot people in the prison".⁶¹⁴ Detainees regularly saw him go around the sections monitoring for compliance with prison rules regarding, for example noise, and he severely punished any breaches.⁶¹⁵ He inspected the prisoners,⁶¹⁶ gathered them for KARA to inspect,⁶¹⁷ and took steps to ascertain and verify why detainees were held at Mitiga, often beating them in the process.⁶¹⁸ **AL HISHRI** interrogated detainees and attempted to extract confessions from them, including under torture;⁶¹⁹ he also monitored and issued orders to others who interrogated prisoners.⁶²⁰ He had the power to detain and release detainees⁶²¹ without asking NJEEM.⁶²²

134. **AL HISHRI** imposed prison conditions aimed at increasing the detainees' suffering and systematically opposed any attempt at improvement.⁶²³ Once, **AL HISHRI** discovered that infirmary staff gave some of the prisoners time in an outside yard and scolded them, saying, "what are you doing, you are trying to help them [...] we want them to die so we can get rid of them".⁶²⁴ Like NJEEM and other prison officials, **AL HISHRI** oversaw the regular use of sub-Saharan African detainees for other tasks including physical abuse of other detainees⁶²⁵ and used detainees to provide free labour on his private residences.⁶²⁶

G.4.a.iii. AL HISHRI contributed to the common plan with intent and knowledge

135. The evidence shows that **AL HISHRI**'s various contributions to the common plan were intentional, and that he meant for the alleged crimes to occur, or at least knew that they would occur in the ordinary course of events in the implementation of the common plan.⁶²⁷

136. First, **AL HISHRI** meant for detainees in Mitiga Prison to be detained unlawfully in inadequate conditions, and to suffer severe physical or mental pain or suffering amounting to

⁶¹³ [LBY-OTP-0073-0025](#), para. 29, 34; [LBY-OTP-00007275](#), para. 95; [LBY-OTP-00015405](#), para. 69; [LBY-OTP-00018119](#), para. 102.

⁶¹⁴ [LBY-OTP-00019195](#), para. 95.

⁶¹⁵ [LBY-OTP-0069-0506](#), para. 72; [LBY-OTP-0074-0889](#), para. 247; [LBY-OTP-0070-6952](#), para. 138; [LBY-OTP-0082-0156](#), para. 116, 118-119; [LBY-OTP-0083-0052](#), para. 131; [LBY-OTP-00018772](#), para. 52.

⁶¹⁶ [LBY-OTP-0069-0506](#), para. 88. See also [LBY-OTP-00020358](#), para. 73.

⁶¹⁷ [LBY-OTP-0080-0468](#), para. 119.

⁶¹⁸ [LBY-OTP-0083-0052](#), para. 131.

⁶¹⁹ See e.g. [LBY-OTP-0074-0889](#), paras. 142-151; [LBY-OTP-0070-6952](#), paras. 92-93, 95-96; [LBY-OTP-00007275](#), para. 30; [LBY-OTP-00018772](#), paras. 32-34; [LBY-OTP-00019195](#), para. 108.

⁶²⁰ [LBY-OTP-0069-0506](#), para. 88; [LBY-OTP-00015360](#), para. 37; [LBY-OTP-00016896](#), para. 30.

⁶²¹ [LBY-OTP-0080-0032](#), para. 121; [LBY-OTP-0083-0663](#), paras. 76, 80, 105; [LBY-OTP-0080-0608](#), paras. 142, 151; [LBY-OTP-00019195](#), para. 95; [LBY-OTP-00018075](#), para. 122, 124-126.

⁶²² [LBY-OTP-00019195](#), para. 95. See also [LBY-OTP-00020358](#), para. 70.

⁶²³ [LBY-OTP-0069-0506](#), para. 72; [LBY-OTP-0074-0889](#), para. 247; [LBY-OTP-00007275](#), para. 37; [LBY-OTP-00015405](#), paras. 102, 106; [LBY-OTP-00019195](#), para. 53.

⁶²⁴ [LBY-OTP-0083-0052](#), para. 131.

⁶²⁵ [LBY-OTP-0080-0169](#), para. 88; [LBY-OTP-00018772](#), paras. 32-34.

⁶²⁶ [LBY-OTP-0074-0889](#), para. 225; [LBY-OTP-0070-7295](#), para. 134.

⁶²⁷ See Statute, art. 30.

torture. This is evident from his personal, repeated, enthusiastic, and direct participation in such conduct, and his encouragement of such conduct by others. **AL HISHRI** beat numerous detainees himself, or shot them, or caused them to be beaten.⁶²⁸ He knew that the detention conditions were wholly inadequate, because at every opportunity he took measures to worsen them and increase the detainees' suffering.⁶²⁹ He knew that the detainees were provided with inadequate food, because he personally oversaw its distribution.⁶³⁰ He knew that sick detainees did not receive adequate medical treatment, because he prohibited it.⁶³¹

137. Moreover, even if he had done none of these things, **AL HISHRI** could still not have failed to see the conspicuous signs of the violent, prolonged, and systematic mistreatment of the detainees, day in, day out, as he carried out his duties in the prison, year after year. CCTV surveillance was widespread,⁶³² and detainees were abused not only during interrogations but also in common space and outside.⁶³³ Their wounds—not to mention the overcrowded and inadequate conditions—would have been inescapable signs of the crimes being committed.

138. Second, with this knowledge and intent for the violent, prolonged, and systematic mistreatment of detainees in Mitiga, **AL HISHRI** must also have meant for some detainees to die as a consequence, or at least have known that this would occur in the ordinary course of events. The frequent infliction of serious violence on detainees—including by the use of firearms and clubs, sometimes repeatedly or on a prolonged basis, leaving victims bleeding or injured—clearly and unequivocally established the risk of death. This was further underlined by the limited medical care available, the poor nutrition provided for the detainees, and the prolonged period for which many detainees were confined in unhealthy and dangerous conditions.⁶³⁴ **AL HISHRI** not only summarily executed and inflicted obviously life-threatening injuries by shooting detainees,⁶³⁵ but was also present as they were shot by others.⁶³⁶ He denied medical care to sick detainees.⁶³⁷ He personally participated in acts of torture which

⁶²⁸ See above paras. 121, 123.

⁶²⁹ See [LBY-OTP-0069-0506](#), para. 72; [LBY-OTP-0074-0889](#), para. 247; [LBY-OTP-0083-0052](#), para. 131; [LBY-OTP-00007275](#), para. 37; [LBY-OTP-00018075](#), para. 58; [LBY-OTP-00015405](#), paras. 102, 106; [LBY-OTP-00019195](#), para. 53.

⁶³⁰ See above para. 124 (fn. 546), 126 (fn. 555). See [LBY-OTP-0083-0663](#), paras. 89, 157; [LBY-OTP-00018075](#), paras. 52, 65, 68; [LBY-OTP-00020236](#), para. 72.

⁶³¹ See above para. 115 (fn. 481). See also above paras. 83-84. See [LBY-OTP-0073-0025](#), para. 31; [LBY-OTP-0080-0169](#), paras. 94, 213-216; [LBY-OTP-0083-0052](#), para. 131. See also e.g. [LBY-OTP-00001491](#), paras. 108-111; [LBY-OTP-0070-6952](#), para. 98.

⁶³² See above para. 114 (fn. 475). See also [LBY-OTP-0080-0468](#), para. 119; [LBY-OTP-0069-0506](#), para. 88.

⁶³³ See above paras. 68-73, 81-82.

⁶³⁴ See above paras. 65-67, 71-73, 83-85.

⁶³⁵ See above paras. 121, 123 (fns. 537-539). See e.g. [LBY-OTP-0073-0025](#), para. 97; [LBY-OTP-0080-0169](#), paras. 94-95, 213-216; [LBY-OTP-0074-0889](#), paras. 117-123, 129-130; [LBY-OTP-0080-0468](#), para. 121; [LBY-OTP-00001491](#), paras. 108-111; [LBY-OTP-00020099](#), paras. 43-45, 59-64; [LBY-OTP-0083-0052](#), paras. 36, 116-117; [LBY-OTP-00018772](#), paras. 32-34; [LBY-OTP-00019195](#), para. 98; [LBY-OTP-00020358](#), paras. 92-94.

⁶³⁶ See e.g. [LBY-OTP-00007275](#), para. 43.

⁶³⁷ [LBY-OTP-0074-0889](#), paras. 210-213.

led to the deaths of detainees.⁶³⁸ After tying a man to a wall in an open yard and personally beating him, **AL HISHRI** left him hanging there, bleeding and in the cold, wearing only his boxers; the man died after three days.⁶³⁹ **AL HISHRI** was known to some as the “angel of death”⁶⁴⁰ and regularly threatened to kill detainees.⁶⁴¹

139. Third, **AL HISHRI** meant for some detainees to be raped and subjected to other sexual violence (such as forced nudity, and other sexualised forms of torture), or at least knew that this would occur in the ordinary course of events. This conduct took place in at least three contexts in which **AL HISHRI** was personally involved, such as: (i) the “scanner” procedure for new arrivals (strip searches and internal cavity examination),⁶⁴² which **AL HISHRI** personally carried out or supervised;⁶⁴³ (ii) the torture of detainees including sexualised torture and threats of rape and sexual violence,⁶⁴⁴ which **AL HISHRI** at least knew would occur in the ordinary course of events;⁶⁴⁵ and (iii) the ongoing detention of detainees, where they were at constant risk of rape and sexual violence even when not actively under interrogation.⁶⁴⁶ **AL HISHRI** must have known of this risk, because it was used as an ostensible justification for the practice of segregating young male detainees (including children)⁶⁴⁷—and **AL HISHRI** was one of Mitiga Prison’s most senior officials.⁶⁴⁸ In reality, the segregated detainees were among those most vulnerable to rape and other sexual violence by guards, such as SDF/RADA member Abdel Rauf AL SEBAI—[REDACTED].⁶⁴⁹ **AL HISHRI**’s acquiescence in such conduct is apparent for the fact that, when his brother Mounir AL HISHRI confronted AL SEBAI about his conduct, **AL HISHRI** did not take action against AL SEBAI, but temporarily suspended only his brother.⁶⁵⁰

140. Fourth, **AL HISHRI** meant for some detainees to be enslaved, and for some detainees to be punished without previous trial, or at least knew that these crimes would occur in the ordinary

⁶³⁸ [LBY-OTP-0083-0052](#), paras. 132-133; [LBY-OTP-00007275](#), para. 43.

⁶³⁹ [LBY-OTP-0083-0052](#), paras. 132-133.

⁶⁴⁰ [LBY-OTP-00018119](#), para. 98. *See also* [LBY-OTP-00007250](#), para. 60.

⁶⁴¹ [LBY-OTP-0074-0889](#), paras. 200-204; [LBY-OTP-0083-0663](#), paras. 84-90, 141-142; [LBY-OTP-0083-0052](#), paras. 36, 43-45, 131; [LBY-OTP-00018075](#), paras. 68-70, 72-72.

⁶⁴² *See above* paras. 70, 75-76. The absence of any legal justification was apparent from the degrading manner in which these searches were carried out, including performatively in front of other detainees or guards.

⁶⁴³ [LBY-OTP-0083-0663](#), paras. 84-88; [LBY-OTP-00018075](#), paras. 37, 39-43; [LBY-OTP-00020267](#), para. 77.

⁶⁴⁴ *See above* paras. 68-69, 71, 75, 77-80.

⁶⁴⁵ *See above* para. 121 (**AL HISHRI** as one of the most notorious torturers at Mitiga). *See also e.g.* fns. 579, 620 (**AL HISHRI** escorting women to the Naqliah; checking on and issuing orders in relation to the interrogation of prisoners, including prisoners being interrogated and/or tortured by Mustapha AL TURKI, an interrogator widely known for targeting sexual organs: *see e.g.* [LBY-OTP-0070-6952](#), paras. 153, 167; [LBY-OTP-00015360](#), para. 38; [LBY-OTP-00015405](#), para. 76; [LBY-OTP-00015420](#), para. 28; [LBY-OTP-00016896](#), paras. 29-30).

⁶⁴⁶ *See above* paras. 75, 78-80. *See also* [LBY-OTP-00007275](#), para. 37.

⁶⁴⁷ [LBY-OTP-0073-0025](#), paras. 159-160; [LBY-OTP-0080-0032](#), para. 34; [LBY-OTP-00015125](#), para. 44.

⁶⁴⁸ *See above*, paras. 3, 108-110, 122, 124, 130.

⁶⁴⁹ *See above* para. 78 (fn. 337).

⁶⁵⁰ [LBY-OTP-0073-0025](#), paras. 29, 34; [LBY-OTP-00007275](#), para. 95; [LBY-OTP-00015405](#), para. 69; [LBY-OTP-00018119](#), para. 102.

course of events. For example, he knew that detainees were subjected to powers attaching to the right of ownership, such as the obligation to carry out arduous or degrading labour, or to give blood, in circumstances precluding any genuine consent, because he did so himself.⁶⁵¹ Likewise, **AL HISHRI** knew that many persons were detained, mistreated, and killed at Mitiga to punish them for their actual or perceived behaviour, without any due process, because he personally meted out such punishments.⁶⁵²

141. Finally, given **AL HISHRI** 's leading role in running Mitiga Prison, and in SDF/RADA, he must also have known of the factual circumstances enabling the co-perpetrators' joint control over the crimes, that their conduct was part of a widespread or systematic attack carried out by SDF/RADA upon a civilian population, and of the factual circumstances establishing the NIAC in Libya.⁶⁵³ The victims' protected status as civilians or fighters not taking direct part in hostilities would have been evident from their dress, the circumstances of their detention, and their own words. Likewise, when inflicting severe physical or mental suffering on the detainees, or causing it to be inflicted, **AL HISHRI** acted with prohibited purposes such as obtaining information or imposing punishment or coercion,⁶⁵⁴ or based on discrimination.⁶⁵⁵

G.4.b. AL HISHRI is additionally and/or alternatively responsible for counts 1-7 and 10-13 under article 25(3)(b)

142. Additionally and/or alternatively, **AL HISHRI** is responsible for ordering or inducing the commission of the crimes alleged in counts 1-7 and 10-13 under article 25(3)(b) by the notorious example he set to Mitiga Prison guards, setting the pattern of systematic mistreatment against detainees under his care. He issued direct instructions in particular incidents, including sexual violence⁶⁵⁶ and torture.⁶⁵⁷

G.4.c. AL HISHRI is additionally and/or alternatively responsible for counts 1-15 under article 25(3)(d)

143. Additionally and/or alternatively, **AL HISHRI** is responsible as an accessory to the crimes

⁶⁵¹ See [LBY-OTP-00018772](#), paras. 32-34 ([REDACTED]); [LBY-OTP-0083-0663](#), paras. 85-86 and [LBY-OTP-00018075](#), paras. 37, 39-43 ([REDACTED]); [LBY-OTP-00020099](#), paras. 41-42 ([REDACTED]); [LBY-OTP-0074-0889](#), para. 225 and [LBY-OTP-0070-7295](#), para. 134 ([REDACTED]).

⁶⁵² See above paras. 133-134. See [LBY-OTP-0074-0889](#), paras. 210-213; [LBY-OTP-0070-6952](#), paras. 96-97, 138; [LBY-OTP-0080-0468](#), para. 119; [LBY-OTP-0080-0608](#), para. 92; [LBY-OTP-00018772](#), para. 52; [LBY-OTP-00019195](#), para. 87.

⁶⁵³ See also *Ongwen* TJ, para. 2691; *Bemba* TJ, para. 167. Even if **AL HISHRI** himself were not considered to be a perpetrator of the alleged crimes, similar evidence and reasoning shows that the direct perpetrators in any event had the required knowledge of the relevant *chapeaux* under articles 7-8 of the Statute.

⁶⁵⁴ [LBY-OTP-00007275](#), paras. 27-30; [LBY-OTP-00018772](#), paras. 32-34; [LBY-OTP-0070-6952](#), paras. 92-93, 95-96; [LBY-OTP-0074-0889](#), paras. 142-15; [LBY-OTP-00019195](#), paras. 108-109.

⁶⁵⁵ See above, para. 129; see below para. 146.

⁶⁵⁶ [LBY-OTP-0083-0663](#), paras. 84-88; [LBY-OTP-00018075](#), paras. 39-43.

⁶⁵⁷ [LBY-OTP-0080-0169](#), paras. 88, 94, 214; [LBY-OTP-00018772](#), paras. 32-34.

alleged in counts 1-15 committed by one or more groups acting with a common purpose.⁶⁵⁸ **AL HISHRI** made the degree of contribution required under article 25(3)(d),⁶⁵⁹ with the aim of furthering the criminal activities or purpose of the group(s), or at least knowing of their intention to commit crimes. In particular, **AL HISHRI** personally carried out relevant criminal acts, encouraged and/or permitted the Mitiga Prison guards to carry out such acts, was in charge of the Women's Section, and exercised his authority over Mitiga Prison staff and detainees.⁶⁶⁰

144. **AL HISHRI**'s conduct—including his own personal violent conduct—also evinces the required intent and/or knowledge under article 25(3)(d) for the crimes alleged in counts 1-15. This is further supported by the systematic and flagrant manner in which the crimes were committed, the prolonged period in which they were repeated, and **AL HISHRI**'s active role at Mitiga Prison—in the course of which he could not have failed to see not only the crimes, but also the equipment used for the purpose (such as the *balanco* equipment), the inadequate prison conditions, and the effects on the detainees (including their state of health, injuries, deaths, complaints, and so on).⁶⁶¹

G.4.d. AL HISHRI is additionally and/or alternatively responsible for counts 1-15 under article 25(3)(c)

145. Additionally and/or alternatively, **AL HISHRI** is responsible for the crimes alleged in counts 1-15 as an aider and abettor of the specific crimes under article 25(3)(c). By the acts described above, he facilitated, encouraged, or otherwise assisted the commission of these crimes.⁶⁶² Furthermore, it is apparent not only that he knew of such crimes, but that he acted with the purpose of facilitating their commission.⁶⁶³

G.4.e. AL HISHRI is additionally responsible for count 16 under articles 25(3)(a) and 25(3)(c)

146. Lastly, **AL HISHRI** is responsible for persecution on gender and religious grounds as a direct perpetrator under article 25(3)(a) and for facilitating and encouraging persecution on political, national, racial and/or ethnic grounds under article 25(3)(c). **AL HISHRI**, who was known as a Salafist with a radical interpretation of Islam,⁶⁶⁴ directly persecuted both male and female detainees on religious and gender grounds by strictly enforcing his norms, in particular

⁶⁵⁸ This is the case if the alleged crimes were all committed by a single group whose activities or purpose involved all of the alleged crimes, but no less if some of the alleged crimes were committed by additional groups with a narrower scope of activities or purpose specific to those crimes.

⁶⁵⁹ See *Al Hassan* Confirmation Decision, para. 944; *Katanga* TJ, para. 1618; *Ruto et al.* Confirmation Decision, para. 354. By analogy, see also e.g. *Bemba et al.* AJ, paras. 1326-1327; *Bemba et al.* TJ, paras. 88-89, 93, 96; *Al Mahdi* Confirmation Decision, paras. 26-27; *Ongwen* Confirmation Decision, paras. 43-44.

⁶⁶⁰ See above paras. 120-134.

⁶⁶¹ See above paras. 135-141.

⁶⁶² See above paras. 120-134. See also *Bemba et al.* AJ, paras. 1324-1327.

⁶⁶³ See above paras. 135-141. See also *Bemba et al.* AJ, para. 1400.

⁶⁶⁴ [LBYP-OTP-0080-0169](#), para. 86; [LBYP-OTP-00020358](#), para. 62; [LBYP-OTP-00019195](#), para. 123.

by the means described above.⁶⁶⁵ **AL HISHRI** must also have known that such persecution on political, national, racial and/or ethnic grounds was occurring, and acted with the purpose of facilitating it, because he participated in such behaviour himself.⁶⁶⁶ **AL HISHRI** participated in sexual violence, and punished detainees whom he knew were detained simply because of the prejudices of SDF/RADA members rather than in accordance with law.⁶⁶⁷ He joined in using sub-Saharan African detainees for labour, whether in forcing them to assist in mistreating other detainees, or to carry out other dirty or arduous tasks.⁶⁶⁸ Alternatively, **AL HISHRI** is responsible for persecution on all charged grounds under article 25(3)(e).

H. ADMISSIBILITY

147. While the Chamber need not determine the admissibility of the case under article 58(1) of the Statute, it may exercise discretion to do so if “appropriate in the circumstances of the case, bearing in mind the interests of the suspect”, such as when there are any “uncontested facts that render a case clearly inadmissible or an ostensible cause impelling the exercise of *proprio motu* review.”⁶⁶⁹ The Prosecution submits that no such need arises in this case. To the contrary, the case is admissible because no State is presently taking relevant action under article 17(1)(a) to (c) of the Statute and it is of sufficient gravity for the purpose of article 17(1)(d).

H.1. THERE ARE NO RELEVANT DOMESTIC PROCEEDINGS AGAINST AL HISHRI

148. On 26 September 2024, a social media account purportedly used by Libya’s Attorney General’s Office stated that it was investigating the murder of a victim who was allegedly tortured to death whilst in a detention facility operated by SDF/RADA, further indicating that it had detained five officers allegedly responsible for the crime. On 25 October 2024, a witness informed the Prosecution that one of the five suspects was **AL HISHRI**, but that “none of the suspects were arrested”.⁶⁷⁰ On this basis, the Prosecution understands that some form of domestic proceeding might have been initiated in Libya with respect to **AL HISHRI**, although it does not appear to relate to substantially the same conduct as that alleged in this Application. Moreover, in any event, the Prosecution does not currently consider that there is reason to believe the Attorney General would be able to secure **AL HISHRI**’s arrest in the present

⁶⁶⁵ See above para. 129. See also above para. 97.

⁶⁶⁶ See e.g. [LBY-OTP-00007275](#), paras. 27-32.

⁶⁶⁷ See above paras. 133-134, 139 (fn. 645).

⁶⁶⁸ See above paras. 94, 134, 140.

⁶⁶⁹ DRC Arrest Warrants AJ, para. 52. See also e.g. *Al Werfalli* First Arrest Warrant, para. 24.

⁶⁷⁰ [LBY-OTP-00020431](#); [LBY-OTP-00020432](#) (trans: [LBY-OTP-00020442](#)); [LBY-OTP-00020433](#) (trans: [LBY-OTP-00020443](#)); [LBY-OTP-00020435](#) (trans: [LBY-OTP-00020444](#)); [LBY-OTP-00020437](#) (trans: [LBY-OTP-00020445](#)).

circumstances. Indeed, as an agent of the Libyan Ministry of Foreign Affairs,⁶⁷¹ **AL HISHRI** is out of the Attorney General's reach and benefits from the protection granted to him as a Libyan State official. Critically, information collected by the Prosecution shows that the Attorney General has no authority over the detainees held by SDF/RADA at Mitiga Prison,⁶⁷² let alone over SDF/RADA's top leadership.

149. Finally, the Prosecution notes that it has received no information indicating that **AL HISHRI** is being investigated or prosecuted for the conduct alleged in this case by any other State which may have jurisdiction.

H.2. THE CASE AGAINST AL HISHRI IS SUFFICIENTLY GRAVE

150. The case is undeniably of sufficient gravity for the purpose of article 17(1)(d),⁶⁷³ having regard not only to quantitative criteria⁶⁷⁴ but also qualitative criteria,⁶⁷⁵ as well as the suspect's degree of responsibility.⁶⁷⁶ **AL HISHRI** is alleged to be responsible as a direct and/or co-perpetrator of numerous war crimes and crimes against humanity, likely affecting thousands of victims, with direct evidence of the victimisation of hundreds—vastly exceeding the scale of cases such as *Al Werfalli* (approximately 43 fatalities).⁶⁷⁷ Crimes were carried out with particular cruelty, and over a prolonged period, against a vulnerable group: detainees.

I. NECESSITY OF ARREST

151. Consistent with article 58(b)(i) of the Statute, the arrest of **AL HISHRI** is necessary to ensure his appearance before the Court. It is highly unlikely that **AL HISHRI** would surrender voluntarily, given his alleged conduct, nor in any event is it likely that the Libyan authorities will cooperate in **AL HISHRI**'s voluntary appearance given Libya's challenges to the ICC's jurisdiction over all crimes and suspects within its territory,⁶⁷⁸ and lack of domestic proceedings related to the serious allegations contained in this application.⁶⁷⁹

J. CONCLUSION

152. For all the preceding reasons, the Prosecution requests the Chamber to issue an arrest

⁶⁷¹ See above, para. 3, fns. 17-18.

⁶⁷² See e.g. [LBY-OTP-0081-1993](#), paras. 126-128; [LBY-OTP-00020358](#), para. 160; [LBY-OTP-0083-0663](#), para. 111; [LBY-OTP-0083-0052](#), paras. 84, 113, 157; [LBY-OTP-00007275](#), para. 83; [LBY-OTP-00015405](#), para. 93; [LBY-OTP-00020236](#), paras. 85-86.

⁶⁷³ *Al Hassan* Gravity AJ, para. 53 (threshold excluding only those "rather unusual cases" of "marginal gravity only". See also paras. 55-56, 59.

⁶⁷⁴ *Al Hassan* Gravity AJ, para. 94.

⁶⁷⁵ See e.g. *Al Hassan* Gravity AJ, paras. 88-93 (factual nature of crimes, manner of commission, and impact on victims).

⁶⁷⁶ See *DRC Arrest Warrants* AJ, paras. 73, 76-77, 79 ("no category of perpetrator is *per se* excluded from potentially being brought before the Court").

⁶⁷⁷ See *Al Werfalli* Second Arrest Warrant, paras. 2, 19; *Al Werfalli* First Arrest Warrant, para. 10.

⁶⁷⁸ [LBY-OTP-00018876](#), pp. 17-19.

⁶⁷⁹ See also above para. 3.

warrant for **AL HISHRI** under seal (*ex parte*, available to the Prosecution only) and authorise the Registry to transmit, in prior consultation and coordination with the Prosecution, a request for **AL HISHRI**'s arrest and surrender to the competent authorities of Libya and any other relevant State identified in consultation with the Prosecution.

153. The Prosecution also respectfully requests permission to communicate—in consultation with Registry—the existence of the warrant of arrest, as well as the information contained in the “Conclusion” section of the warrant of arrest, containing the name of the suspect as well as the alleged crimes for which the arrest is sought, to any State or international organisation for the purposes of the execution of the warrant of arrest, including to obtain relevant intelligence.



Nazhat Shameem Khan
Deputy Prosecutor

Dated this 30th day of July 2025

At The Hague, The Netherlands