



The Prosecutor v. Khaled Mohamed Ali EL HISHRI

Confirmation of Charges Hearing



Presentation of evidence

1. Charges and contextual elements
2. Counts 1-12
3. Counts 13-17
4. Khaled EL HISHRI's criminal responsibility



Charges

War crimes

COUNT 2: **outrages upon personal dignity**

COUNT 3: **cruel treatment**

COUNT 5: **torture**

COUNT 8: **rape**

COUNT 10: **sexual violence**

COUNT 12: **murder and attempted murder**

Crimes against humanity

COUNT 4: **torture**

COUNT 6: **other inhumane acts**

COUNT 7: **rape**

COUNT 9: **sexual violence**

COUNT 13: **enslavement**

COUNT 14: **persecution on political grounds**

COUNT 15: **persecution on religious grounds**

COUNT 16: **persecution national, ethnic, and/or racial grounds**

COUNT 17: **persecution on gender grounds**

The Evidence

63 Prosecution witnesses

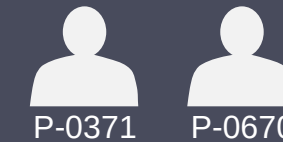


The Evidence

47 former Mitiga Prison detainees



2 relatives of former Mitiga Prison detainees



14 witnesses primarily relevant to jurisdiction and contextual elements



Types of Evidence



Decrees and other official documents



Photographs and videos of SDF/RADA members and the Mitiga Compound



Images and sketches of the Mitiga Compound annotated or made by witnesses



United Nations reports



Press statements



NGO reports

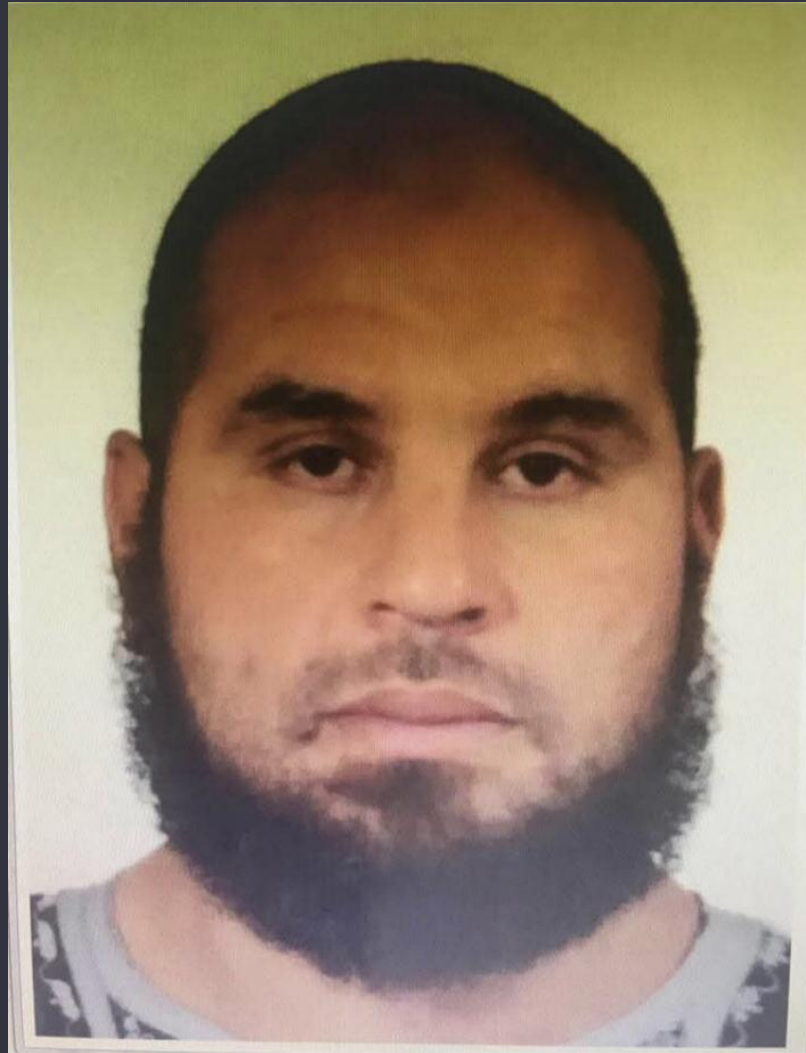


Research reports



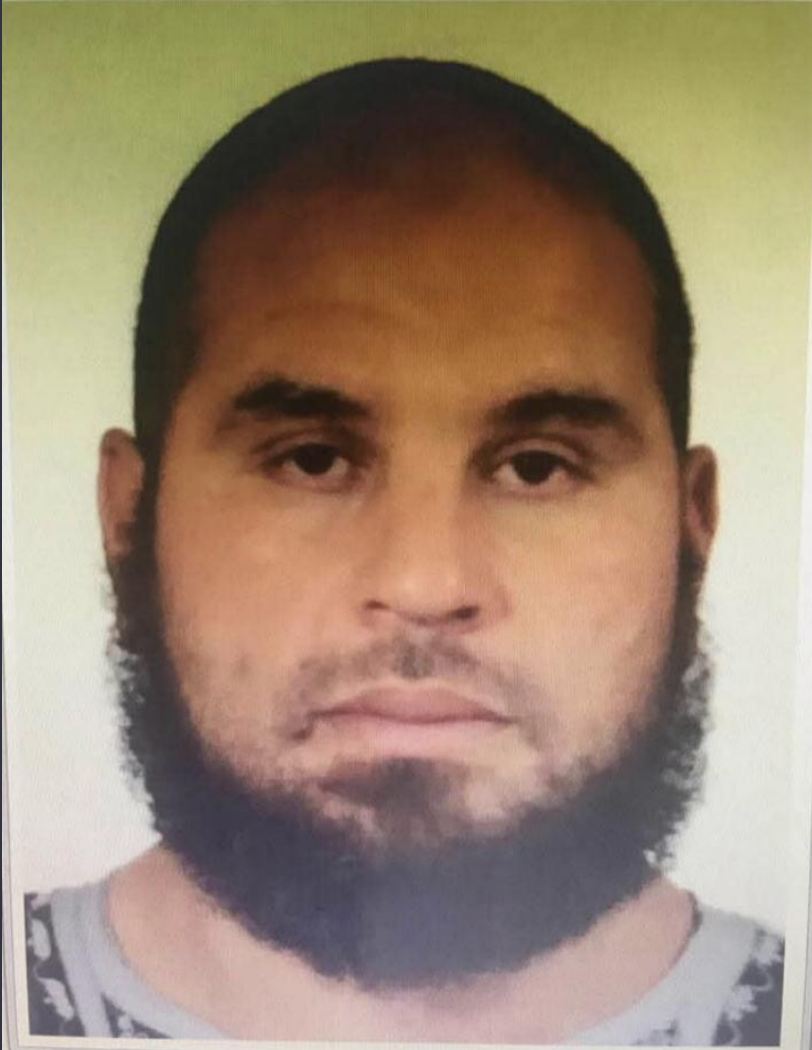
Open source material including social media

Khaled EL HISHRI



LBY-OTP-00001210, p. 15

Khaled EL HISHRI

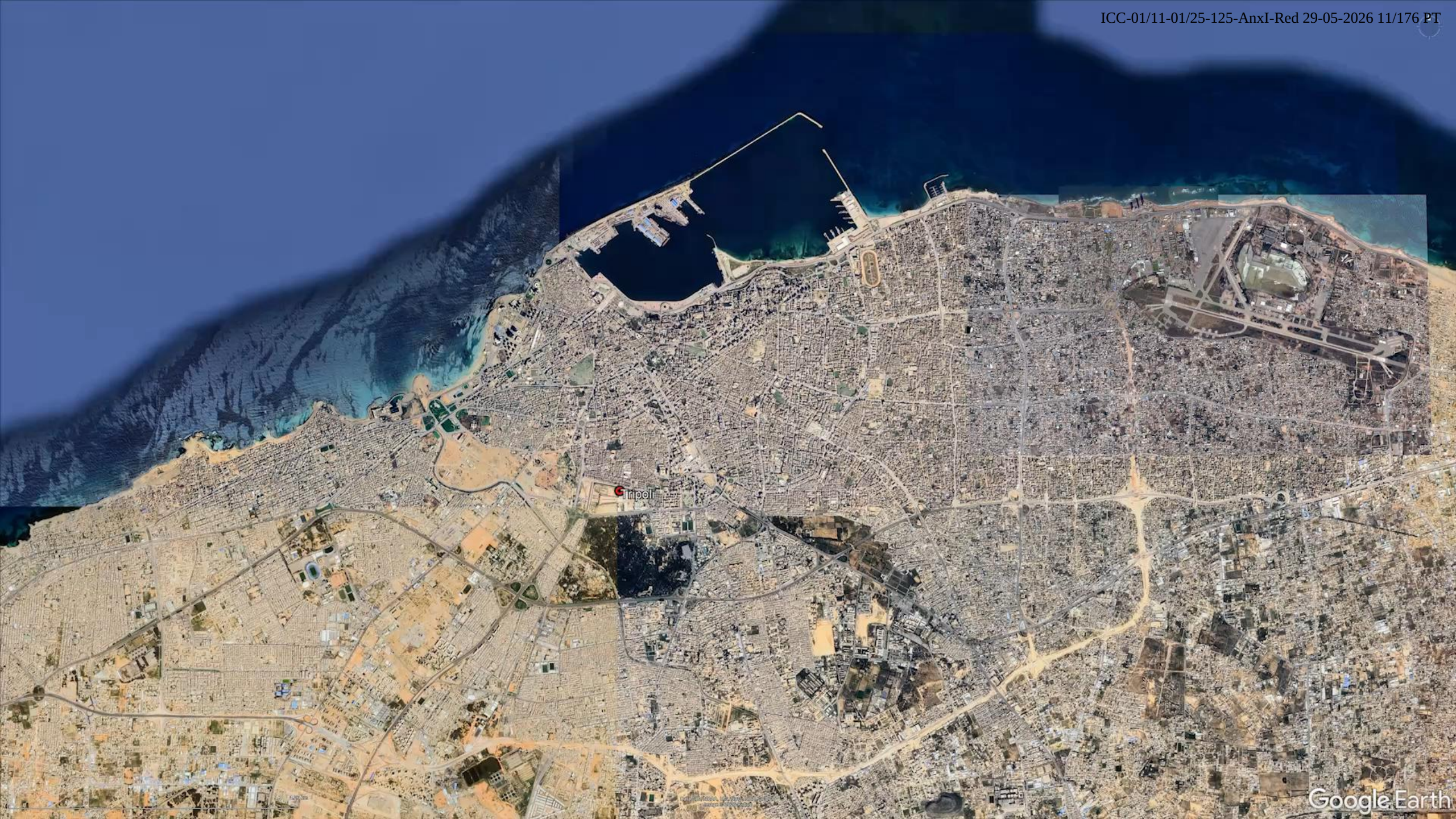


LBY-OTP-00001210, p. 15

- Was a senior leader in SDF/RADA based at Mitiga
- Was in charge of the Women's Section of the Prison
- Exercised general authority in Mitiga Prison
- Personally and directly committed crimes









Tripoli Centre



Mitiga Compound

Mitiga Prison



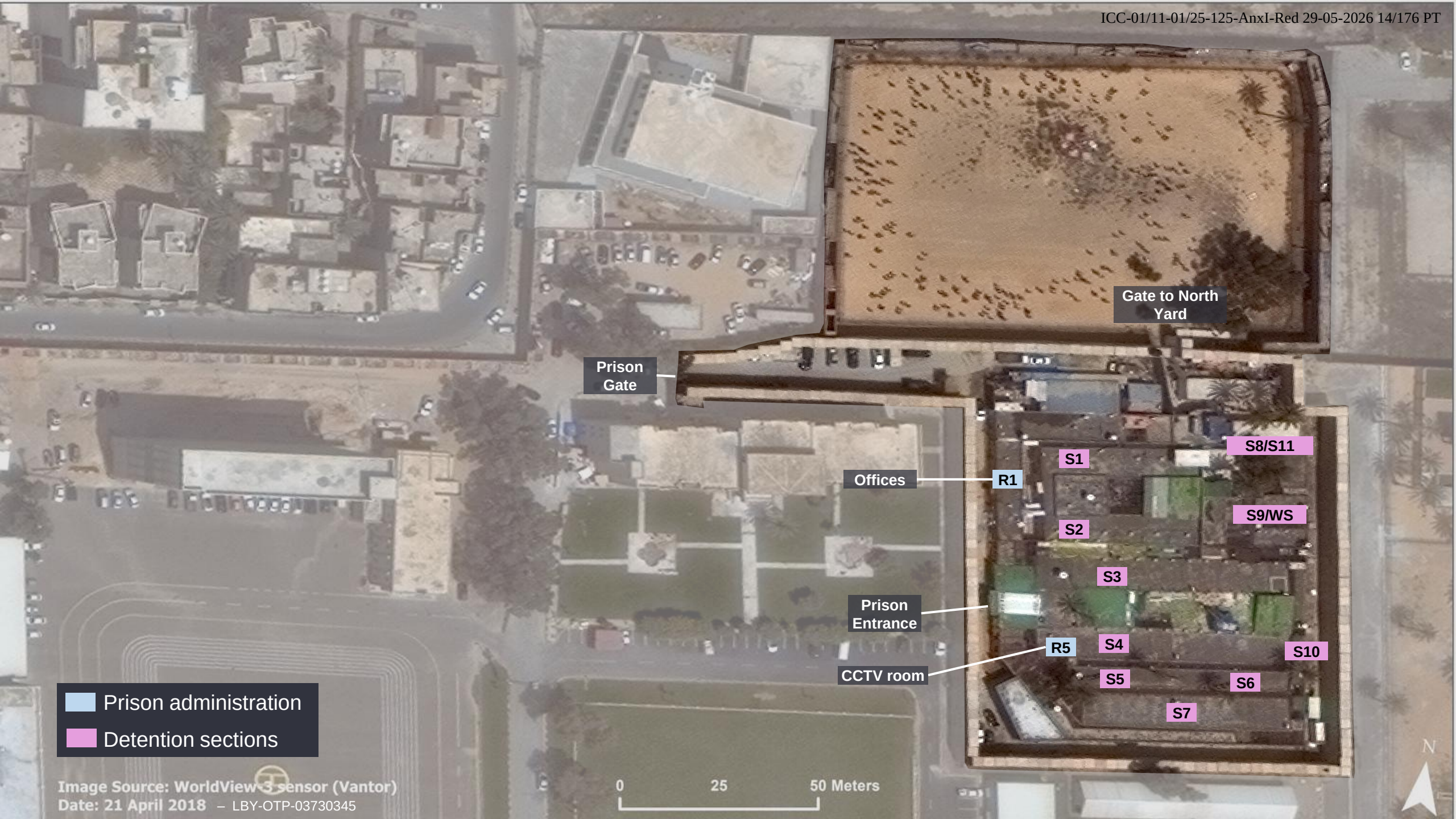
Mitiga Airport





Naqliah

Main Prison



Prison Gate

Gate to North Yard

Offices

Prison Entrance

CCTV room

- Prison administration
- Detention sections



Chronology of the Evolution of SDF/RADA



Chronology of the Evolution of SDF/RADA

2011

Pre-cursor of SDF/RADA: revolutionary battalion

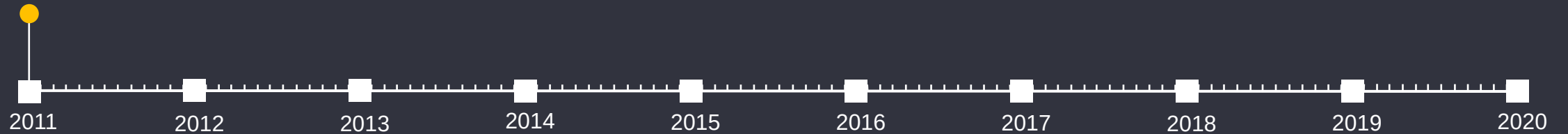


Chronology of the Evolution of SDF/RADA

By 2012

KARA commands a branch of the SSC

Pre-cursor of
SDF/RADA:
revolutionary
battalion



Chronology of the Evolution of SDF/RADA

2012

Name changed to SDF/RADA

About DACTOC/Foundation of the Agency

The Special Deterrence Force was established in 2012 as part of the Support and Assistance Brigades in order to improve security, under Decision No. 260/2016 AD issued by the Tripoli Security Directorate delegating the functions of combating organised crime (retroactively), Presidential Council Decision **555/2018 CE** on the establishment of the Deterrence Agency for Combating Terrorism and Organised Crime (DACTOC), amended by Presidential Council Decision No. **578/2020 CE** on the Deterrence Agency for Combating Terrorism and Organised Crime and **Presidential Council Decision No. 257 of 2022 CE adopting the organisational framework.**

LBY-OTP-00019370

KARA commands a branch of the SSC

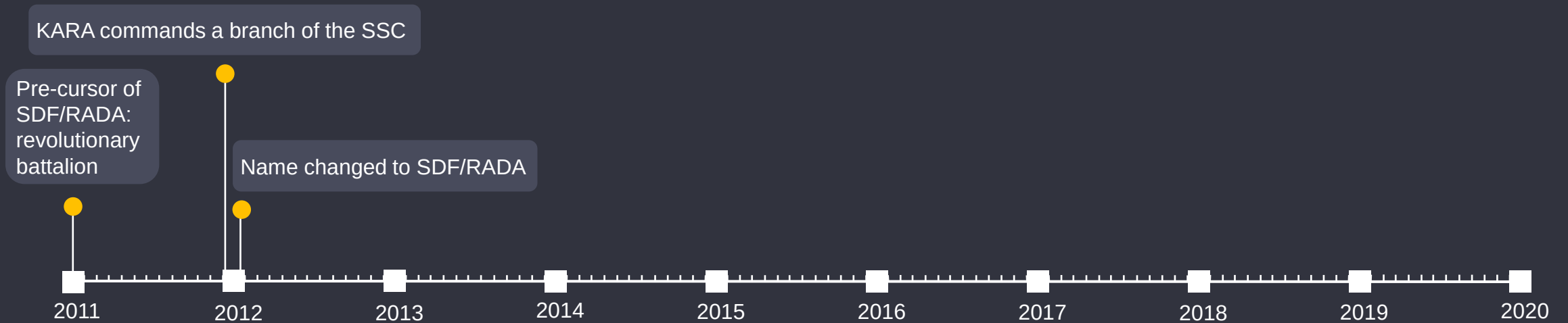
Pre-cursor of
SDF/RADA:
revolutionary
battalion

2011 2012 2013 2014 2015 2016 2017 2018 2019 2020

Chronology of the Evolution of SDF/RADA

August 2014

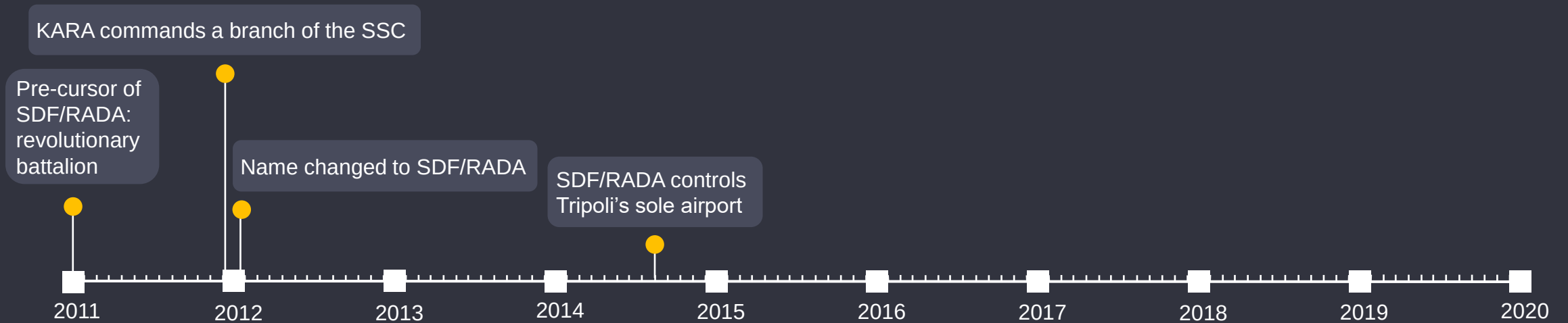
SDF/RADA controls Tripoli's sole airport



Chronology of the Evolution of SDF/RADA

December 2015

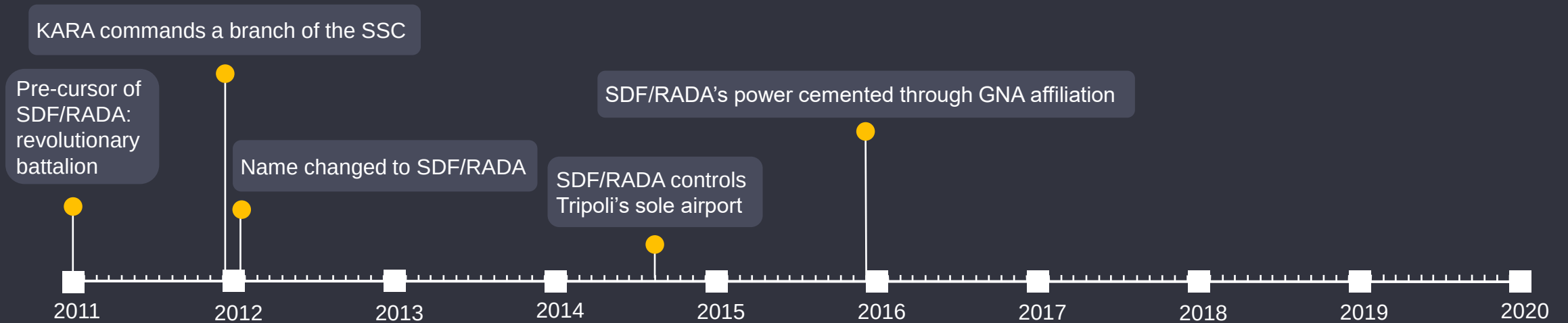
SDF/RADA's power cemented through GNA affiliation



Chronology of the Evolution of SDF/RADA

2017

SDF/RADA has over 1,500 members and widespread influence



Chronology of the Evolution of SDF/RADA

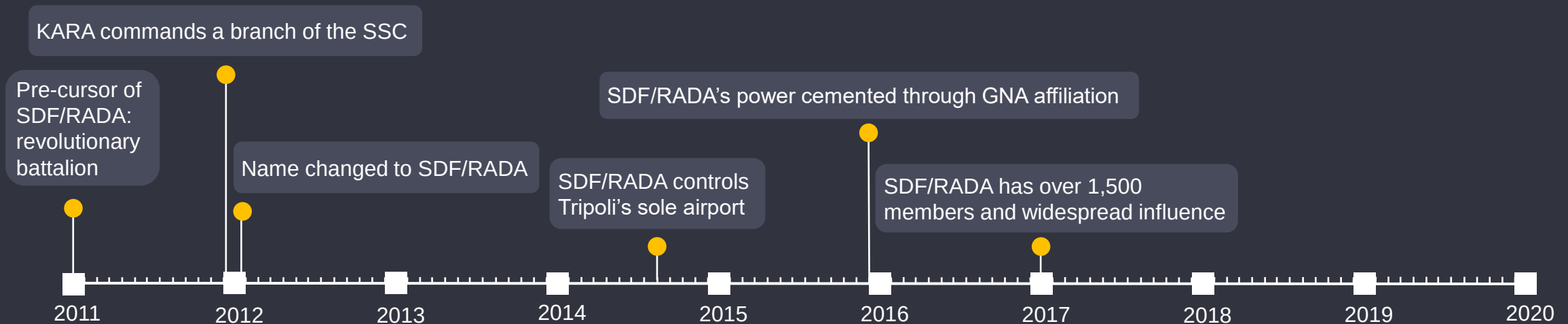
April 2018

SDF/RADA maintains own command and autonomy

OHCHR/UNSMIL report issued in April 2018

- “The SDF has aligned itself to the internationally recognized Presidency Council, and is nominally under the authority of its Ministry of Interior. It **receives support, including salaries, uniforms and equipment, from the State**, but effectively **maintains its own command structure and operates** with a **significant level of autonomy**.”

LBY-OTP-00018738, p. 19



Chronology of the Evolution of SDF/RADA

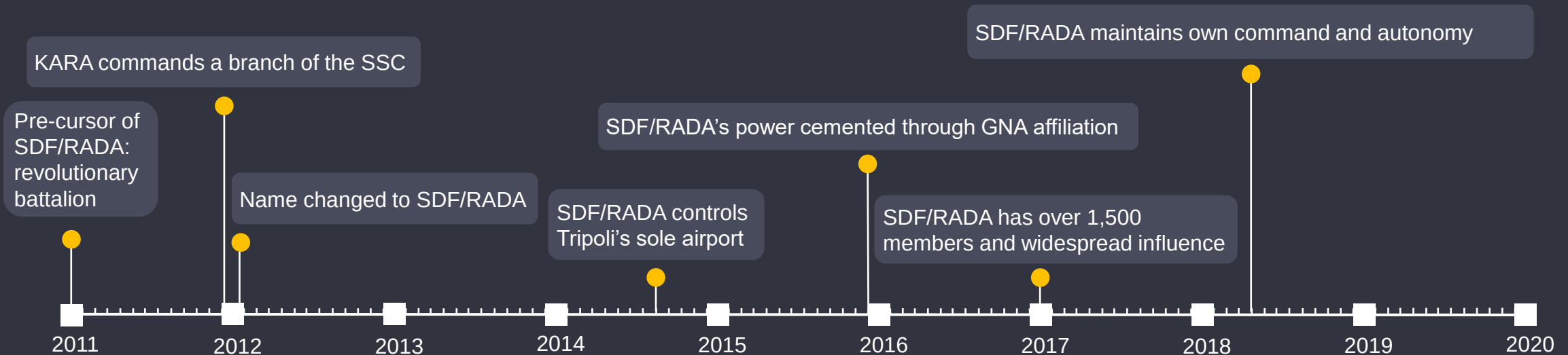
May 2018

SDF/RADA renamed and granted extensive powers

Decision of the Presidential Council of the Government of National Accord No 555 of 2018

- “Article 1
- An agency shall hereby be established under the name: ‘**Organised Crime and Terrorism Deterrence Agency**’. It shall have an independent legal personality and financial autonomy and shall be affiliated to the Interior Ministry”

LBY-OTP-0070-0004, p. 0005





Crimes against humanity



Crimes against humanity

1. There was an attack against the civilian population
2. The attack was widespread and systematic
3. The attack was carried out pursuant to or in furtherance of an organisational policy
4. Khaled EL HISHRI knew of the attack and that his conduct was linked to it



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“Those held at facilities under the Ministry of Interior are **systematically denied any due process rights** and the opportunity to challenge the legality of their detention. This is most notably the case in the **Mitiga detention facility** controlled by the Special Deterrence Force (SDF) armed group [...]”

LBY-OTP-0066-1022, p. 1069

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War crimes



War crimes

1. A non-international armed conflict existed
2. The charged crimes were linked to the armed conflict and enabled by it
3. Khaled EL HISHRI was aware of the factual circumstances that established the existence of the armed conflict

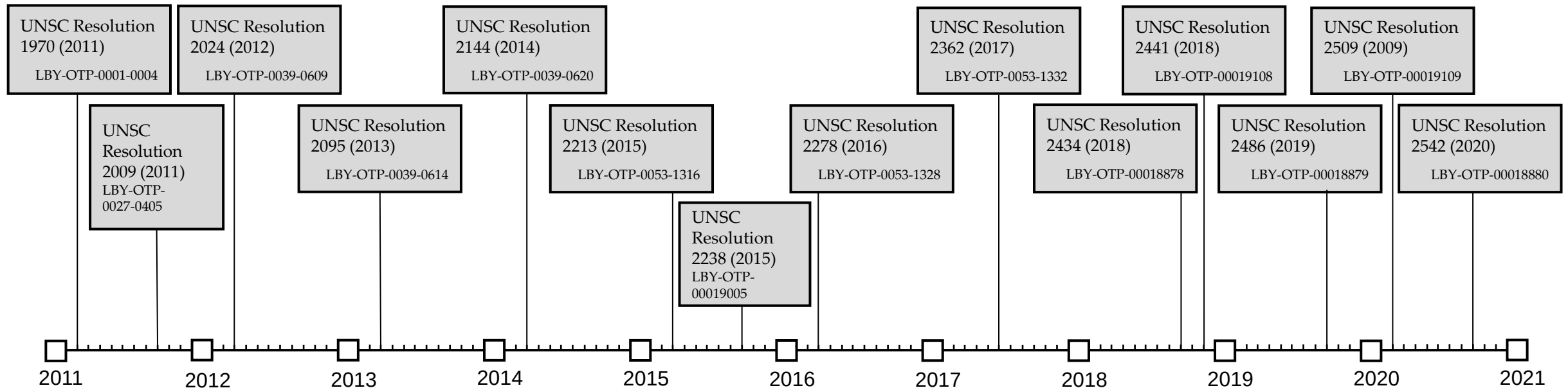
War crimes

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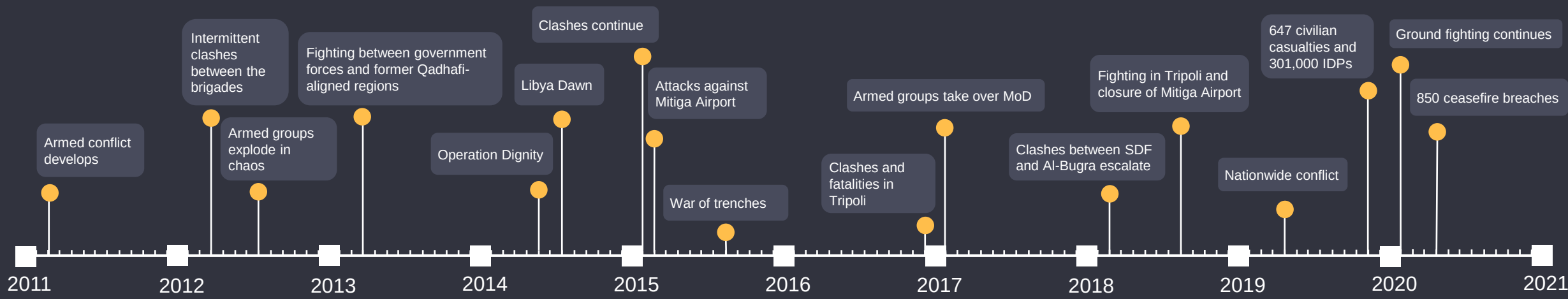
War crimes



Determining that the situation in Libya continues to constitute a threat to international peace and security,
Acting under Chapter VII of the Charter of the United Nations,



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

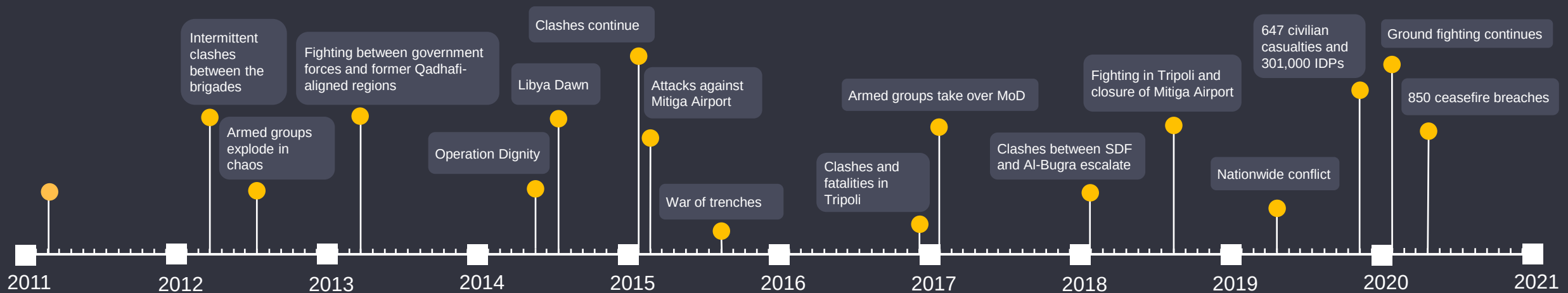
February 2011

Armed conflict develops

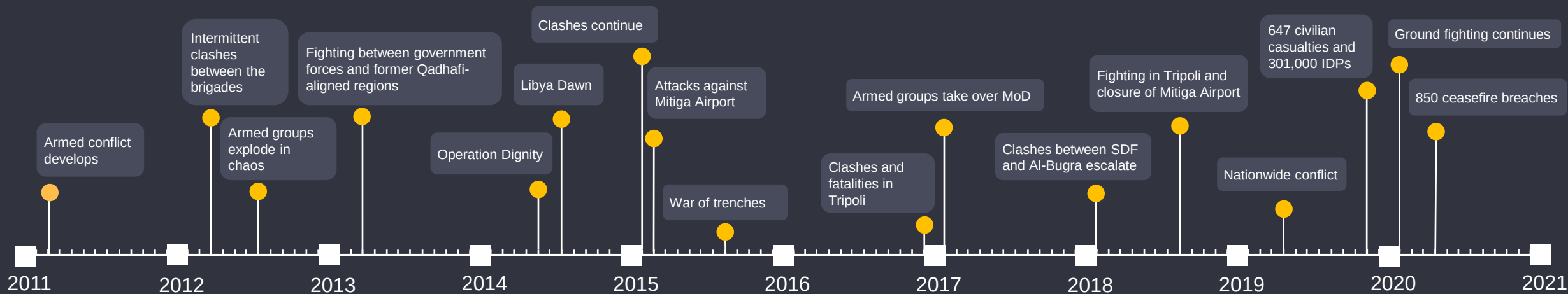
OHCHR report A/HRC/31/CRP.3

- “In 2011, an **armed conflict developed after the Qadhafi regime used force against protestors** in a reaction to Libyan citizens’ attempts to exercise democratic freedoms. The situation escalated into an armed conflict between opposition armed groups and the Qadhafi regime.”

LBY-OTP-0053-0990, para. 32



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

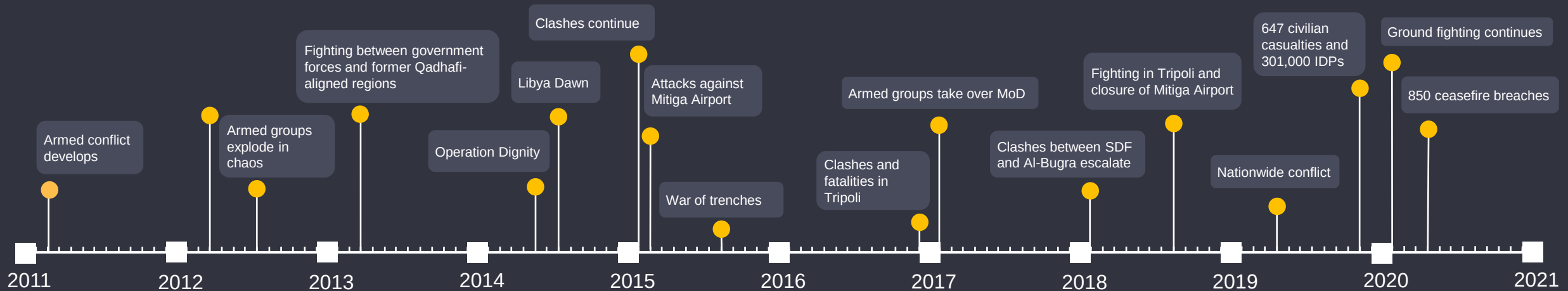
1 March 2012

Intermittent clashes between the brigades

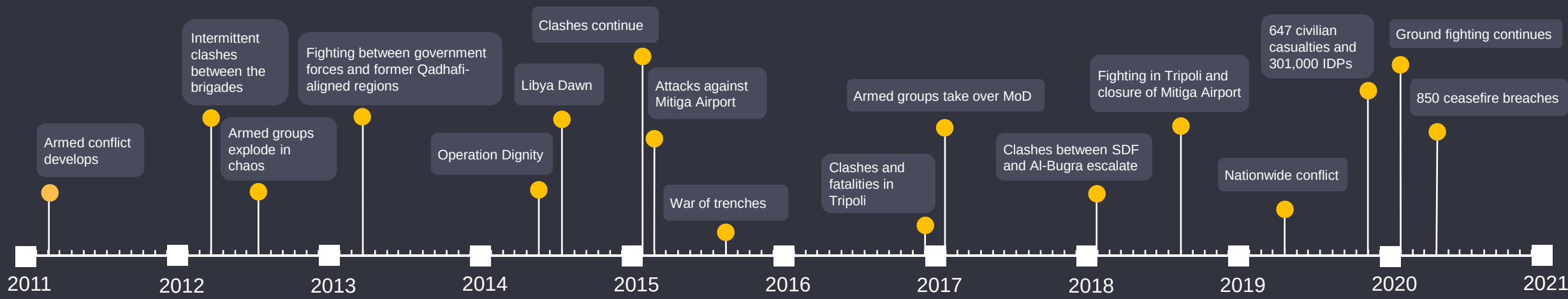
UNSMIL report S/2012/129

- “**Intermittent clashes between the brigades** and other incidents continued to pose a challenge to the authorities in their efforts to contain the overall security situation and to manage the risks associated with the continued proliferation of weapons on the streets and the large number of armed brigades whose lines of command and control remained unclear.”

LBY-OTP-00019034, para. 9



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

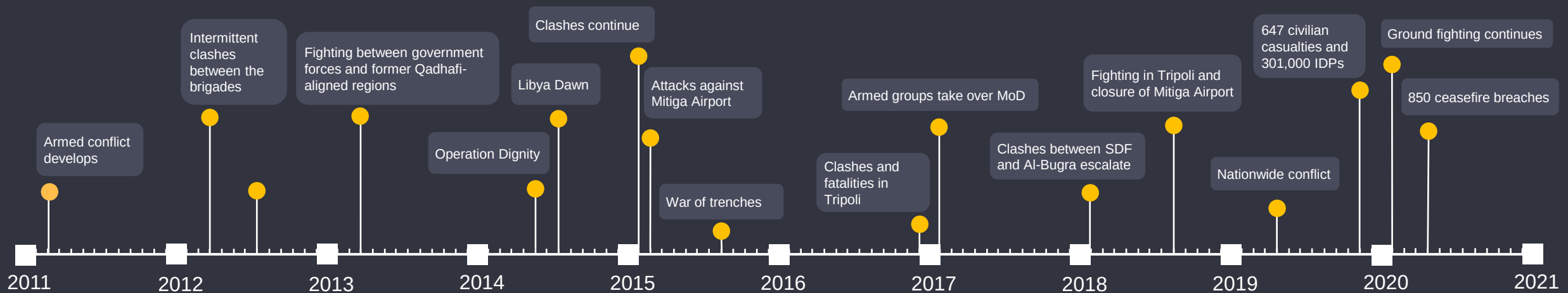
2012

Armed groups explode in chaos

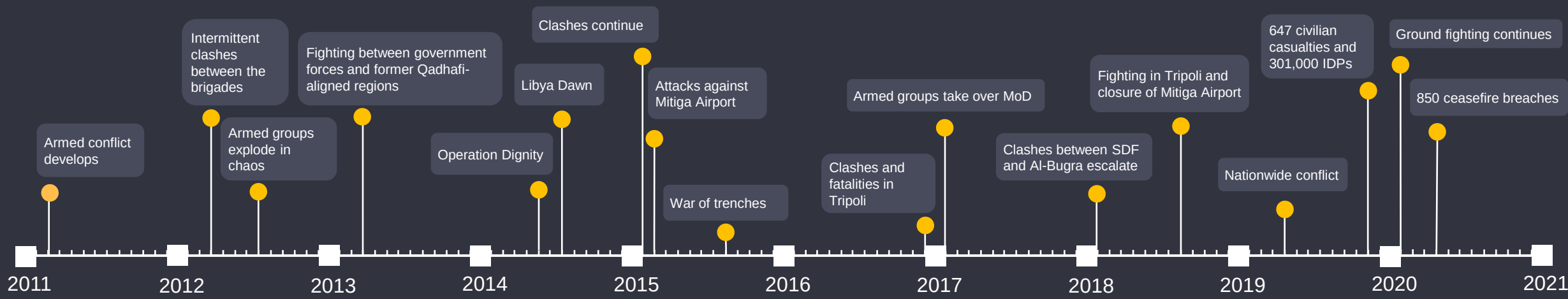
Lacher and Cole, Politics by Other Means

- “In sum, across the country, the number of **armed groups exploded in the chaos** that ensued after the Qaddafi regime’s demise.”

LBY-OTP-00018826, p. 19



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

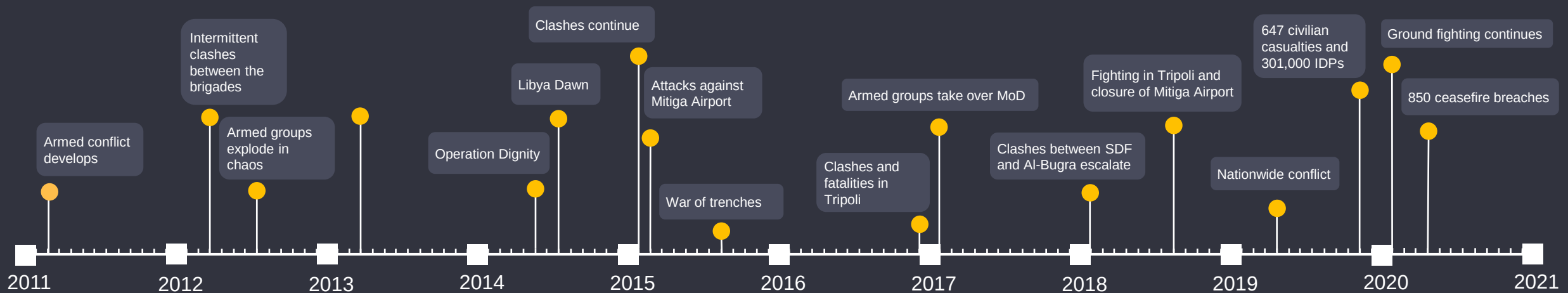
9 March 2013

Fighting between government forces and former Qadhafi-aligned regions

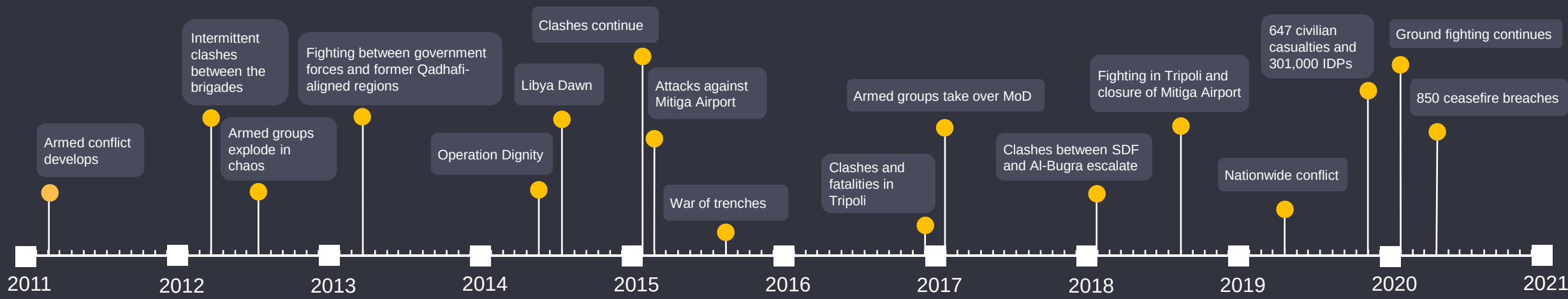
UNSC Panel of Experts report S/2013/99

- **“Fighting between government forces and former Qadhafi-aligned regions continues.** In a recurring cycle of fighting and temporary resolution, October 2012 witnessed a number of violent outbreaks in Bani Walid, a town associated with former Qadhafi loyalists.”

LBY-OTP-00019029, para. 31



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

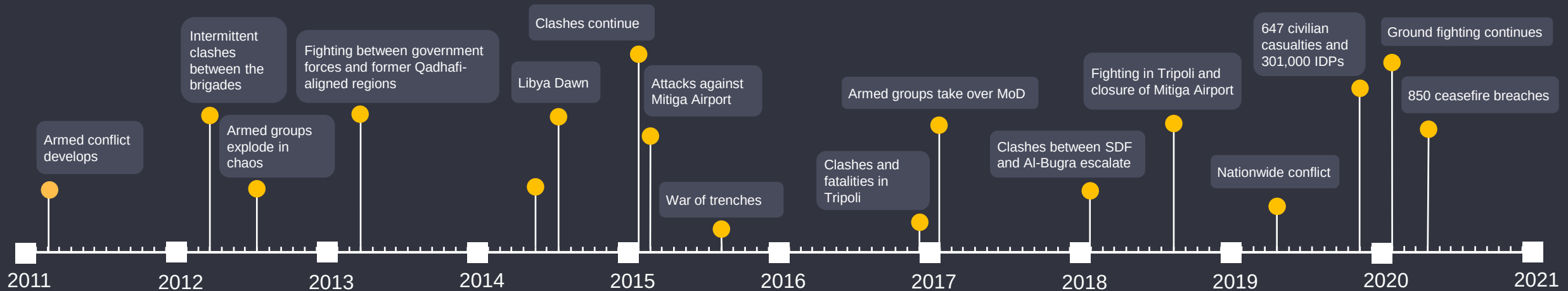
May 2014

Operation Dignity

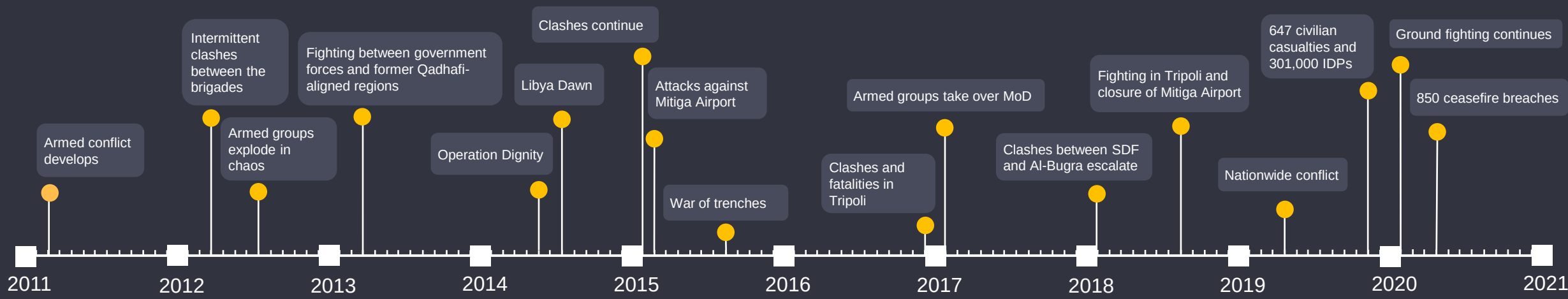
OHCHR report A/HRC/31/CRP.3

- “2014 saw the **most serious emergence of hostilities since 2011.**”

LBY-OTP-0053-0990, para. 34



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

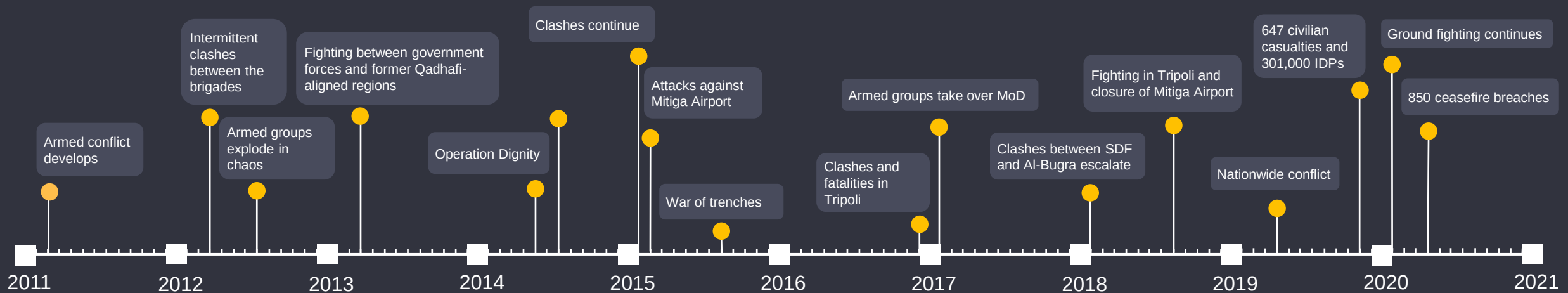
Mid-July 2014

Libya Dawn

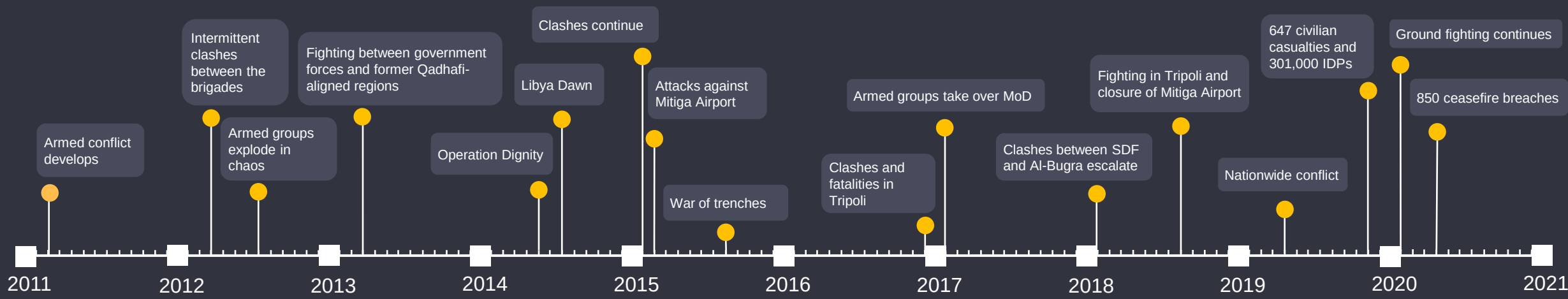
OHCHR report A/HRC/31/CRP.3

- “Six weeks of **heavy fighting erupted** in Tripoli in mid-July 2014 [...]. [...] An alliance of armed groups, primarily from Misrata [...] together with Tripoli-based armed groups launched Fajr Libya (Libya Dawn) [...] . The campaign included **airstrikes** and **shelling** of populated areas in Tripoli, resulting in considerable casualties, and a massive displacement of persons.”

LBY-OTP-0053-0990, para. 36



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

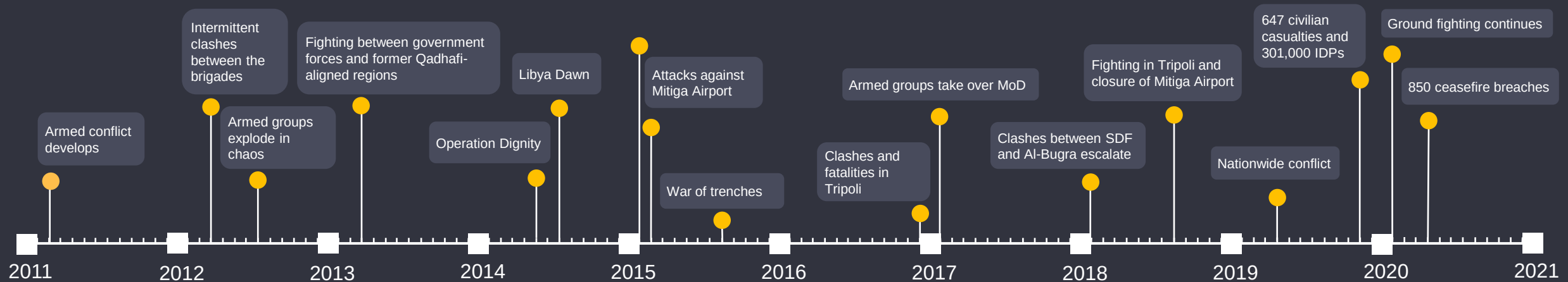
Early 2015

Clashes continue

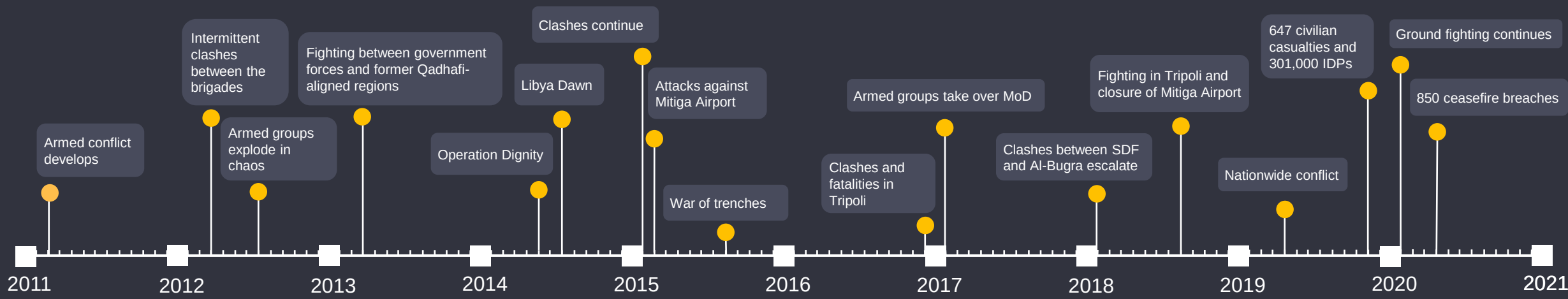
OHCHR report A/HRC/31/CRP.3

- “**Clashes continued into 2015**, and included a military offensive by Warshafana forces to regain areas in the Warshafana tribal belt, including around Al-Aziziya.”

LBY-OTP-0053-0990, para. 37



Intensity of hostilities from 2011 to 2020



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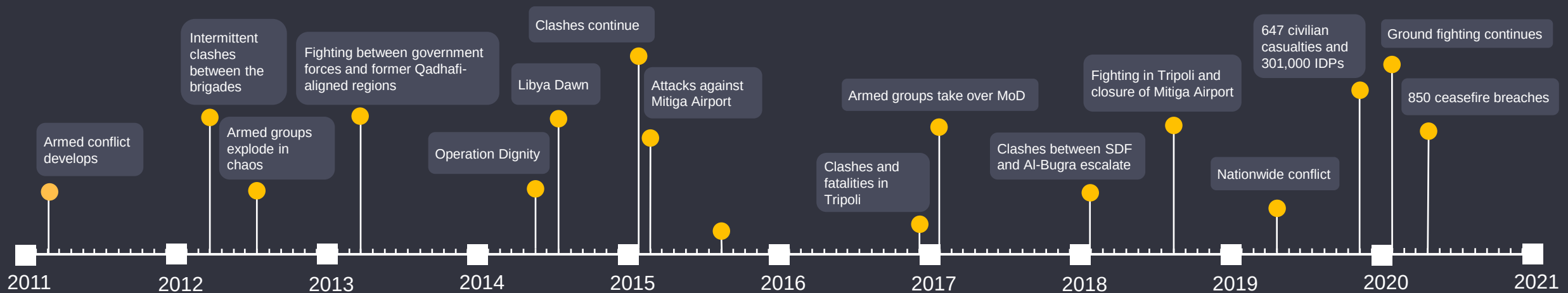
26 August 2015

War of trenches

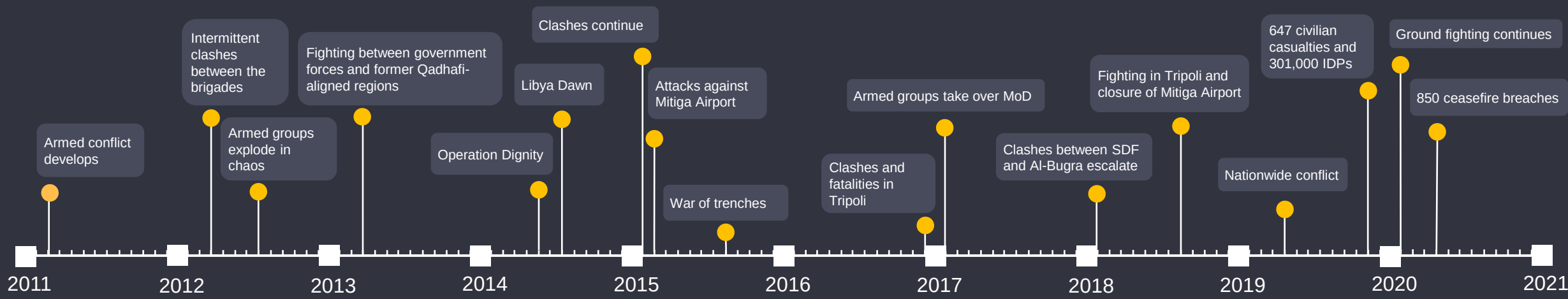
SRSB Briefing to the UNSC

- “Fifteen months since the start of military operations in Benghazi in the east, it is clear that the confrontations between the parties have gradually transformed into a **war of trenches with no imminent end foreseen.**”

LBY-OTP-0053-0389, para. 3



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

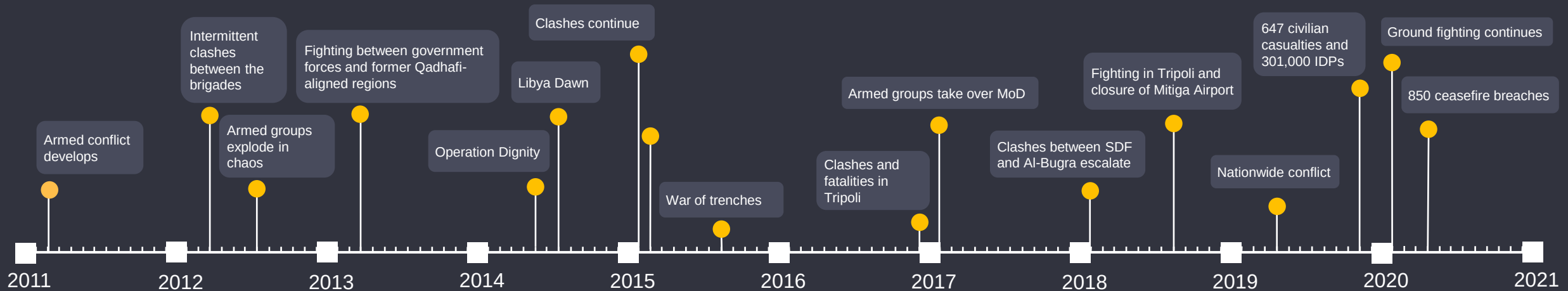
5 September 2014 to 26 February 2015

Attacks against Mitiga Airport

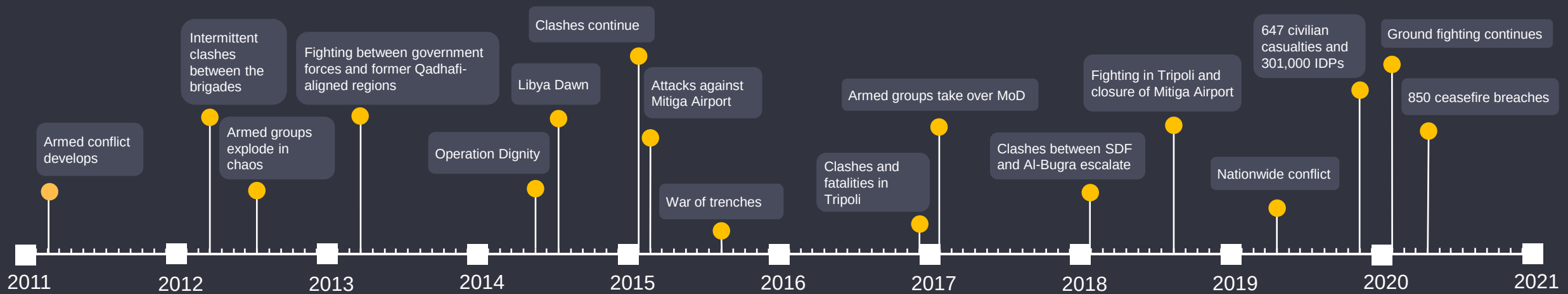
UNSMIL report S/2015/144

- “The reporting period [5 September 2014-26 February 2015] witnessed for the first time the use of **air assets against Mitiga International Airport in Tripoli**, targets in Misrata and the Ras Jdair border area with Tunisia.”

LBY-OTP-0070-4219, para. 10



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

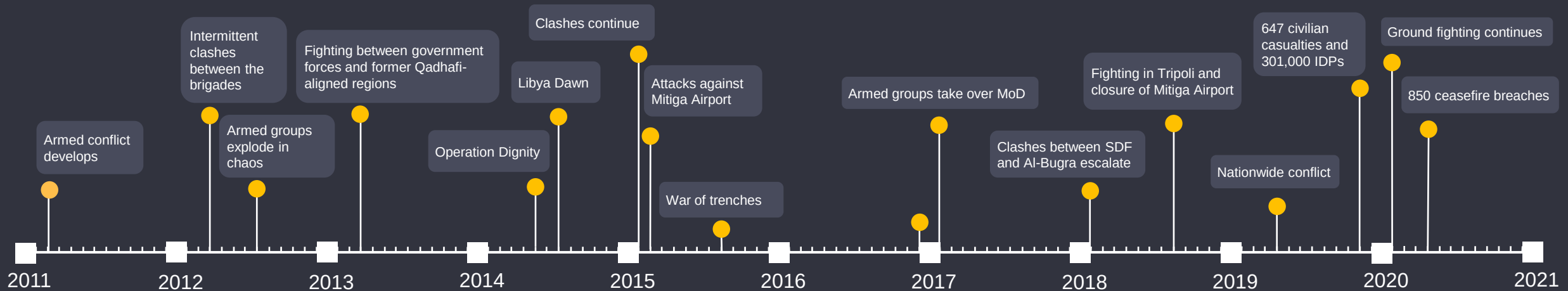
Early December 2016

Clashes and fatalities in Tripoli

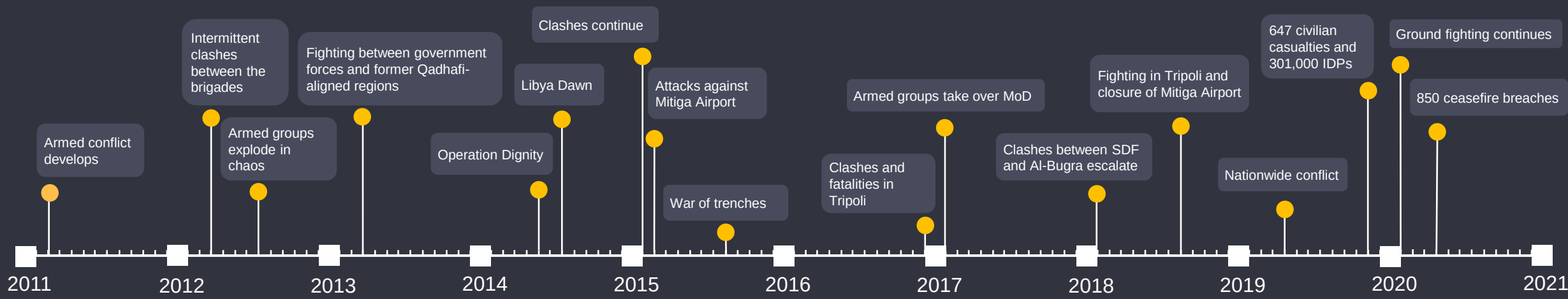
UNSMIL report S/2017/283

- “In early December 2016, **armed groups clashed** in downtown Tripoli with militants loyal to the former Government of National Salvation, **leaving 20 people dead** and many more injured, including civilians.”

LBY-OTP-0053-1187, para. 15



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

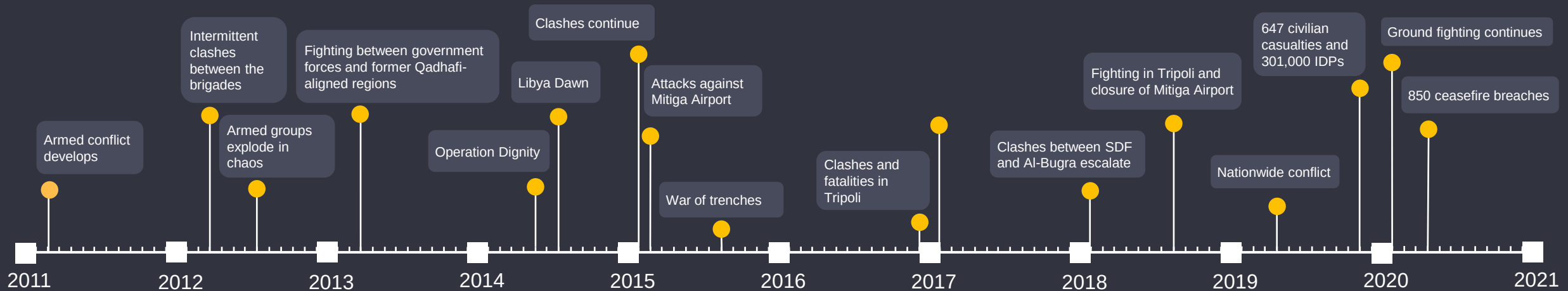
12 January 2017

Armed groups take over MoD

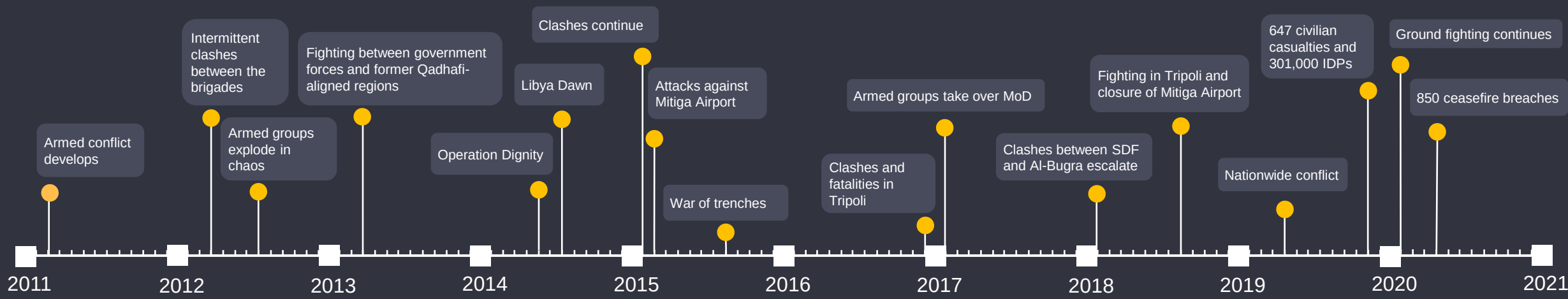
UNSMIL report S/2017/283

- “On 12 January 2017, **armed groups** loyal to them **took over a number of ministerial facilities** in southern Tripoli, **including the Ministry of Defence**.”

LBY-OTP-0053-1187, para. 16



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

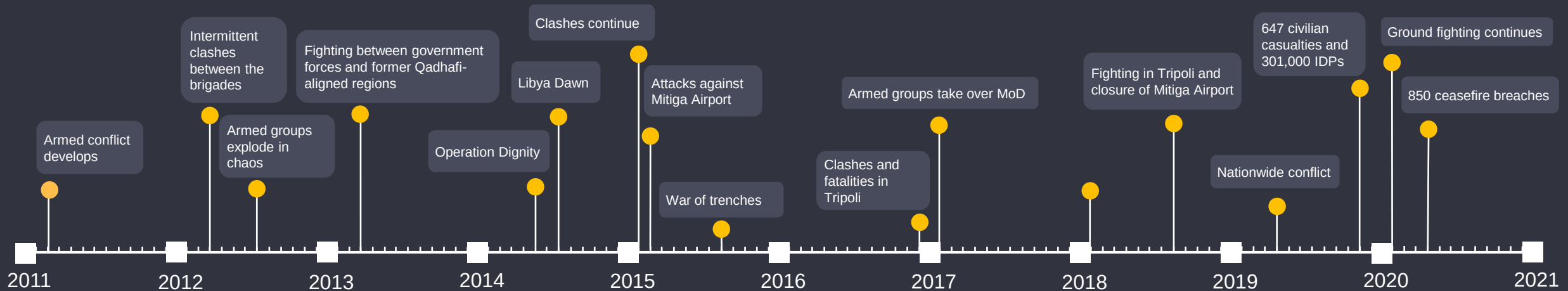
15 January 2018

Clashes between SDF and Al-Bugra escalate

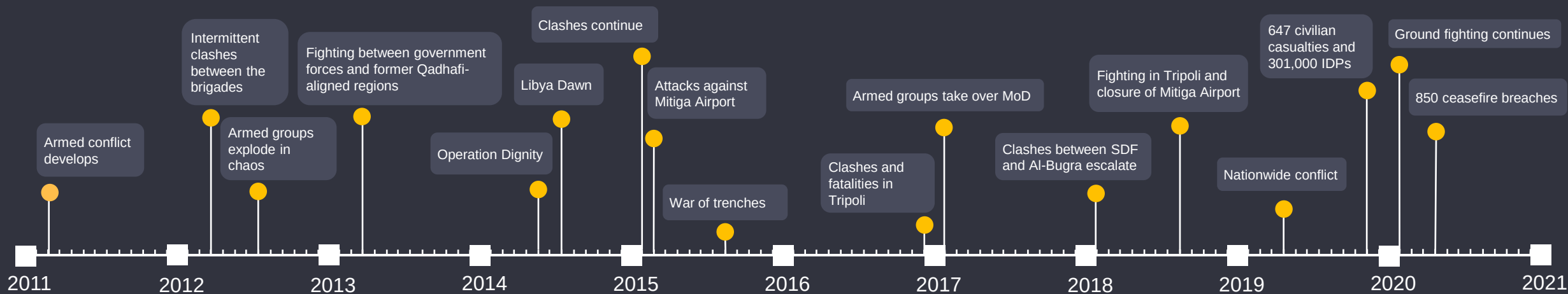
UNSMIL report S/2018/140

- “On 15 January 2018, there was an **escalation in the clashes between the Special Deterrence Force and the Al-Bugra militia**, who launched a major assault on Mitiga airport. [...] The fighting lasted hours and involved tanks and other heavy weapons. At least 23 fatalities and more than 60 injuries were reported.”

LBY-OTP-0062-0060, para. 17



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

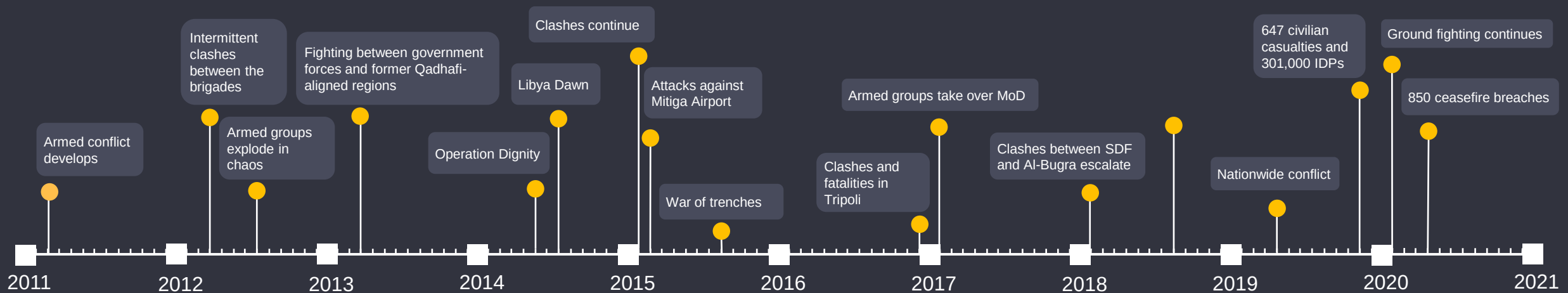
27 August 2018

Fighting in Tripoli and closure of Mitiga Airport

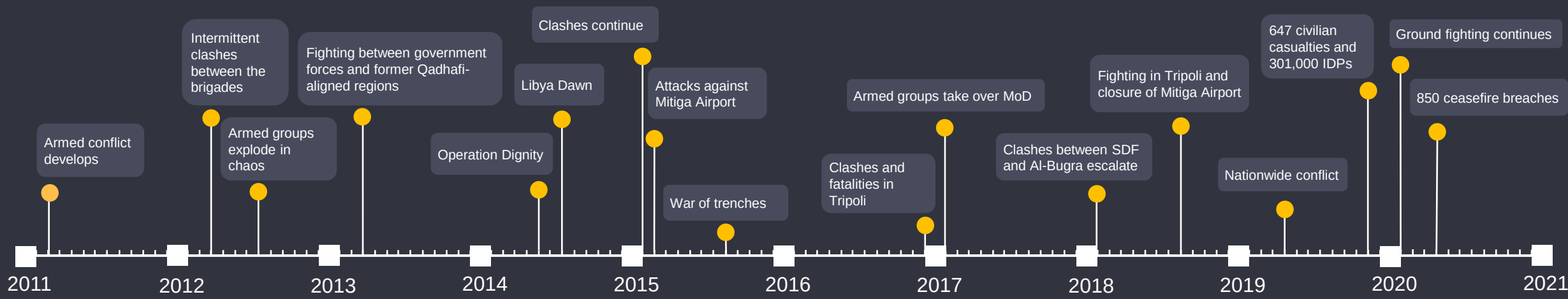
UNSMIL report S/2019/19

- “On 27 August [2018], there were **clashes in Tripoli** between Tripoli-based armed groups and armed groups from the neighbouring cities of Tarhouna and Misrata. The nearly month-long conflict resulted in the destruction of critical infrastructure, the suspension of civil air movement and the **loss of at least 120 civilian lives**, including women and children.”
- “**Mitiga International Airport**, the only operational airport in the capital, was targeted and remained **closed for weeks**.”

LBY-OTP-00000537, paras. 2, 10



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

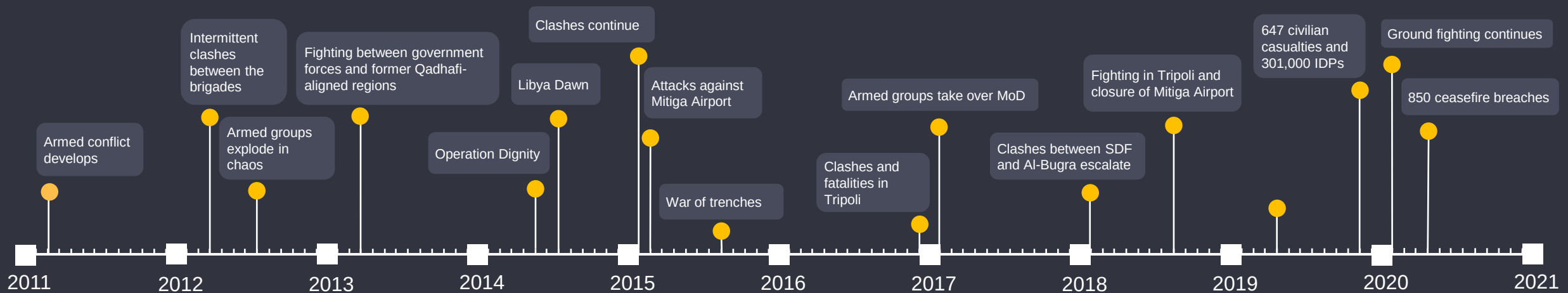
4 April 2019

Nationwide conflict

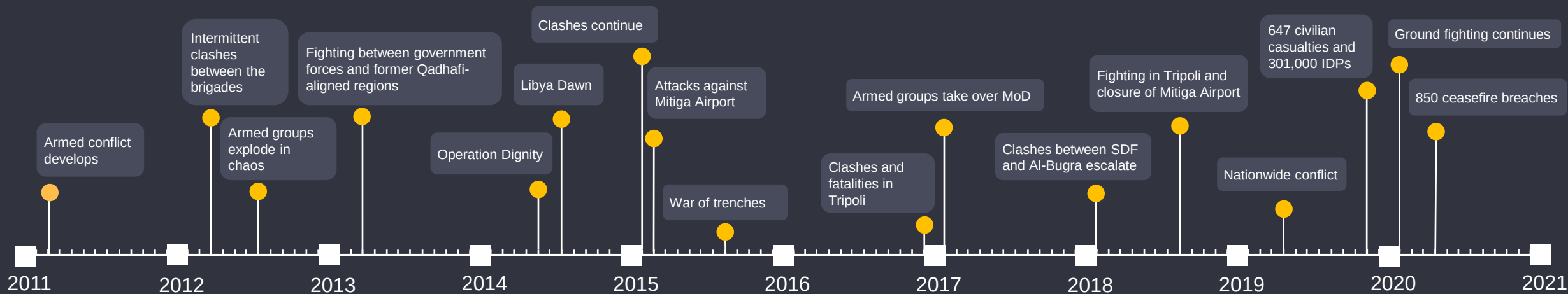
UNSC Panel of Experts report S/2019/914

- “The **onset of nationwide conflict** that began on 4 April 2019 has driven the country’s disparate groups to more clearly align with either HAF or forces affiliated with the Government of National Accord (GNA-AF) [...]”

LBY-OTP-00000526, para. 11



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

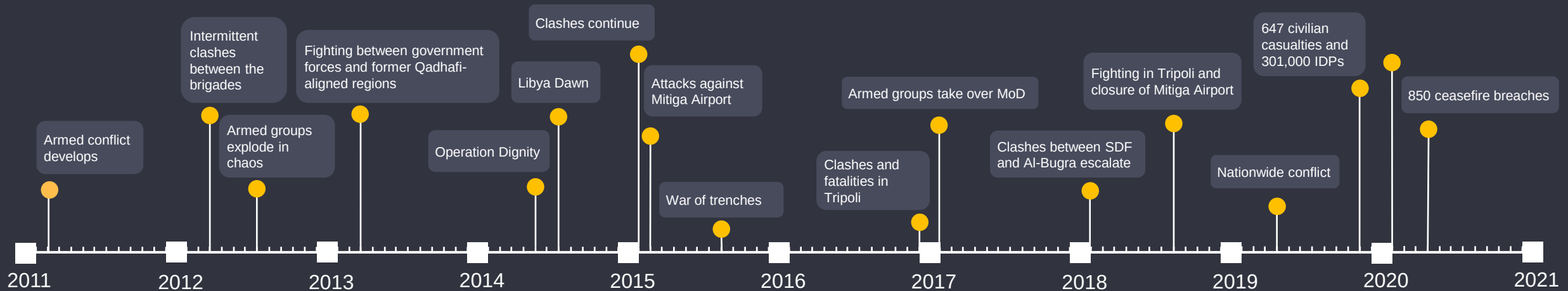
4 April 2019 to 15 January 2020

Ground fighting continues

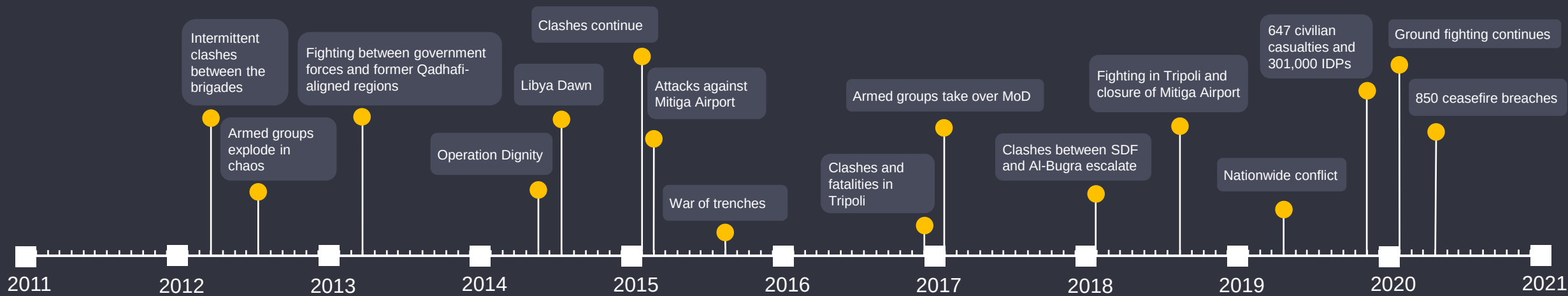
UNSMIL report S/2020/41

- “[...] since the onset of the conflict, General Haftar's Libyan National Army and affiliated forces have conducted some **850 precision air strikes** by drones and another **170 by fighter-bombers**, among them some 60 precision air strikes by foreign fighter aircraft. Meanwhile, the Government of National Accord and affiliated forces have conducted some **250 air strikes**.”

LBY-OTP-00000426, para. 22



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

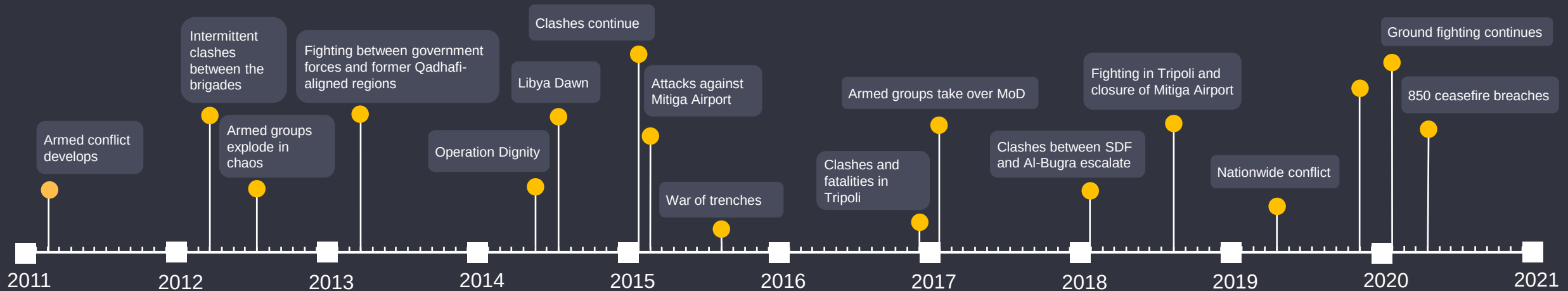
1 January to 30 November 2019

647 civilian casualties and 301,000 IDPs

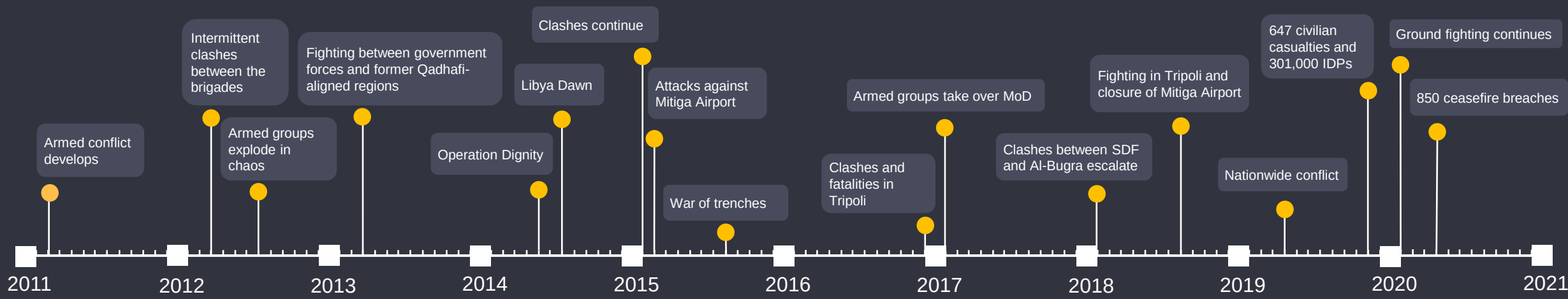
UNSMIL report S/2020/41

- From 1 January to 30 November [2019], UNSMIL and OHCHR documented **647 civilian casualties** [...]. Air strikes were the leading cause of such casualties, [...] followed by ground fighting, improvised explosive devices and targeted and deliberate killings. UNSMIL and OHCHR documented the highest number of civilian casualties in the western part of the country, followed by the eastern and southern areas. The actual number of casualties may be higher. More than **301,000 persons were displaced throughout Libya**, [...].

LBY-OTP-00000426, para. 75



Intensity of hostilities from 2011 to 2020



Intensity of hostilities from 2011 to 2020

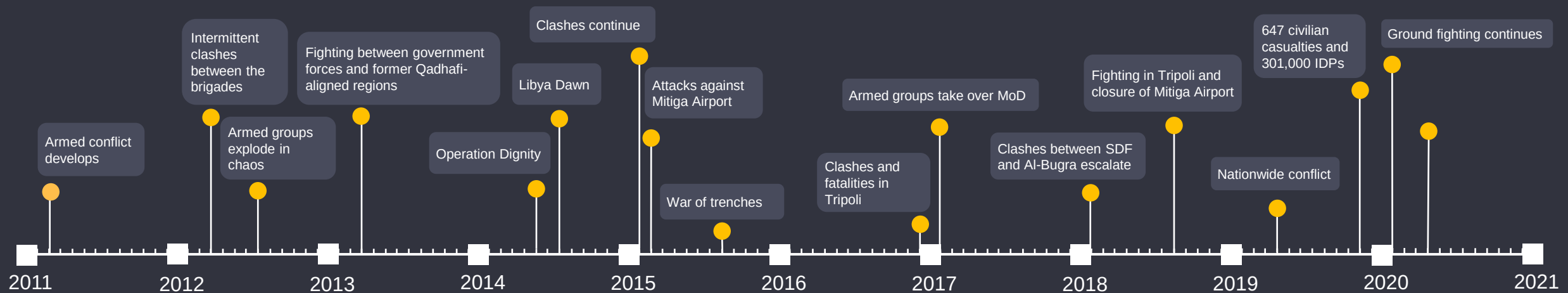
21 April 2020

850 ceasefire breaches

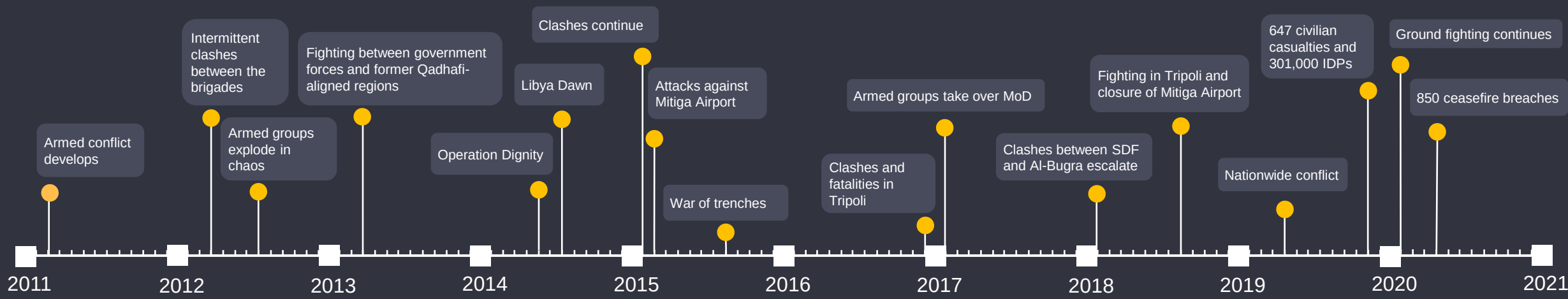
UNSMIL report S/2020/360

- “Following a relative reduction in fighting **in the immediate aftermath of the truce** of 12 January [2020] [...], fighting gradually resumed. Both parties redeployed forces along the front lines in the Tripoli area. As at 21 April, more than **850 reported breaches of the ceasefire** had been recorded by UNSMIL, including an unprecedented increase in indirect fire observed in urban areas, resulting in civilian casualties, damage to civilian infrastructure and disruption of commercial air operations.”

LBY-OTP-00000425, para. 2



Intensity of hostilities from 2011 to 2020



War crimes

1. A non-international armed conflict existed
2. The charged crimes were linked to the armed conflict and enabled by it
3. Khaled EL HISHRI was aware of the factual circumstances that established the existence of the armed conflict

“[t]he powers granted to AL RADA after AL SARAJ decision, coupled with the detention of certain ISIL members in Mitiga Prison, has provided AL RADA with significant leverage. This situation has allowed AL RADA to establish direct cooperation with foreign intelligence agencies, including USA, UK, Turkey, France and Italy. [...] Consequently, this has enhanced AL RADA’s legitimacy and power, effectively making it untouchable.”

LBY-OTP-03218972, pp. 9-10

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The Prosecutor v. Khaled Mohamed Ali EL HISHRI

Confirmation of Charges Hearing





Crimes – counts 1-12



The Evidence

47 former Mitiga Prison detainees



— REDACTED

— REDACTED

ICC-01/11-01/25-125-AnxI-Red 29-05-2026 77/176 PT

Crime Pattern

This satellite map of Tripoli, Libya, illustrates the crime pattern. The Mitiga Compound is highlighted in green in the northeast. A red line indicates the arrest locations, starting from the compound and extending towards the coast. A legend on the left identifies the red line as 'Arrest: in and around Tripoli' and the green area as 'Mitiga Compound'. A scale bar (3 km) and a north arrow are in the bottom right.

1 Arrest: in and around Tripoli

2 Mitiga Compound

Mitiga Compound

Google Earth

Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Image © 2024 Airbus

3 km

ICC-01/11-01/25-125-AnxI-Red 29-05-2026 77/176 PT

Crime Pattern

1 Arrest: in and around Tripoli

2 Mitiga Compound

Mitiga Compound

Google Earth

3 km

N

This is a satellite map of Tripoli, Libya, showing the Mitiga Compound and arrest locations. The map is labeled with '1 Arrest: in and around Tripoli' and '2 Mitiga Compound'. The Mitiga Compound is highlighted in green. A scale bar indicates 3 km, and a north arrow is present in the bottom right corner.

ICC-01/11-01/25-125-AnxI-Red 29-05-2026 77/176 PT

Crime Pattern

This satellite map of Tripoli, Libya, illustrates the crime pattern. The Mitiga Compound is highlighted in green in the northeast. A red line indicates the arrest path, starting from the compound, moving west through the city, and then turning north towards the coast. Two numbered markers are present: '1' at the northern coastal end of the red line and '2' at the western end of the red line. A scale bar (3 km) and a north arrow are in the bottom right corner. The Google Earth logo and data sources are in the bottom left corner.

1 Arrest: in and around Tripoli

2 Mitiga Compound

Mitiga Compound

Google Earth
Data SIO, NOAA, U.S. Navy, NGA, GEBCO
Image © 2024 Airbus

3 km

ICC-01/11-01/25-125-AnxI-Red 29-05-2026 77/176 PT

Crime Pattern

This satellite map of Tripoli, Libya, illustrates a crime pattern. A large, irregularly shaped area in the eastern part of the city is outlined in green and labeled 'Mitiga Compound'. A smaller, irregularly shaped area within the compound is outlined in blue. Two numbered markers are present: '1' is located near the coast, and '2' is located near the Mitiga Compound. A scale bar in the bottom right corner indicates a distance of 3 km. A north arrow is also present in the bottom right corner.

1 Arrest: in and around Tripoli

2 Mitiga Compound

Mitiga Compound

Google Earth

3 km

ICC-01/11-01/25-125-AnxI-Red 29-05-2026 77/176 PT

Crime Pattern

This satellite map of Tripoli, Libya, illustrates a crime pattern. A yellow line with numbered markers '1' and '2' indicates the sequence of events. Marker '1' is located in the coastal area, and marker '2' is located in the urban area. The Mitiga Compound is highlighted in green in the eastern part of the city. A scale bar at the bottom right indicates 3 km, and a north arrow is present.

1 Arrest: in and around Tripoli

2 Mitiga Compound

Mitiga Compound

Google Earth

Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Image © 2024 Airbus

3 km

ICC-01/11-01/25-125-AnxI-Red 29-05-2026 77/176 PT

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1 Arrest: in and around Tripoli

2 Mitiga Compound

Mitiga Compound

Google Earth
Data SIO, NOAA, U.S. Navy, NGA, GEBCO
Image © 2024 Airbus

3 km

ICC-01/11-01/25-125-AnxI-Red 29-05-2026 77/176 PT

Crime Pattern

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1 Arrest: in and around Tripoli

2 Mitiga Compound

Mitiga Compound

Google Earth
Data SIO, NOAA, U.S. Navy, NGA, GEBCO
Image © 2024 Airbus

3 km

ICC-01/11-01/25-125-AnxI-Red 29-05-2026 77/176 PT

Crime Pattern

1 Arrest: in and around Tripoli

2 Mitiga Compound

Mitiga Compound

Google Earth

3 km

N

This is a satellite map of Tripoli, Libya, showing the Mitiga Compound and arrest locations. The map is labeled with '1 Arrest: in and around Tripoli' and '2 Mitiga Compound'. The Mitiga Compound is highlighted in green. A scale bar indicates 3 km, and a north arrow is present in the bottom right corner.

Crime Pattern

1

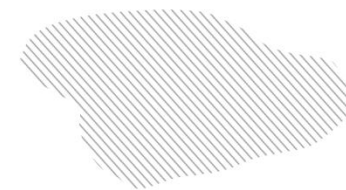
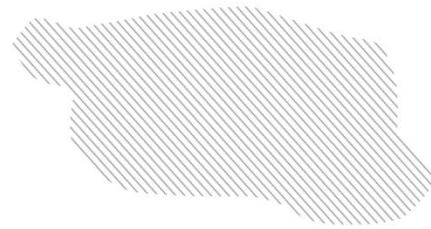
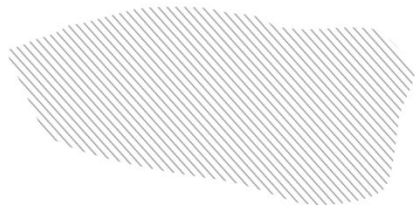
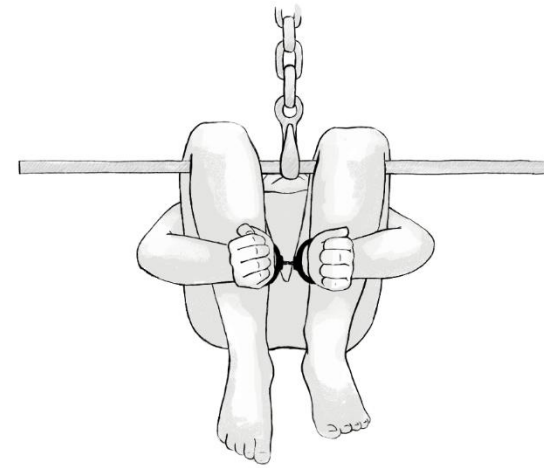
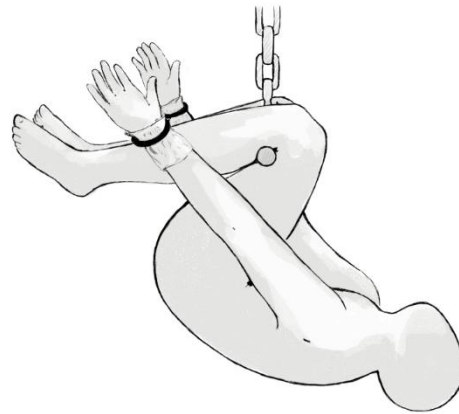
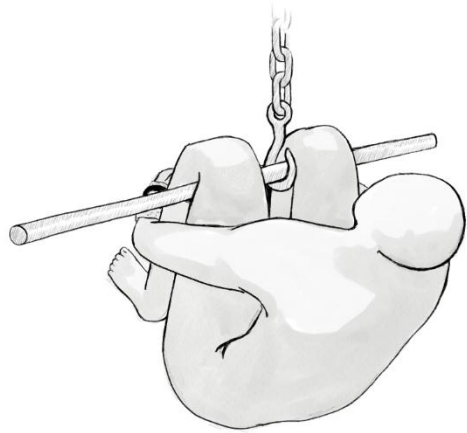
Arrest: in and
around Tripoli

2

Mitiga
Compound

3

Naqliah



LBY-OTP-03730357

Crime Pattern

1

Arrest: in and
around Tripoli

2

Mitiga
Compound

3

Naqliah

Crime Pattern

Arrest in and



LBY-OTP-00019871

Crime Pattern

1

Arrest: in and around Tripoli

2

Mitiga Compound

3

Naqliah

4

Main Prison

Prison administration

Detention sections

Yards

Prison Gate

Offices

"Scanner" room

Prison Entrance

CCTV room

Y1

Gate to North Yard

R1

S1

S8/S11

Y2

S2

S9/WS

Y3/S12

S3

Y4

R4

S4

S10

R5

S5

Y5

S7

S6



Crime Pattern



Crime Pattern

1

Arrest: in and around Tripoli

2

Mitiga Compound

3

Naqliah

4

Main Prison

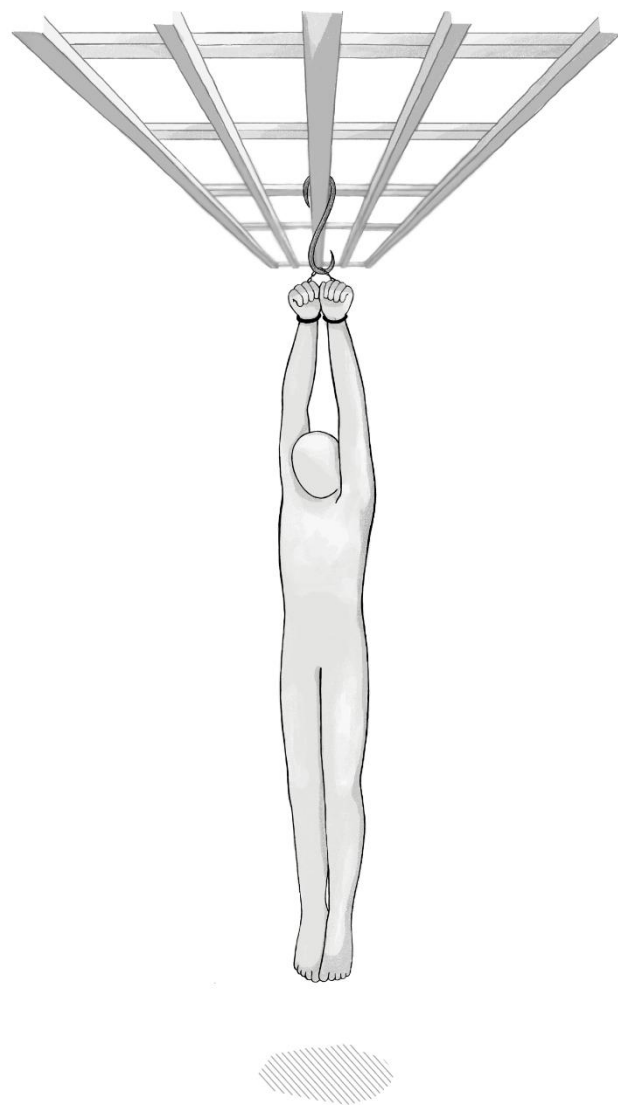
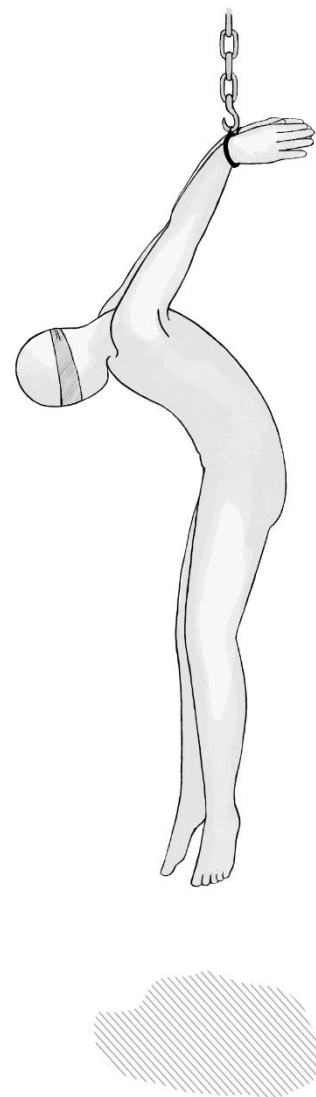
- Prison administration
- Detention sections
- Yards



LBY-OTP-0083-0095



0 25 50 Meters

*Fig. 1**Fig. 2*

LBY-OTP-03730357

Crime Pattern

1

Arrest: in and
around Tripoli

2

Mitiga
Compound

3

Naqliah

4

Main Prison

Prison administration

Detention sections

Yards

Image Source: WorldView 3 sensor (Vantor)

Date: 21 April 2018 – LBY-OTP-03730345

0 25 50 Meters

Y1

R1

S1

S8/S11

Y2

S2

S9/WS

Y3/S12

S3

R4

Y4

R5

S4

S10

Y5

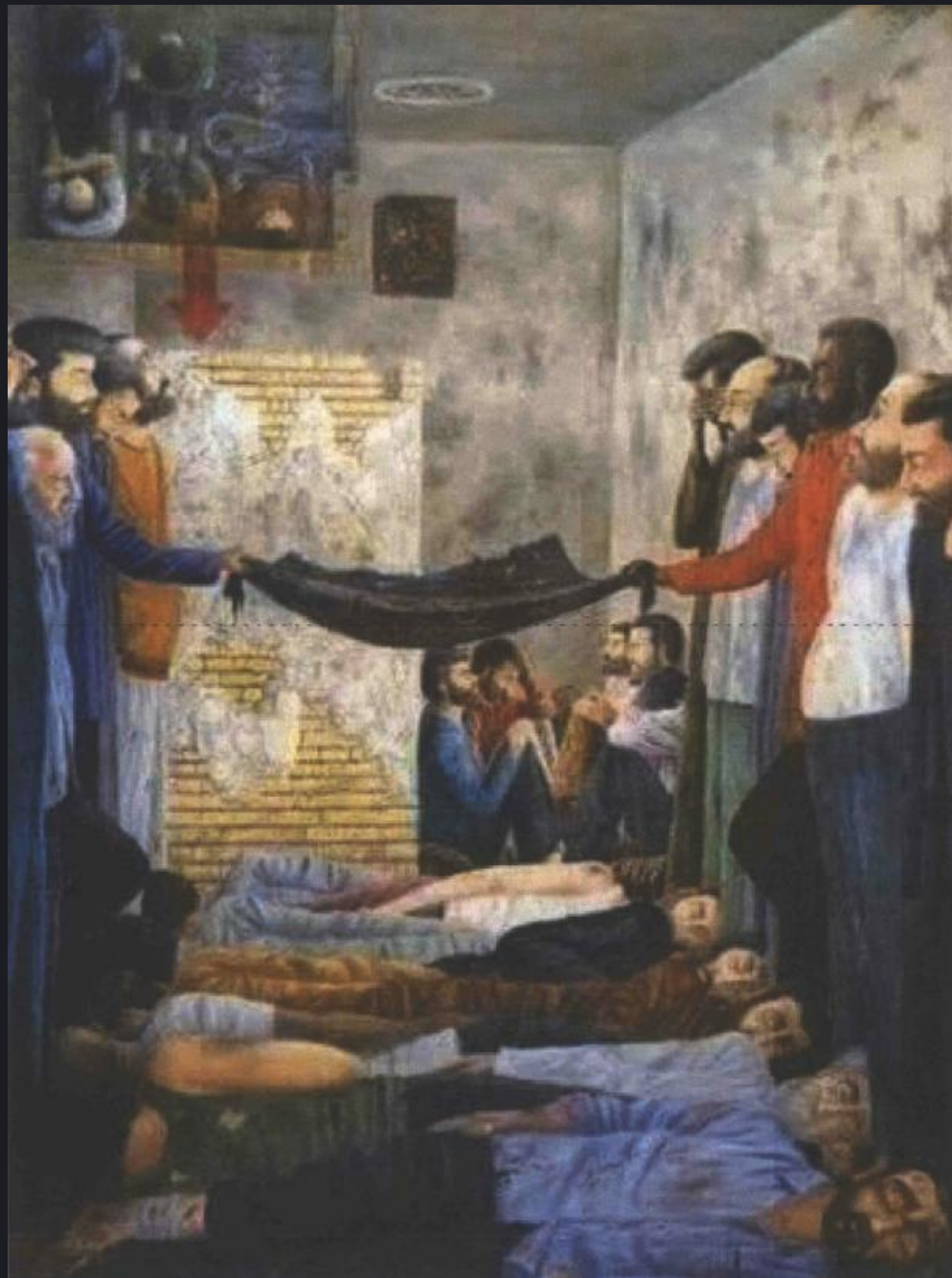
S5

S6

S7

N

Detention



LBY-OTP-0066-0991

Crime Pattern

1

Arrest: in and around Tripoli

2

Mitiga Compound

3

Naqliah

4

Main Prison

Prison administration

Detention sections

Yards

Image Source: WorldView 3 sensor (Vantor)
Date: 21 April 2018 – LBY-OTP-03730345

0 25 50 Meters



Crime Pattern





The Prosecutor v. Khaled Mohamed Ali EL HISHRI

Confirmation of Charges Hearing





Crimes – counts 13-17

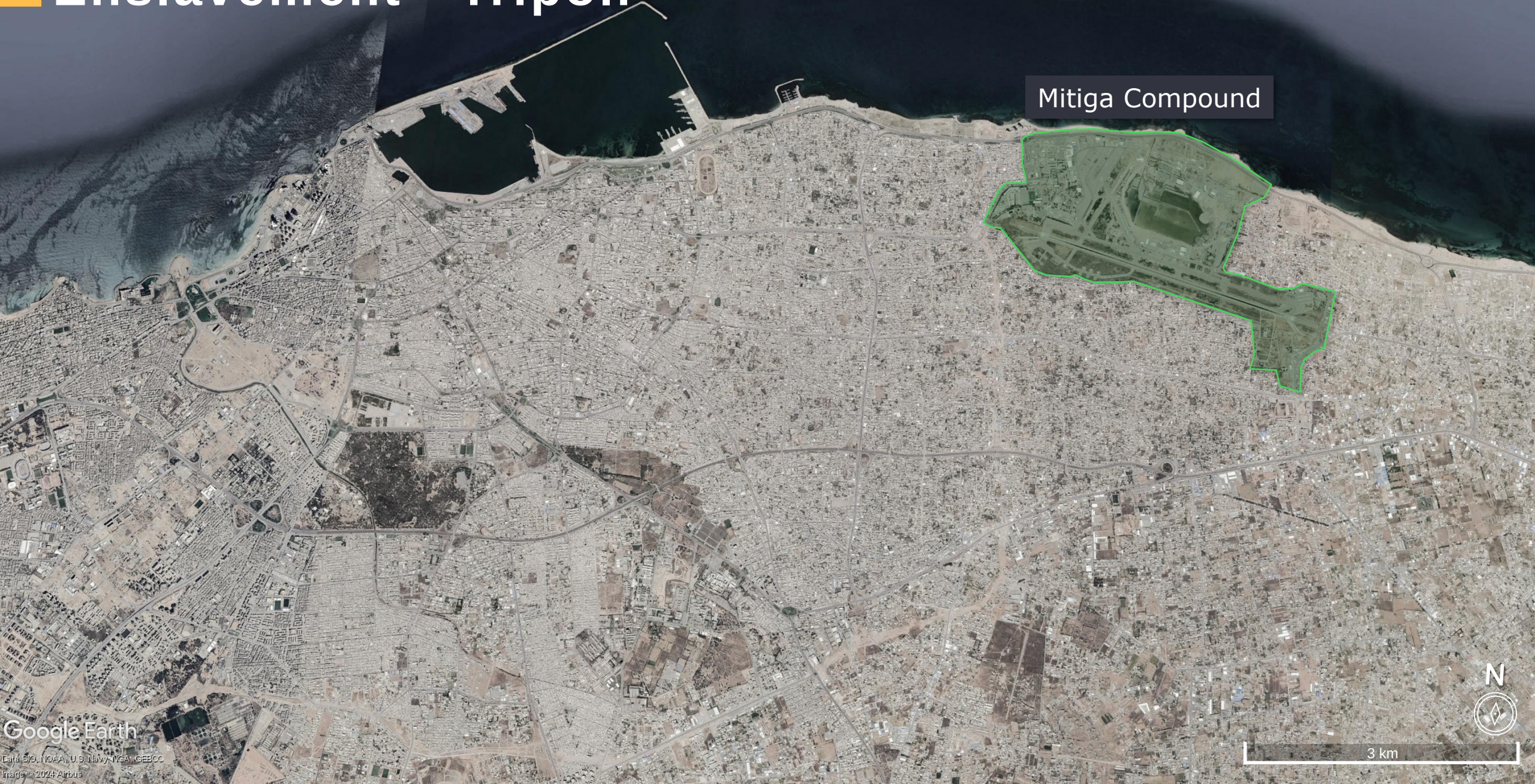




Enslavement – count 13



Enslavement - Tripoli



Mitiga Compound





Mosque

Main prison

Women's' section

Naqliah and rehabilitation
training centre



Sabratah

Tripoli

Mitiga Prison

Al Kremiya

Tarhunah





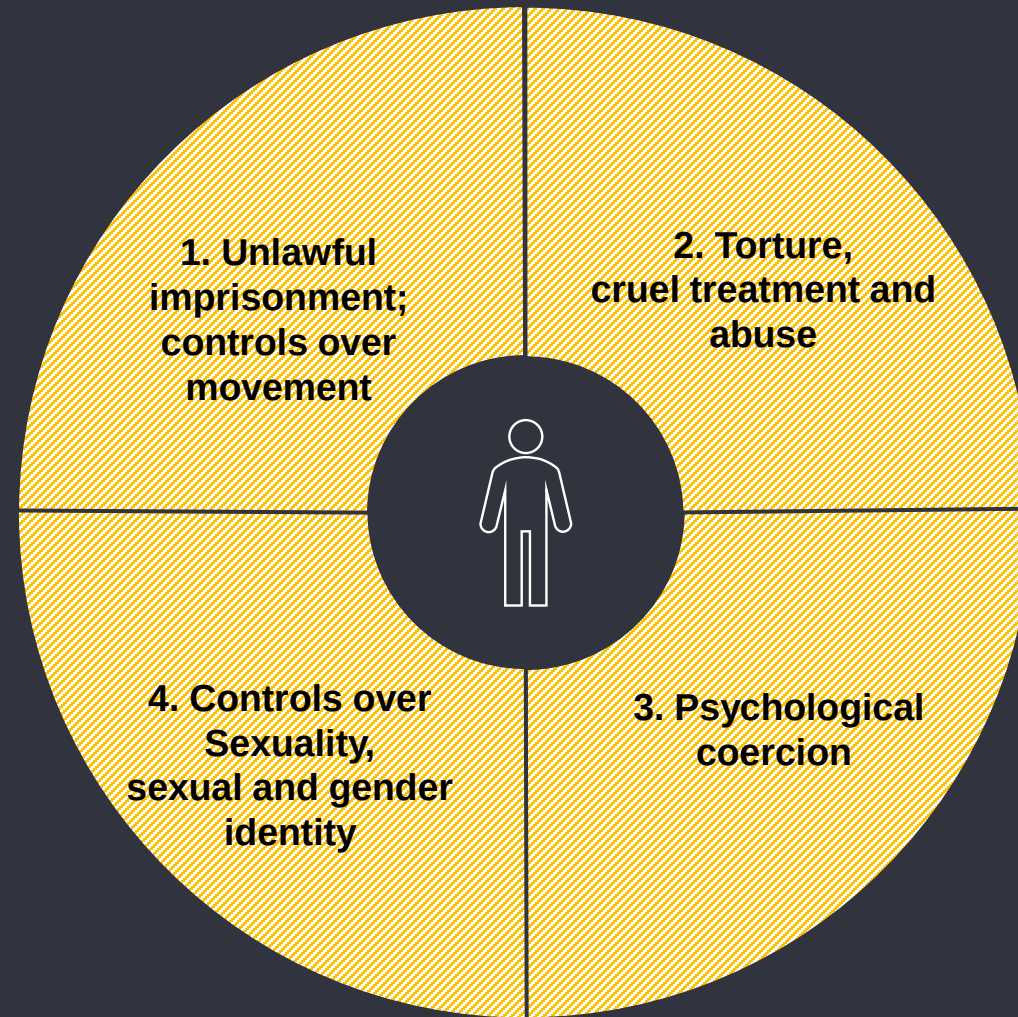
Tripoli Centre

Beach Road

Mitiga Compound

Mitiga Int'l Airport

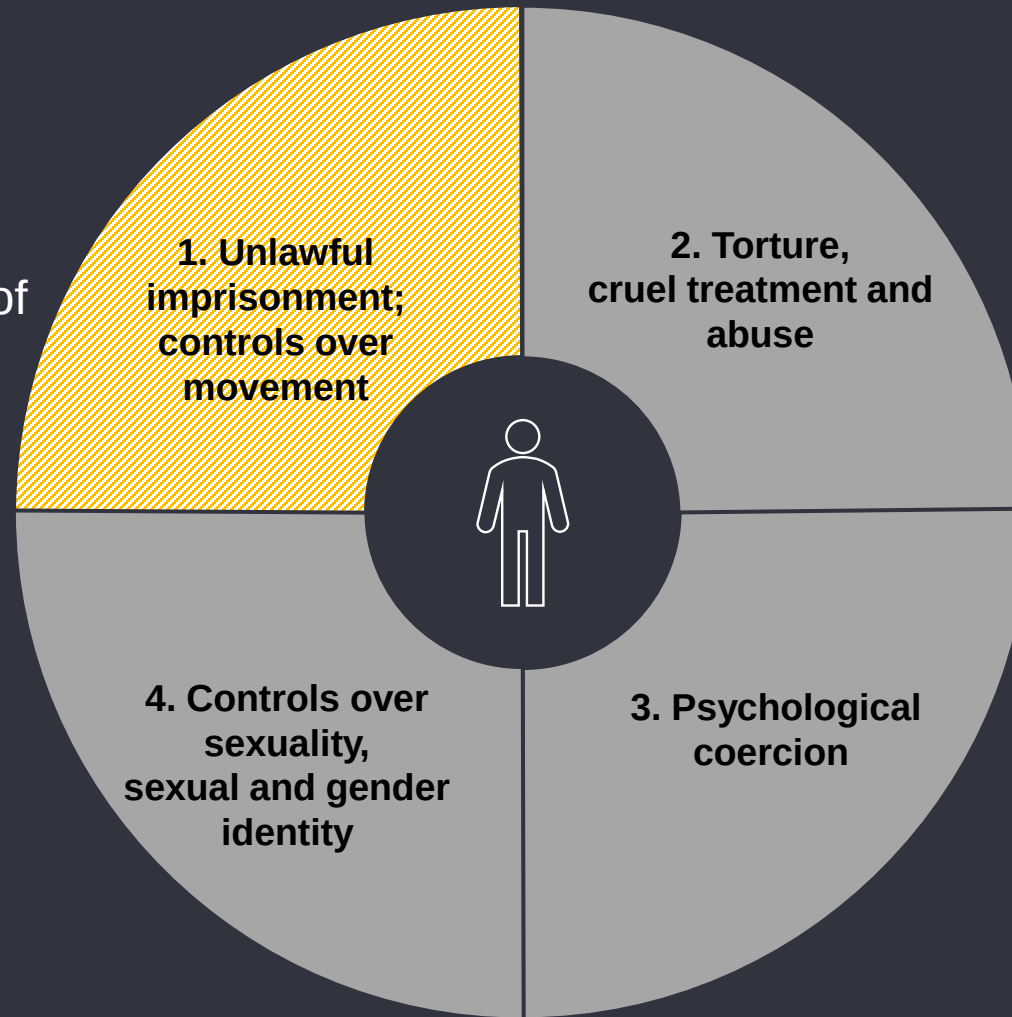
Enslavement: Indicators of exercise of right of powers of ownership



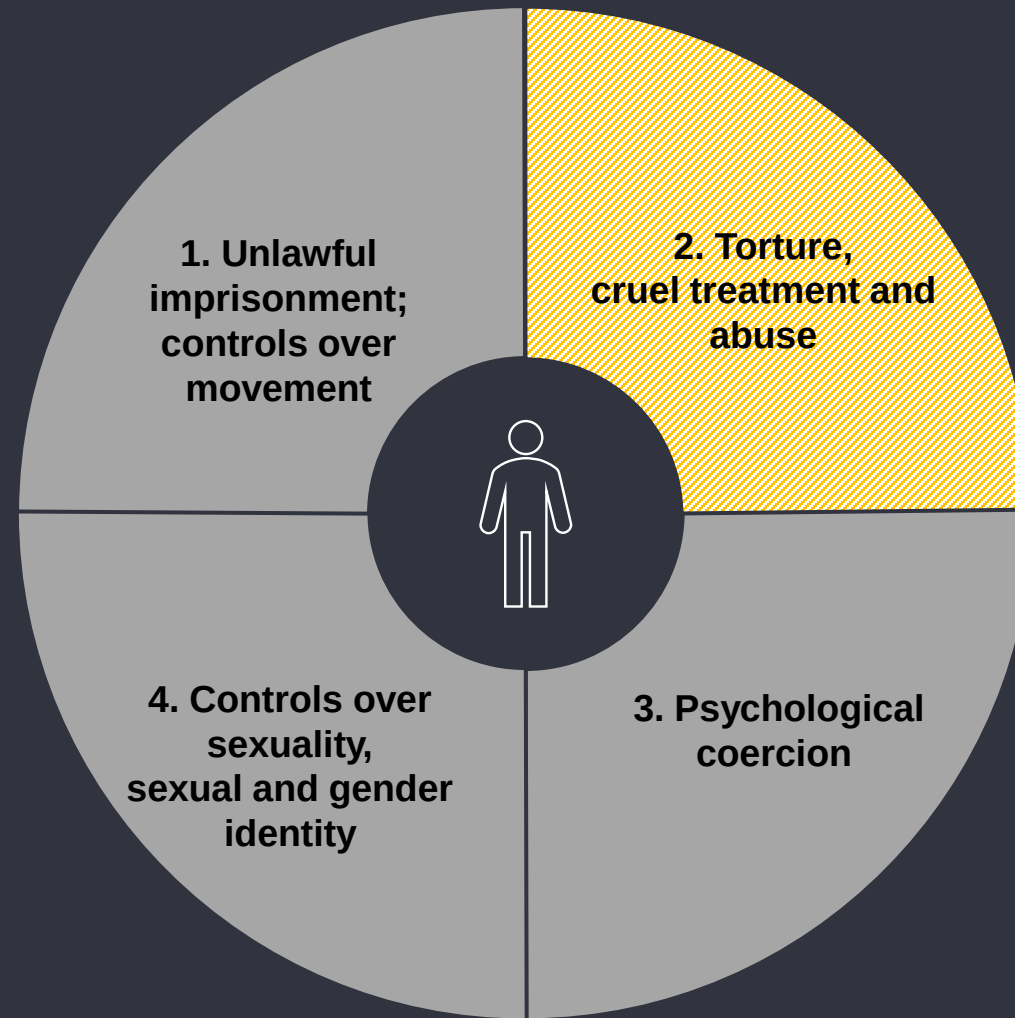
Enslavement: Indicators of exercise of right of powers of ownership

Indicator: Unlawful imprisonment/arbitrary detention, Controls over physical movement

Impact: Personal liberty, freedom of movement



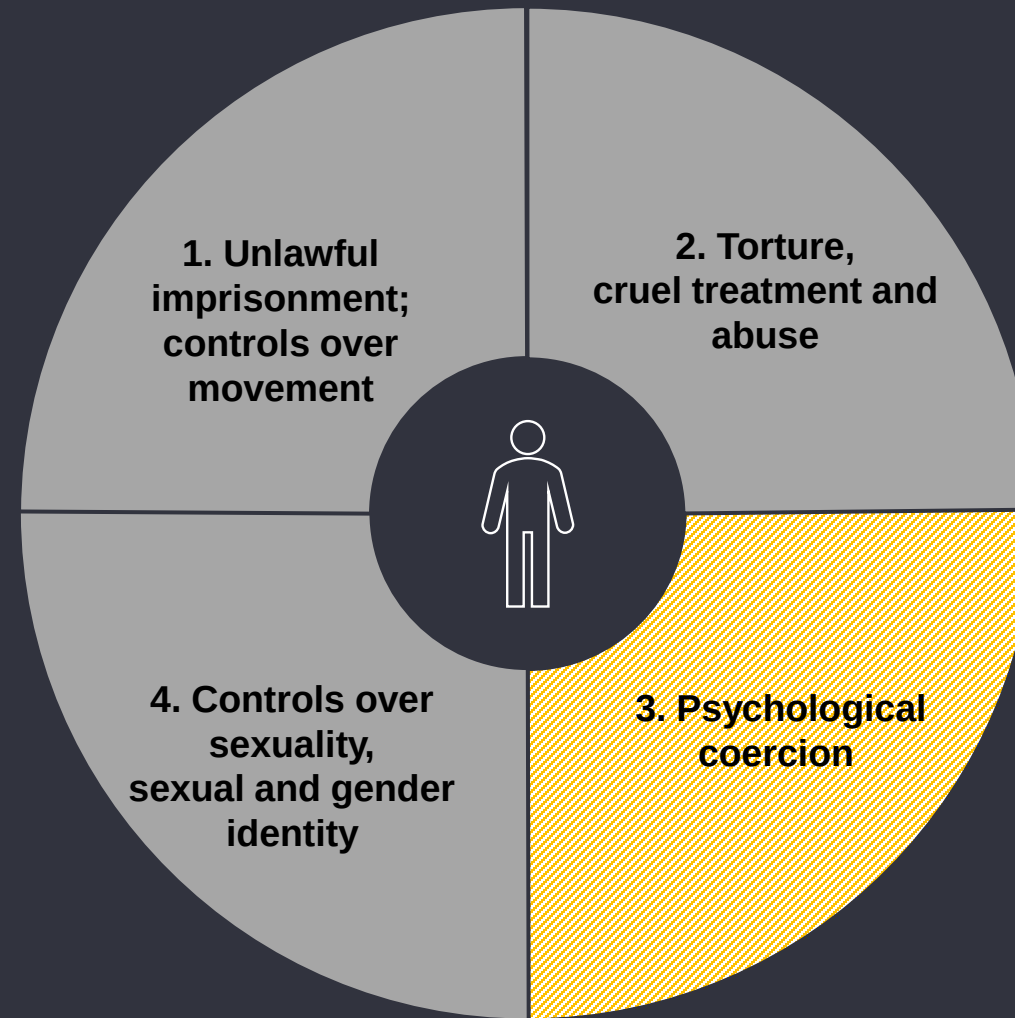
Enslavement: Indicators of exercise of right of powers of ownership



Indicator: Torture, cruel treatment, abuse.

Impact: Bodily integrity, psychological well-being.

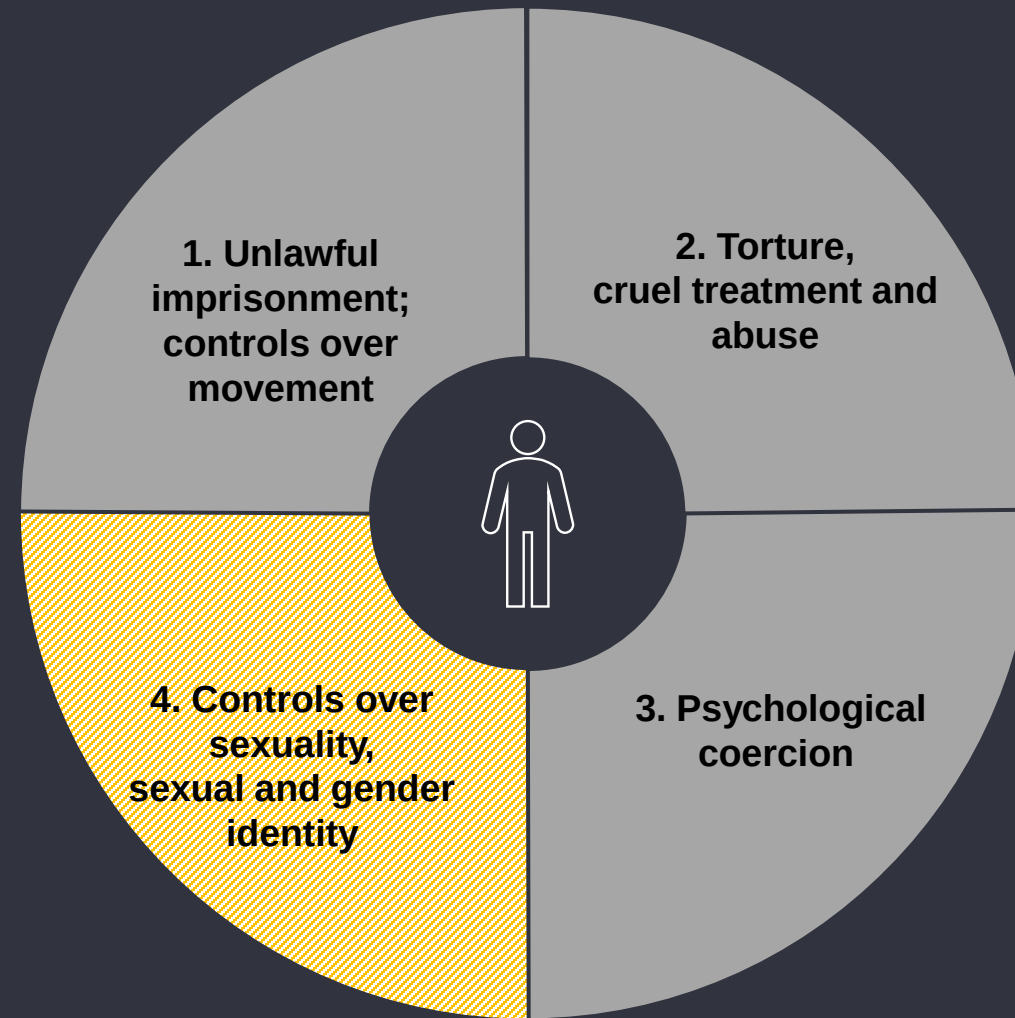
Enslavement: Indicators of exercise of right of powers of ownership



Indicator: Psychological control, pressure, coercion, submission of will.

Impact: Family life; freedom of thought, conscience and religion – personal beliefs (religious, political); personal identity (dehumanising language), etc.

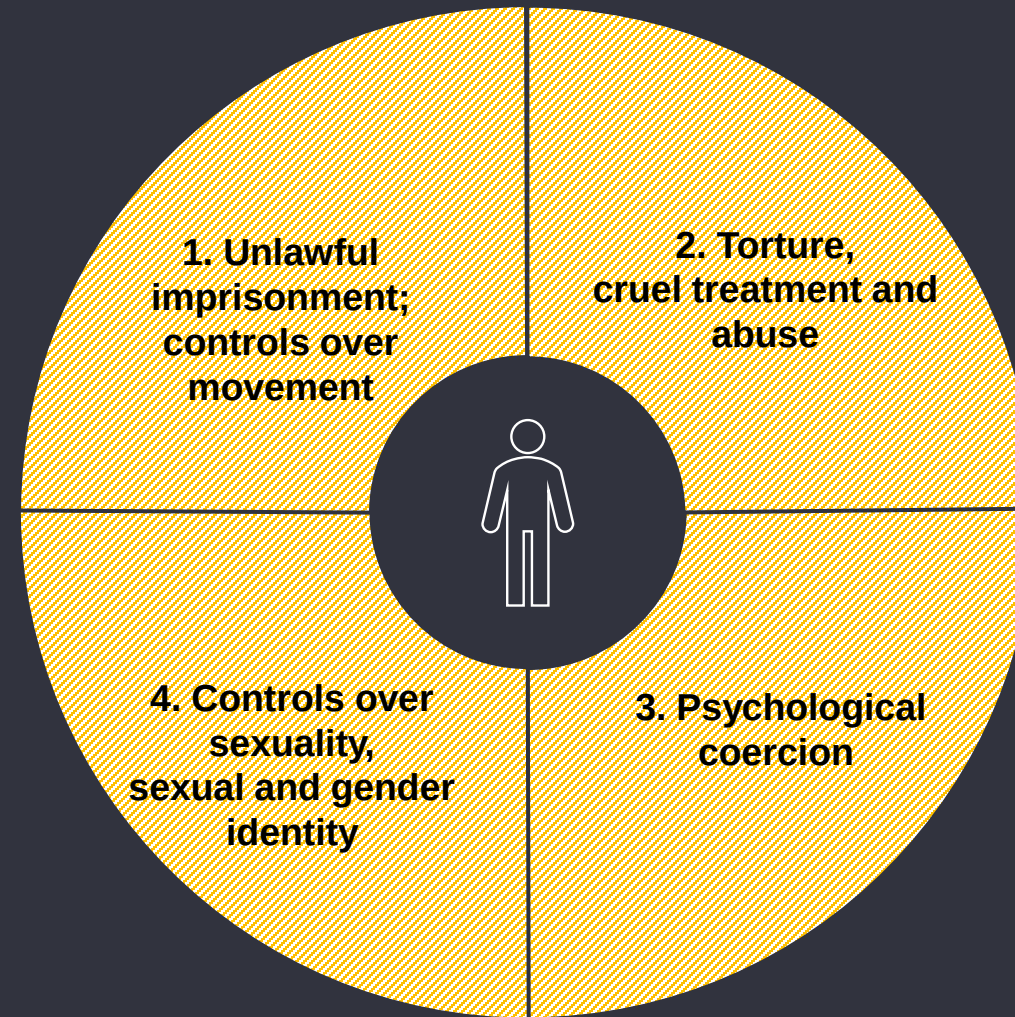
Enslavement: Indicators of exercise of right of powers of ownership



Indicator: Controls over sexuality, sexual and gender identity/expression.

Impact: Sexual, reproductive autonomy, sexual and gender identity

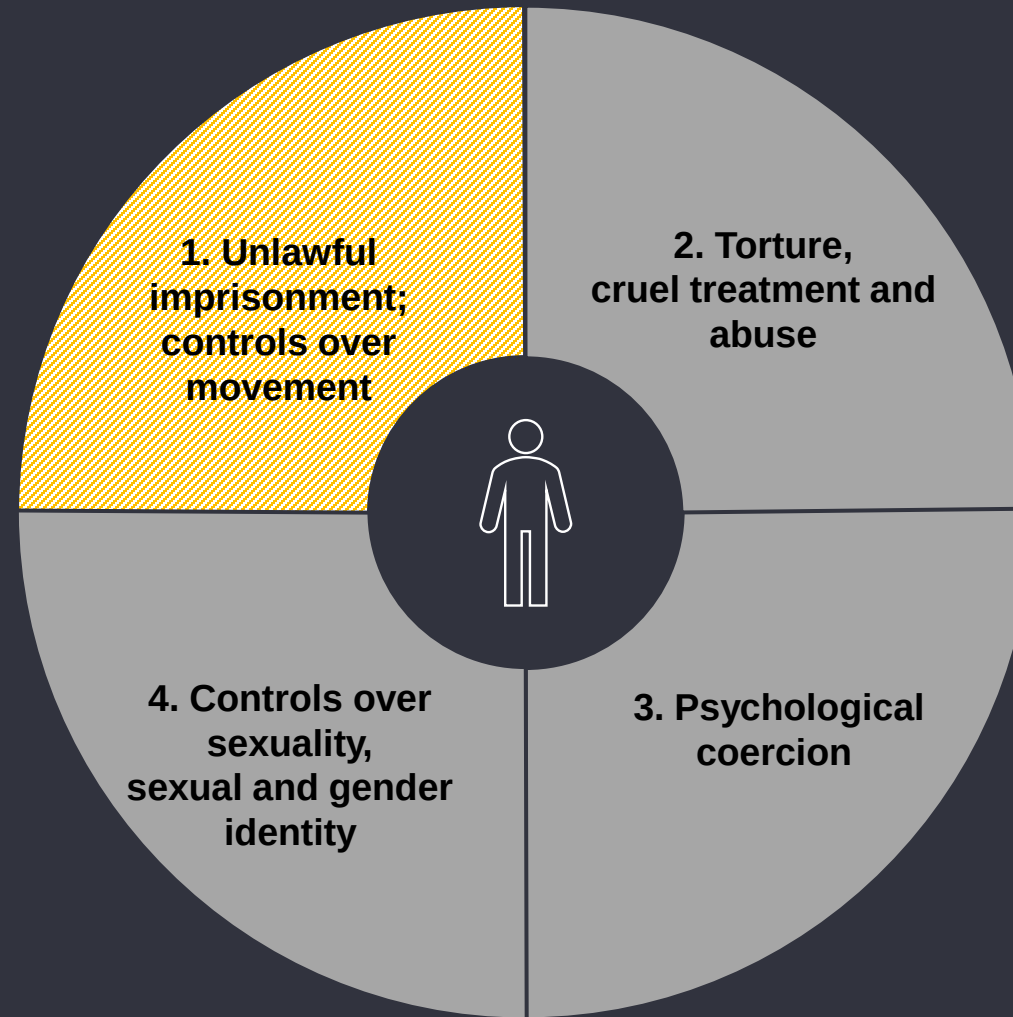
Enslavement: Indicators of exercise of right of powers of ownership



Enslavement: Indicators of exercise of right of powers of ownership



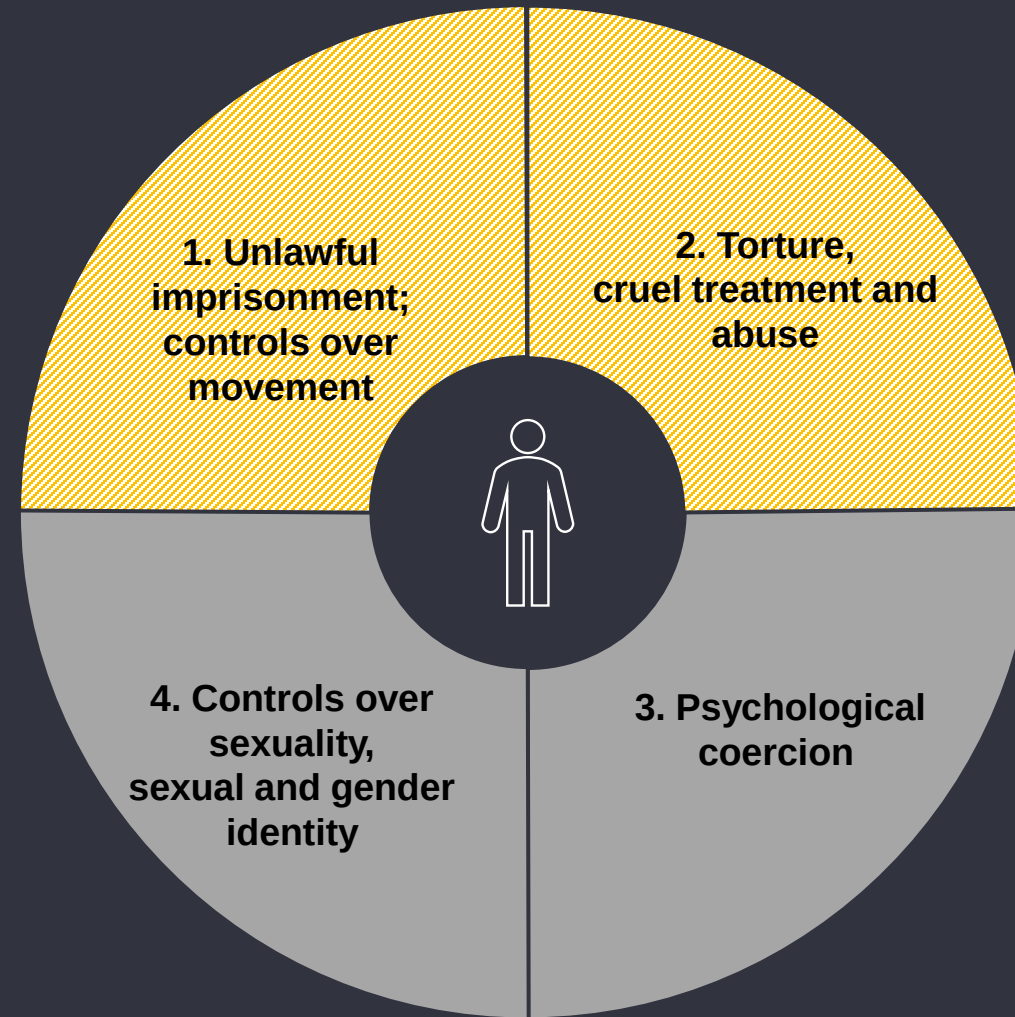
Enslaved Forced Labourers



Enslavement: Indicators of exercise of right of powers of ownership



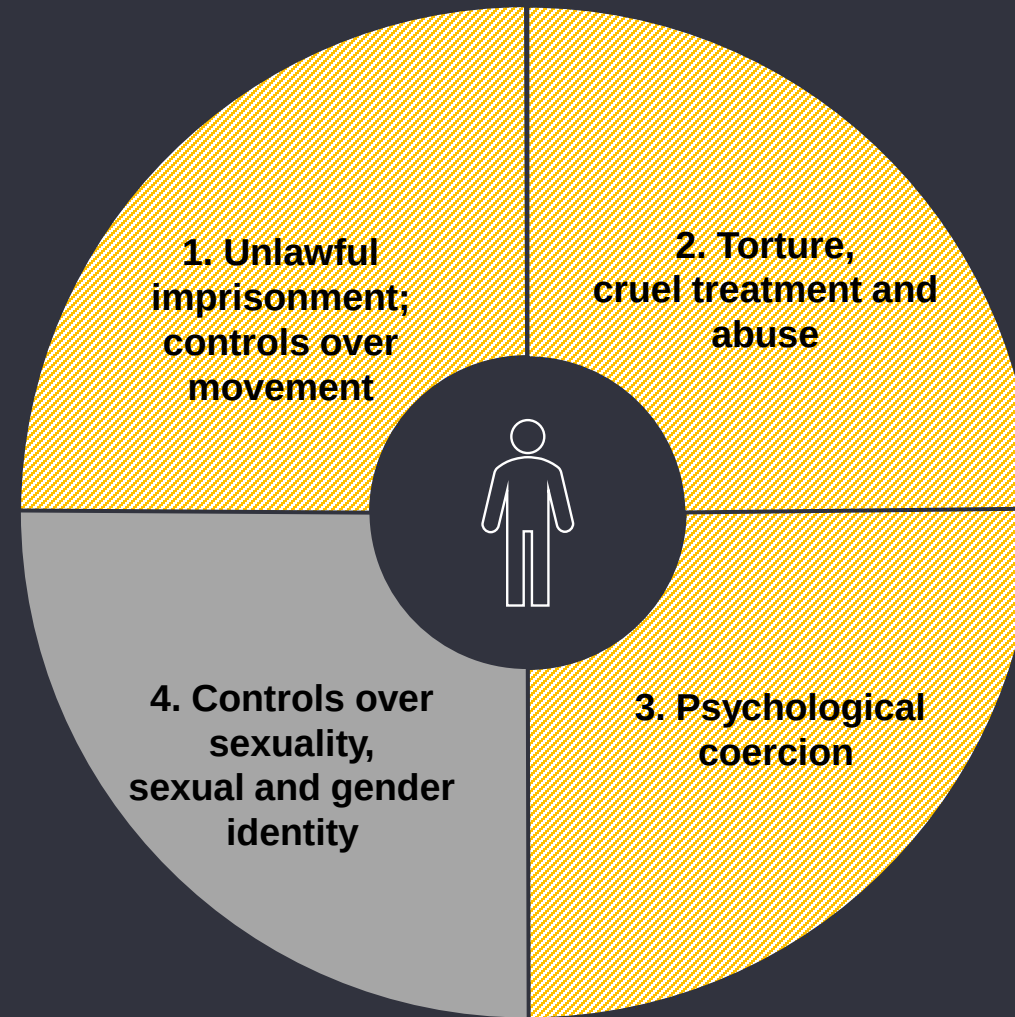
Enslaved Forced Labourers



Enslavement: Indicators of exercise of right of powers of ownership



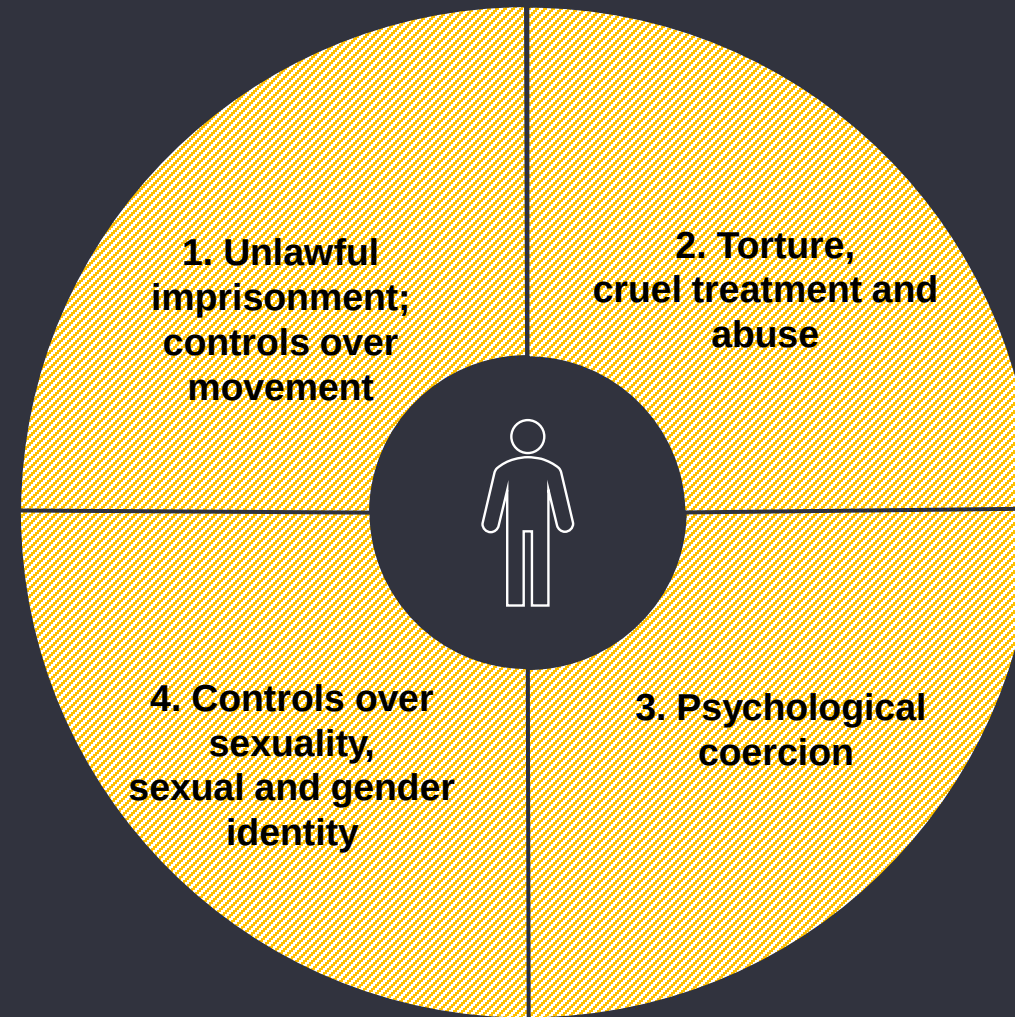
Enslaved Forced Labourers



Enslavement: Indicators of exercise of right of powers of ownership



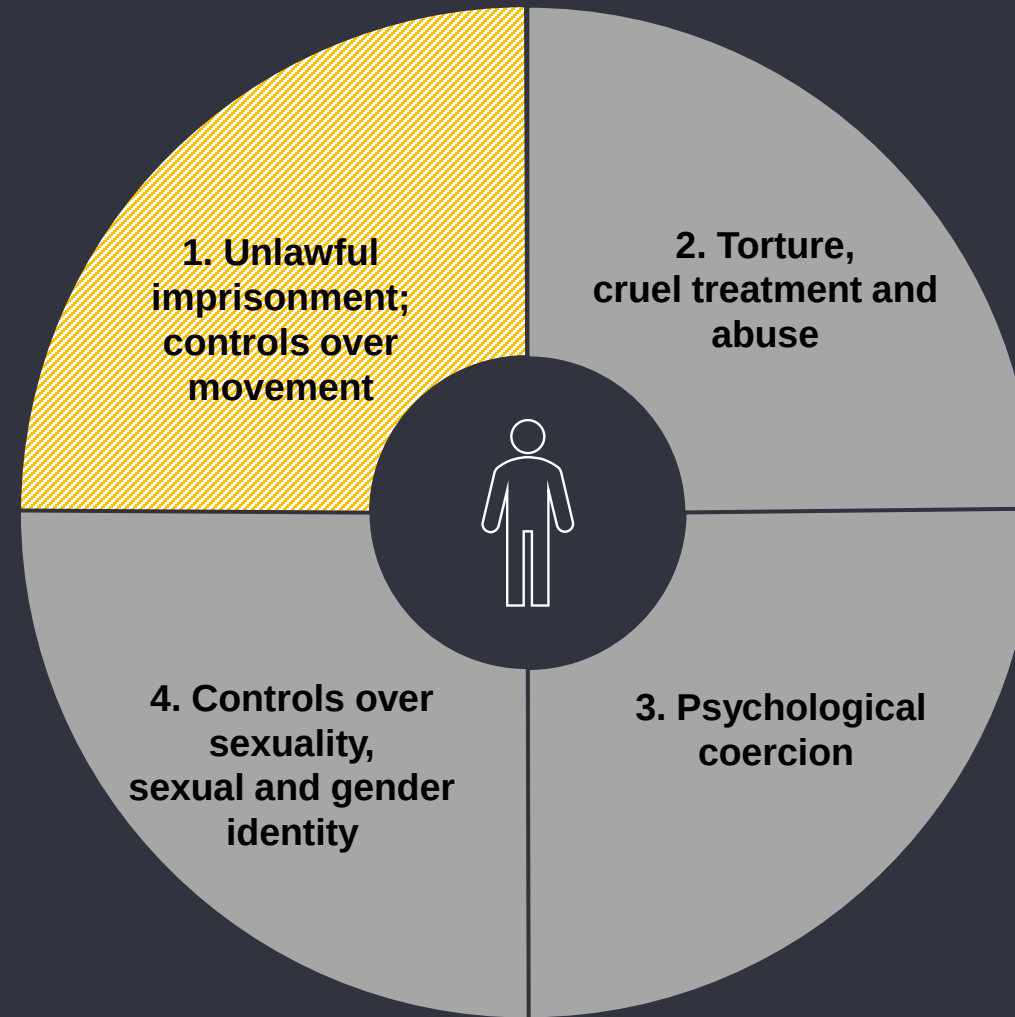
Enslaved Forced Labourers



Enslavement: Indicators of exercise of right of powers of ownership



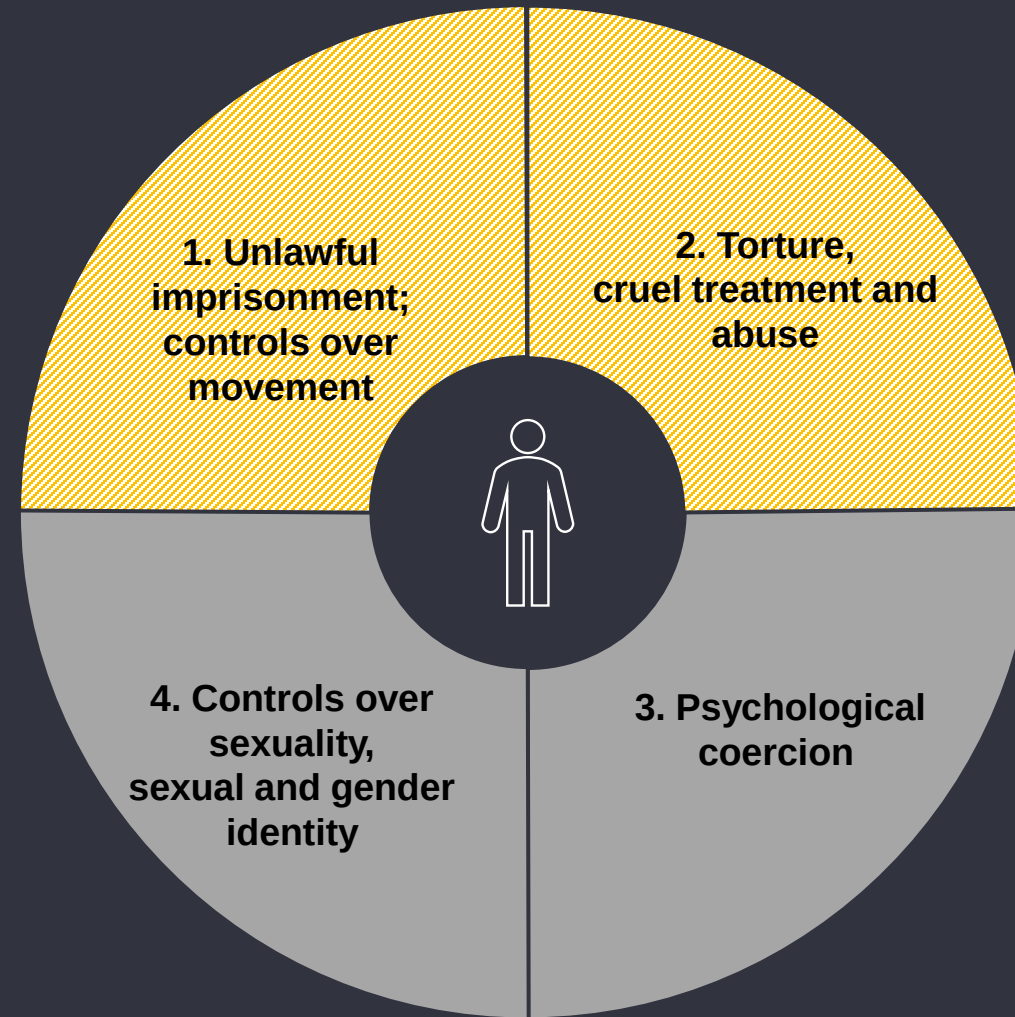
Children and Youth



Enslavement: Indicators of exercise of right of powers of ownership



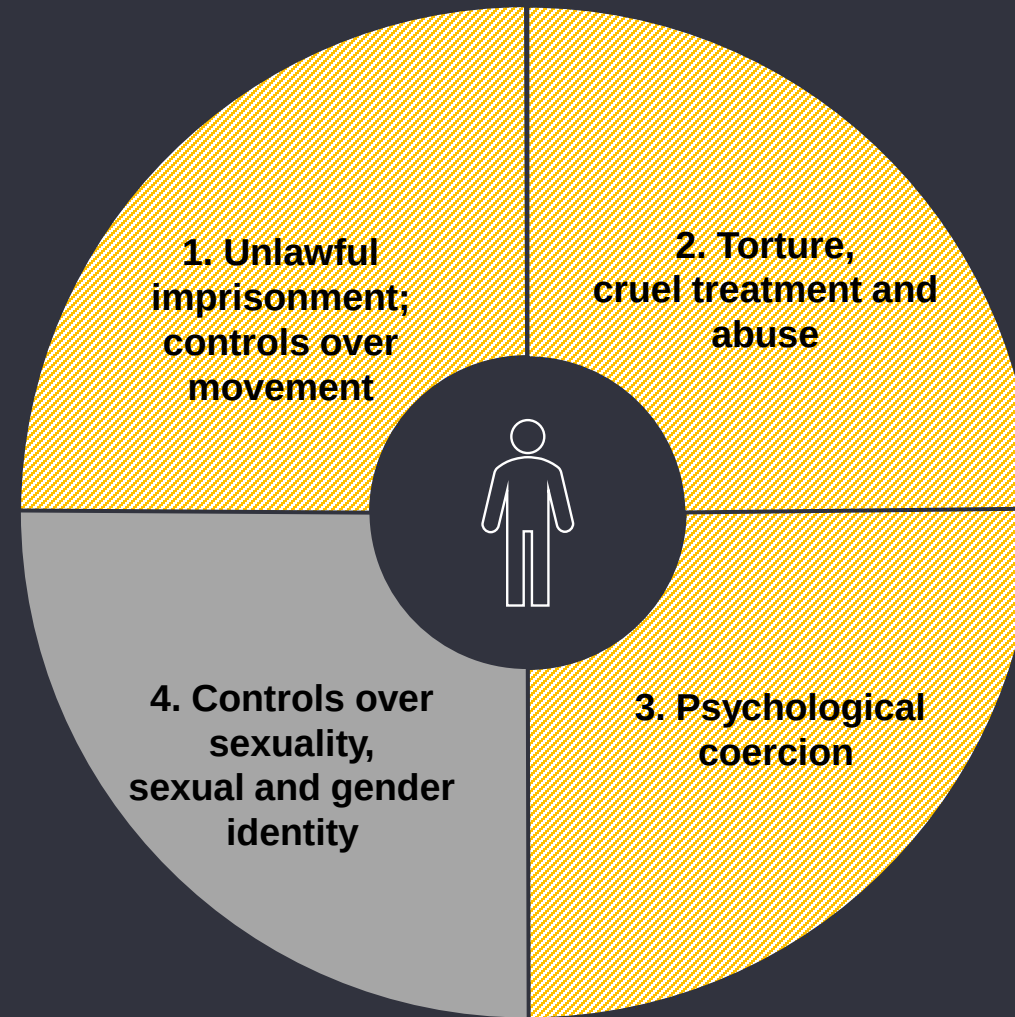
Children and Youth



Enslavement: Indicators of exercise of right of powers of ownership



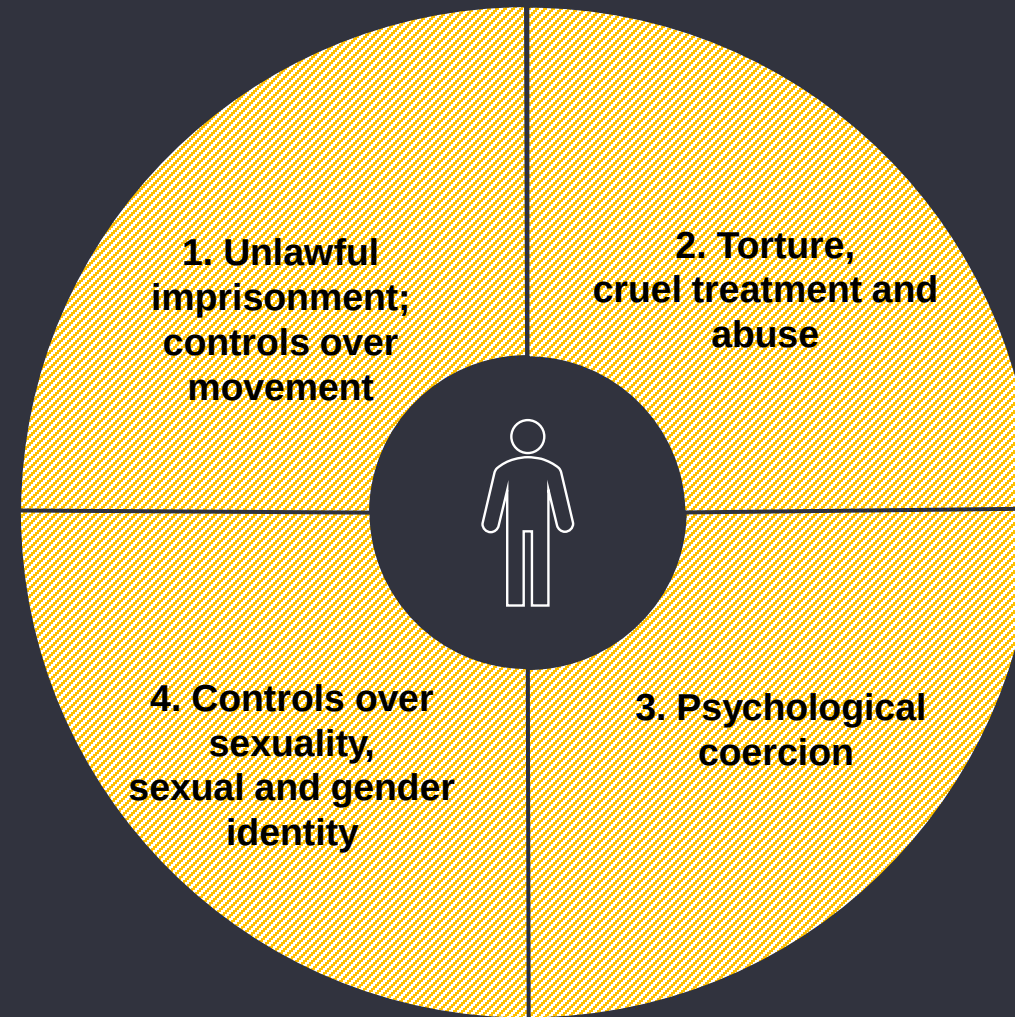
Children and Youth



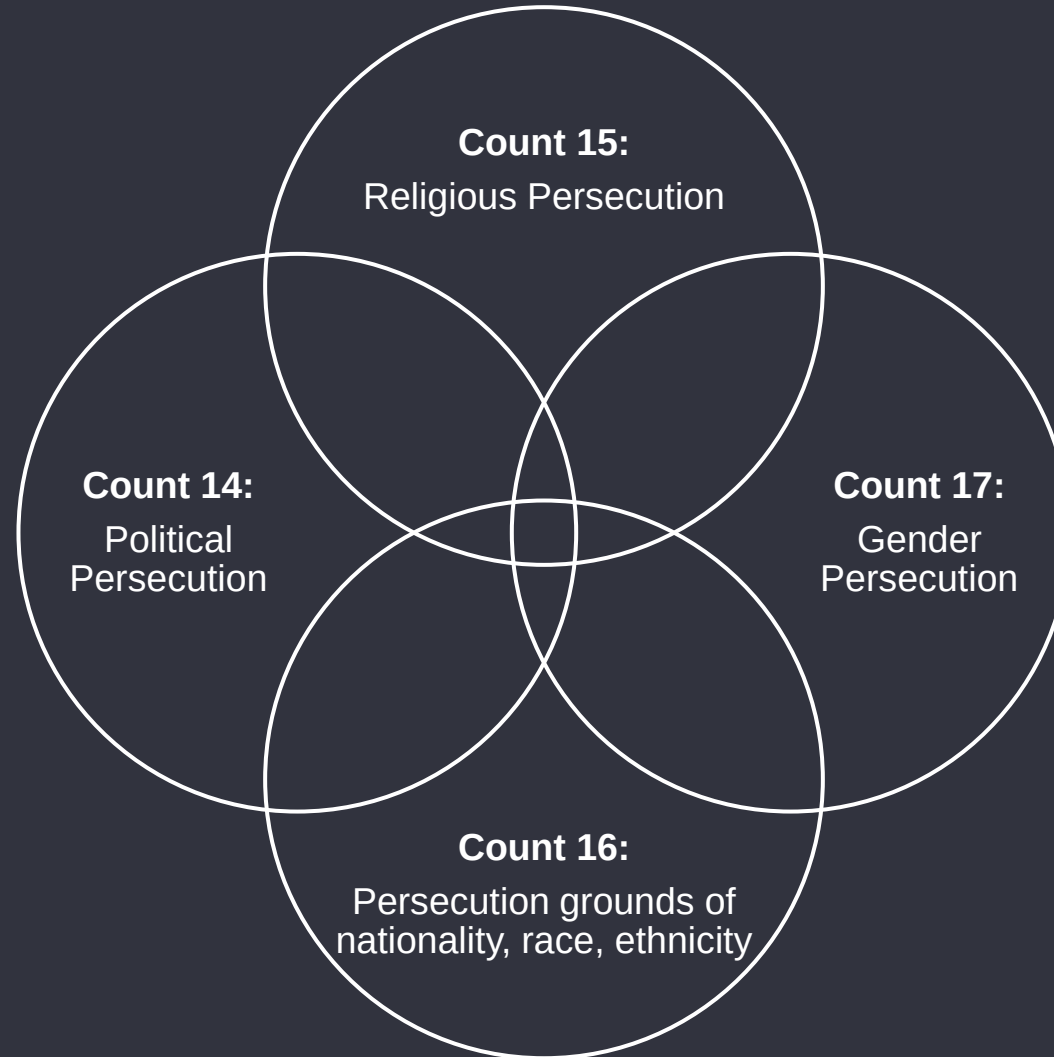
Enslavement: Indicators of exercise of right of powers of ownership



Children and Youth



Persecution



Persecution: **173** victims



Persecution: **173** victims

Count 14
Political grounds: **19**



Count 15
Religious grounds: **17**



Count 16
National, racial, ethnic
grounds: **47**



Count 17
Gender grounds: **90**



Persecution: **173** victims



Black African
migrants

Count 14

Political grounds: **19**



Count 15

Religious grounds: **17**



Count 16

National, racial, ethnic
grounds: **47**



Count 17

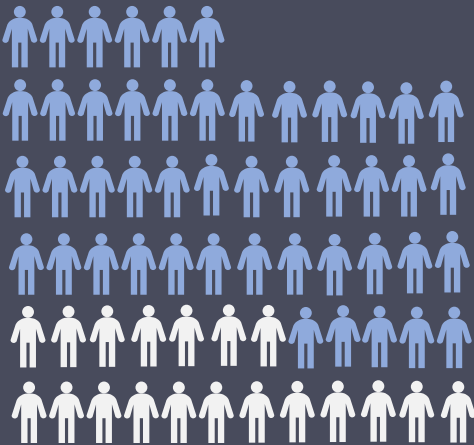
Gender grounds: **90**



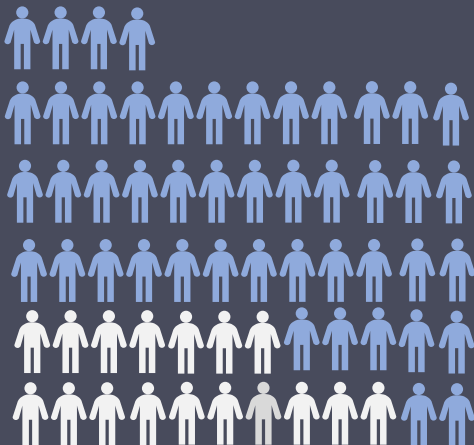
Persecution: 173 victims

 Black African migrants

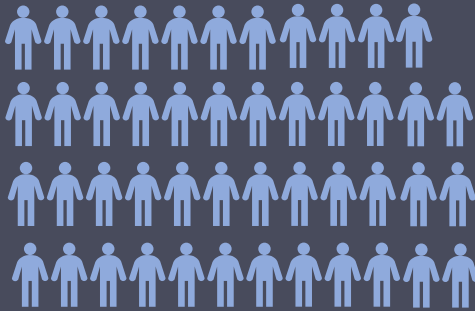
Count 14
Political grounds: 19



Count 15
Religious grounds: 17



Count 16
National, racial, ethnic grounds: 47



Count 17
Gender grounds: 90



Persecution: 173 victims



Black African
migrants



Black African migrant
female

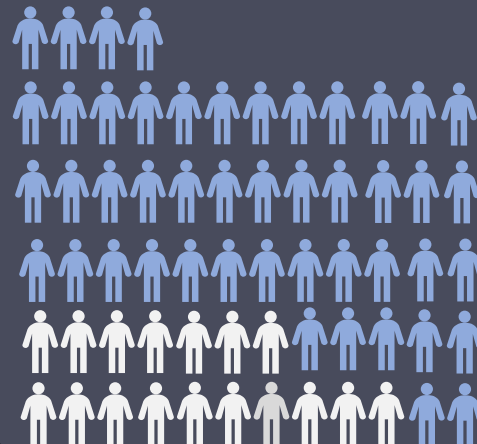
Count 14

Political grounds: 19



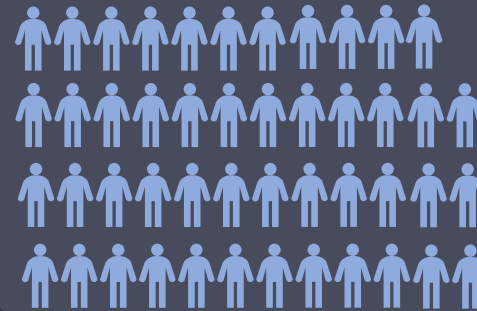
Count 15

Religious grounds: 17



Count 16

National, racial, ethnic
grounds: 47



Count 17

Gender grounds: 90



Persecution: 173 victims



Black African migrants



Black African migrant female



Persecution: 173 victims



Black African migrants



Black African migrant female



Women and girls

Count 14

Political grounds: 19



Count 15

Religious grounds: 17



Count 16

National, racial, ethnic grounds: 47



Count 17

Gender grounds: 90



Persecution: 173 victims



Black African
migrants



Black African migrant
female



Women and girls

Count 14

Political grounds: 19



Count 15

Religious grounds: 17



Count 16

National, racial, ethnic
grounds: 47

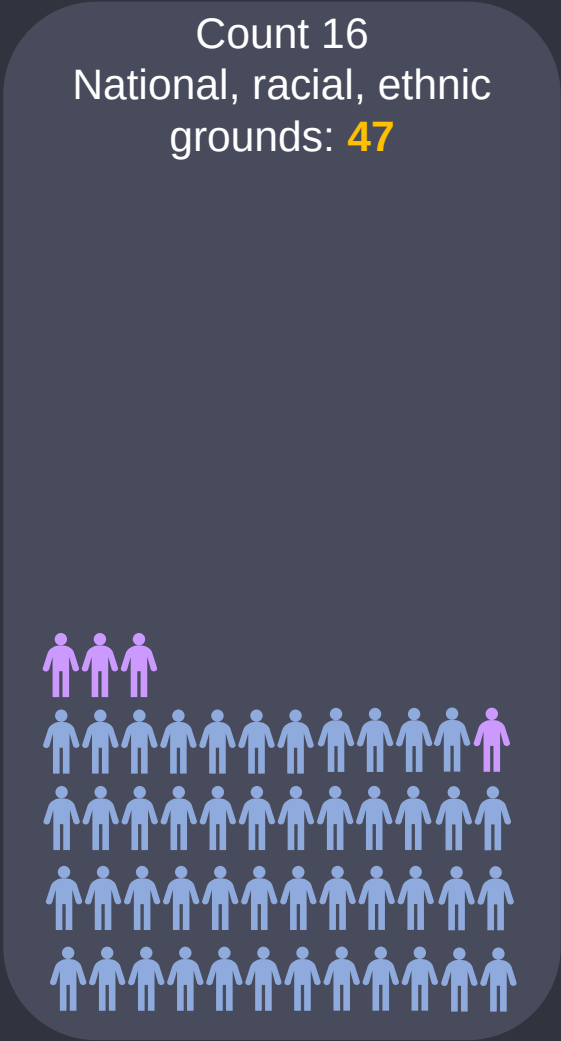
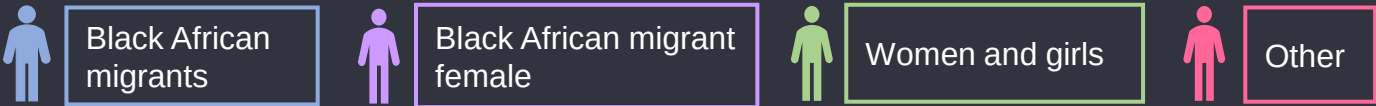


Count 17

Gender grounds: 90



Persecution: 173 victims





The Prosecutor v. Khaled Mohamed Ali EL HISHRI

Modes of Individual Criminal Responsibility



■ Modes of Individual Criminal Responsibility

- Direct Perpetration - article 25(3)(a)
- Indirect Perpetration - article 25(3)(a)
- Joint Perpetration - article 25(3)(a)
- Ordering and/or inducing - article 25(3)(b)
- Aiding and abetting - article 25(3)(c)
- Contributing to the commission of the crimes - article 25(3)(d)



Outline

- First Part: EL HISHRI's essential contributions
- Second Part: Article 25(3)(a) modes of liability:
 - Direct and/or indirect co-perpetration
 - Direct Perpetration
 - Indirect Perpetration



EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
 - EL HISHRI held a senior role in SDF/RADA and Mitiga Prison.

“AL BOOTI is the second in command after KARA”

LBY-OTP-0070-6952, para.137; *see further* LBY-OTP-00392926, paras. 163; LBY-OTP-00007250, para. 60; LBY-OTP-0080-0608, para. 43; LBY-OTP-01558903, para. 59.

“ Khaled ALBOOTI was a powerful man in the prison [...] he had absolute power”

LBY-OTP-00057776, para. 131

“Khaled AL BOOTI [...] was one of the founders of RADA and a high ranking official”

LBY-OTP-00015360, paras. 35-36

“AL BOOTI was one of the main pillars of the RADA”.

LBY-OTP-0074-0889, para. 244

“ ‘Sheikh Khaled ALBOOTI’ [...] He held absolute power”

LBY-OTP-00392926, paras. 163

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
 - EL HISHRI held a senior role in SDF/RADA and Mitiga Prison.

“[EL HISHRI] held a higher position than Osama NJEEM inside the prison”

LBY-OTP-0080-0169, para. 85; see also LBY-OTP-01558903, para. 212; LBY-OTP-00057776, para. 161; LBY-OTP-00019195, para. 95

“even N'JEEM was intimidated by [EL HISHRI] .”

LBY-OTP-00019195, para. 95

The guards and shift commanders were visibly more afraid of Khaled ALBOOTI than of Osama NJEEM”

LBY-OTP-01558903, para. 216

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
 - EL HISHRI held a senior role in SDF/RADA and Mitiga Prison.

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
 - EL HISHRI held a senior role in SDF/RADA and Mitiga Prison.
 - EL HISHRI's orders were followed.

“he could not intervene because it was **EL HISHRI** who had ordered it. He said he would have stepped in to stop the torture if the decision had come from anyone else. He said that if he tried to help, he risked being hung himself by **EL HISHRI**”

LBY-OTP-03214428, para. 33

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
 - EL HISHRI held a senior role in SDF/RADA and Mitiga Prison.
 - EL HISHRI's orders were followed.

“Khaled ALBOOTI [...] said, “You went to ALSOUR to complain about us. ALSOUR has no power. He is no one compared to us. We have the power.”

LBY-OTP-03703604, paras. 184-189.

“He said to me that 'I am Khaled Mohammed AL HISHRI and I am the Attorney General' as he took me back inside the prison.”

LBY-OTP-0083-0663, para. 80

EL HISHRI's essential contributions:

a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.

- EL HISHRI held a senior role in SDF/RADA and Mitiga Prison.
- EL HISHRI's orders were followed.
- EL HISHRI exercised authority over detainees in all aspects.

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
 - EL HISHRI held a senior role in SDF/RADA and Mitiga Prison.
 - EL HISHRI's orders were followed.
 - EL HISHRI exercised authority over detainees in all aspects.
 - EL HISHRI's authority is further supported by his own family's prominence.

“The detainees referred to Mitiga as the "**family prison**" because all the people that control it are somehow related.”

LBY-OTP-0080-0032, para. 125

“In fact Dawi NZAM, Mounir ALBOOTI and Khaled ELHISHRI were referred to as the **ruling family** of the prison by both detainees and guards.”

LBY-OTP-03214454, para. 134

“Khaled EL HISHRI, [...] responded, ‘Do whatever you want; we are the family that owns this place.’”

LBY-OTP-03214428, para. 142

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
- EL HISHRI held a senior role in SDF/RADA and Mitiga Prison.
 - EL HISHRI's orders were followed.
 - EL HISHRI exercised authority over detainees in all aspects.
 - EL HISHRI's authority is further supported by his own family's prominence.
 - EL HISHRI was feared by all.

“Khaled AL BOOTI, people feared him more than God himself”.

LBY-OTP-00022410, para. 105.

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
- EL HISHRI held a senior role in SDF/RADA and Mitiga Prison.
 - EL HISHRI's orders were followed.
 - EL HISHRI exercised authority over detainees in all aspects.
 - EL HISHRI's authority is further supported by his own family's prominence.
 - EL HISHRI was feared by all.
 - **EL HISHRI had the authority to discipline the Mitiga Perpetrators.**

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
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 - EL HISHRI's orders were followed.
 - EL HISHRI exercised authority over detainees in all aspects.
 - EL HISHRI's authority is further supported by his own family's prominence.
 - EL HISHRI was feared by all.
 - EL HISHRI had the authority to discipline the Mitiga Perpetrators.
 - **EL HISHRI ordered the commission of crimes.**

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
- b. EL HISHRI exercised direct control over the Women's Section
 - EL HISHRI strictly controlled access to the Women's Section.

“if he comes and sees that the girl is still alive, he will hang all the girls outside.”

LBY-OTP-0073-0025, para. 31

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
- b. EL HISHRI exercised direct control over the Women's Section
 - EL HISHRI strictly controlled access to the Women's Section.
 - He exercised daily control over the women, girls and young children held in the Women's Section.



EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
- b. EL HISHRI exercised direct control over the Women's Section
 - EL HISHRI strictly controlled access to the Women's Section.
 - He exercised daily control over the women, girls and young children held in the Women's Section.
 - He personally beat and mistreated them.

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
- b. EL HISHRI exercised direct control over the Women's Section.
- c. EL HISHRI directly perpetrated criminal acts.

“The pain was like I was being electrocuted in my brain I could feel it in through my spine. It was so painful.” [...]

“I could hear [...] telling **Khaled ALBOOTI** that we are going to die to which **Khaled ALBOOTI** replied let them rot.”

LBY-OTP-00057776, paras. 37, 41, 42.

EL HISHRI's essential contributions:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
- b. EL HISHRI exercised direct control over the Women's Section.
- c. EL HISHRI directly perpetrated criminal acts.

Modes of Individual Criminal Responsibility

- Direct and/or indirect co-perpetration - article 25(3)(a)
- Direct Perpetration - article 25(3)(a)
- Indirect Perpetration - article 25(3)(a)
- Ordering and/or inducing - article 25(3)(b)
- Aiding and abetting - article 25(3)(c)
- Contributing to the commission of the crimes - article 25(3)(d)



■ Modes of Individual Criminal Responsibility

- Direct and/or indirect co-perpetration - article 25(3)(a)
- Direct Perpetration - article 25(3)(a)
- Indirect Perpetration - article 25(3)(a)



Co-perpetrators



ABDEL RAUF KARA



Osama NJEEM



Khaled EL HISHRI



Dhawi N'ZAM

Common Plan:

- **Objective:** to exercise control over persons in the Mitiga Perpetrators' custody or control in pursuit of SDF/RADA interests or views and/or those of its members.
- **Means:** through means such as punishment, coercion, and exploitation.
- **Location:** principally at Mitiga prison, but also in other locations in and around Tripoli.

Existence of the Common Plan:

- The use of Mitiga Prison as a tool to serve their interest.

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■ Existence of the Common Plan:

- The use of Mitiga Prison as a tool to serve their interest.
- Systematic nature and prolonged period of the alleged crimes.

Existence of the Common Plan:

- The use of Mitiga Prison as a tool to serve their interest.
- Systematic nature and prolonged period of the alleged crimes.
- Co-perpetrators' own conduct participating in the crimes.

Existence of the Common Plan:

- The use of Mitiga Prison as a tool to serve their interest.
- Systematic nature and prolonged period of the alleged crimes.
- Co-perpetrators' own conduct participating in the crimes.
- Measures taken by the co-perpetrators to conceal the crimes.

■ Co-perpetrators jointly controlled the commission of the crimes:

■ **Directly:**

- By carrying out the crimes; and
- By contributing to the creation and maintenance of the criminal system of mistreatment of detainees.

■ **Indirectly:**

- By controlling the organisation including the Mitiga Perpetrators and steering them towards the implementation of the common plan, through:
 - Their senior positions of authority; and
 - Their ability to punish and discipline the perpetrators – ensuring automatic compliance with their orders.

Mr EL HISHRI's essential contributions to the common plan:

- a. EL HISHRI exercised general authority and influence throughout Mitiga Prison.
- b. EL HISHRI exercised direct control over the Women's Section.
- c. EL HISHRI directly perpetrated criminal acts.

Mr EL HISHRI's intent and knowledge

1. **Count 1-6:** Imprisonment or other severe deprivation of physical liberty (CAH), outrages upon personal dignity (WC), cruel treatment (WC), torture (CAH and WC) and other inhumane acts (CAH)
2. **Counts 7-10:** Rape (CAH and WC) and sexual violence (CAH and WC)
3. **Counts 11-12:** Murder and attempted murder (CAH and WC)
4. **Count 13:** Enslavement (CAH)
5. **Counts 14-17:** Persecution (CAH)

■ Modes of Individual Criminal Responsibility

- Direct and/or indirect co-perpetration - article 25(3)(a)
- Direct Perpetration - article 25(3)(a)
- Indirect Perpetration - article 25(3)(a)



Khaled EL HISHRI

159 victims





Khaled EL HISHRI

159 victims



Counts 1-6:

Core detention crimes: Imprisonment or other severe deprivation of physical liberty (CAH), outrages upon personal dignity (WC), cruel treatment (WC), torture (CAH and WC) and other inhumane acts (CAH)): **117-119** victims



Annex 14, row no. 1, 4, 5, 6, 8, 10, 12, 13, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 47, 49, 50, 52, 53, 54, 56, 57, 59, 61, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 83, 88, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 128, 134, 136, 137, 138, 139, 140, 143, 144, 145, 146, 147, 148, 150, 151, 152, 153.



Khaled EL HISHRI

159 victims

Counts 7 and 8:

Rape **2** victims



Khaled EL HISHRI

159 victims

Counts 9 and 10:

Sexual violence (CAH and WC) **12** victims



Khaled EL HISHRI

159 victims



Counts 11 and 12:

Murder (CAH and WC) **24** victims



Annex 14, row no. 18, 19, 21, 33, 52, 53, 55, 58, 68, 69, 109, 112, 113, 124, 125, 127, 128, 130, 143, 144, 145, 150, 151, 152.



Khaled EL HISHRI

159 victims



Count 13:

Enslavement **97** victims



Annex 14, row no. 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 20, 22, 23, 24, 26, 27, 28, 29, 30, 32, 37, 38, 39, 44, 45, 46, 47, 48, 50, 51, 56, 59, 60, 61, 62, 63, 64, 65, 66, 67, 70, 71, 77, 80, 81, 82, 84, 85, 86, 87, 88, 89, 90, 92, 93, 98, 99, 100, 102, 103, 106, 108, 109, 111, 112, 113, 117, 118, 121, 122, 123, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 147, 149, 151, 154, 155, 156, 157, 158, 159.



Khaled EL HISHRI

159 victims



Count 14:

Persecution on political grounds **23** victims

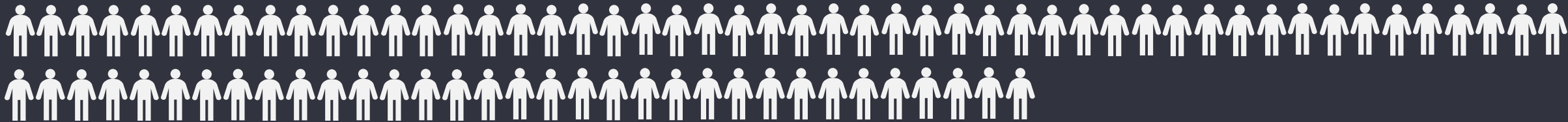


Annex 14, row no. 2, 4, 8, 12, 13, 24, 26, 74, 84, 85, 86, 87, 90, 93, 108, 111, 112, 113, 129, 130, 131, 132, 155.



Khaled EL HISHRI

159 victims



Count 15:

Persecution on religious grounds 76 victims



Annex 14, row no. 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 22, 23, 24, 27, 28, 29, 30, 32, 37, 38, 39, 44, 45, 46, 47, 48, 50, 51, 56, 59, 60, 61, 62, 63, 64, 65, 66, 70, 71, 77, 80, 81, 82, 88, 89, 90, 92, 98, 99, 102, 103, 117, 118, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 141, 142, 147, 149, 154, 155, 156, 157, 158, 159.



Khaled EL HISHRI

159 victims



Count 16:

Persecution on national, ethnic and or racial grounds **12** victims

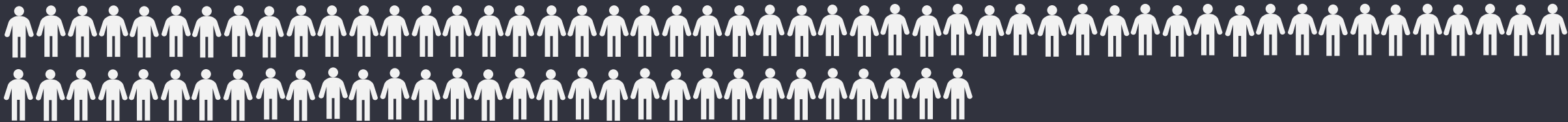


Annex 14, row no. 4, 67, 74, 84, 85, 86, 87, 122, 129, 130, 131, 132.



Khaled EL HISHRI

159 victims



Count 17:

Persecution on gender grounds: 78 victims





Khaled EL HISHRI

159 victims

■ Modes of Individual Criminal Responsibility

- Direct and/or indirect co-perpetration - article 25(3)(a)
- Direct Perpetration - article 25(3)(a)
- Indirect Perpetration - article 25(3)(a)



The Prosecutor v. Khaled Mohamed Ali EL HISHRI

Confirmation of Charges Hearing

