



LIBYA: “IN SECONDS EVERYTHING CHANGED”

JUSTICE AND REDRESS ELUSIVE FOR DERNA FLOOD SURVIVORS

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Cover photo: A rainbow rises over Libya's eastern city of Derna, in the wake of Storm Daniel, which triggered the collapse of two dams upstream from Derna and led to a staggering loss of life and widespread destruction.

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ACRONYMS

| ACRONYM | DESCRIPTION |
|---------|--|
| GASIMP | General Authority for the Search and Identification of Missing Persons |
| GNS | Government of National Stability, which is allied to the LAAF and controls most of eastern and southern Libya, including Derna |
| GNU | Government of National Unity, which controls the capital Tripoli and most of western Libya |
| ICRC | International Committee of the Red Cross |
| IFRC | International Federation of the Red Cross and Red Crescent Societies |
| IOM | International Organization for Migration |
| ISA | Internal Security Agency in eastern Libya, a LAAF-affiliated armed group |
| LAAF | Libyan Arab Armed Forces, an armed group in control of large swathes of eastern and southern Libya. Given that it exercises government-like functions in territory under its control, Amnesty International considers that it is bound by international human rights law obligations |
| MOWR | Ministry of Water Resources, which according to the Public Prosecutor's office's letter to Amnesty International, dated 7 February 2024, was subsequently disbanded and replaced with the General Water Authority |
| NADRA | National Authority for DNA Fingerprinting Research and Analysis |
| TBZ | Tarek Ben Zeyad, an LAAF-affiliated armed group |
| WHO | World Health Organization |

1. EXECUTIVE SUMMARY

‘We walked out and saw corpses, the extent of the destruction, and people carrying their relatives’ bodies in shrouds on their shoulders. I heard the screams of mothers and children. I searched for my family members, but I could not find anyone.’

“Khadija” (a pseudonym), recounting what she saw on the morning of 11 September 2023 after two dams collapsed in Derna. Her father and twin sister are among those still missing following the floods.

In September 2023, the city of Derna in eastern Libya witnessed unprecedented and catastrophic flooding after Storm Daniel – an extreme weather event made more likely and intense by global warming – triggered the collapse of two ageing dams upstream from Derna. The torrents of water killed at least 4,352 people, left thousands of others missing, washed entire neighbourhoods into the sea, and devastated the lives of tens of thousands of survivors who lost their loved ones, homes and livelihoods. Six months on, truth, justice and adequate reparations for all survivors remain elusive.

In the immediate aftermath of the disaster, public anger mounted at the authorities’ failure to maintain the ageing dam infrastructure in Derna, conflicting instructions on evacuations ahead of the storm, the imposition of curfews on people living in affected areas and generally poor disaster preparedness, which experts have said contributed to the heavy death toll.

In the aftermath of the catastrophic flooding, the Libyan authorities and the self-proclaimed Libyan Arab Armed Forces (LAAF), in de facto control of affected areas, announced and rolled out financial compensation and the provision temporary housing for those affected. However, these were marred by delays and the discriminatory exclusion of affected refugees and migrants as well as some Derna residents displaced to western Libya. Authorities also did not institute specific measures to facilitate the provision of death certificates for those missing in the floods, needed to access widows’ pensions and other state aid, with women who lost their husbands most affected.

Amnesty International also found that the authorities have failed to fully investigate whether Libyan authorities and those in de facto control of affected areas failed to protect people’s rights to life, health and other human rights. While criminal investigations by Tripoli’s Public Prosecution office led to the indictment of 16 lower to mid-level officials over their role in failing to prevent the disastrous consequences of Storm Daniel, investigations did not address the responsibility of senior military commanders and political officials, raising concerns that they will evade responsibility.

Instead of responding to calls for accountability by affected communities and Libyan human rights defenders, the LAAF and affiliated armed groups resorted to their well-honed tactics of suppressing dissent by arbitrarily arresting critics including those calling for truth and justice and tightening their grip on independent civil society and media.

The devastation not only exposed Libya’s vulnerability to climate change, but also the consequences of poor governance and mismanagement by rival governments as well the free reign of militias and armed groups that prioritize self-interest over the lives and wellbeing of civilians.

For years, Libya has been fragmented between two entities competing for governance, legitimacy and territorial control, with each supported by a myriad of unaccountable militias and armed groups. The Government of National Unity (GNU)

controls the capital Tripoli and most of western Libya. The LAAF, allied to the Government of National Stability (GNS), controls most of eastern and southern Libya, including Derna and other disaster-hit areas.

Amnesty International's research

To investigate how human rights have been upheld in the crisis response, Amnesty International interviewed 65 individuals between September 2023 and January 2024. Among them were 22 residents of Derna who survived the floods: eight were internally displaced after their homes were destroyed; five are former detainees or relatives of those arbitrarily detained for taking part in Derna protests or otherwise criticizing the authorities' crisis response; three are foreign nationals who were living in affected areas; two are doctors who participated in rescue efforts and/or treatment of those injured; and two are local politicians. Amnesty International also spoke to 42 other people involved in, or informed about, the crisis response. These included civil society actors, lawyers, medical and humanitarian personnel, staff in international organizations, and officials involved in search efforts and the identification of the remains of the deceased. Additionally, Amnesty International reviewed audiovisual material, statements by Libyan officials, legal documents, and reports by UN agencies, Libyan and international organizations and the media.

Amnesty International shared its findings and recommendations with the Tripoli-based Public Prosecutor's office on 10 January 2024 and with officials of the LAAF and GNS on 25 February 2024. The reply of the Public Prosecutor's office was received on 7 February 2024 and is reflected in this report. The organization did not receive responses from LAAF or the GNS in time for publication.

Storm Daniel and its aftermath

Buthaina Affan, a 21-year-old woman from Derna, was the only survivor in her apartment block of 48 flats. She described the harrowing night of 11 September 2023 when the floods carried away her parents, brother, in-laws, nieces and nephews. She managed to survive by holding onto a tree trunk until the water level subsided. "[It] was the worst day of my life, and it still is to this day. I stayed for the rest of September and the beginning of October in the hospital, and they [my family] did not leave my thoughts. We found no trace of them."

Amnesty International found that survivors continue to be haunted by the unknown fates and burial places of their missing loved ones, estimated at 8,000 by the UN. Their suffering is compounded by the rushed burials in mass graves by local authorities and volunteers of thousands of bodies without identification in the immediate aftermath of the crisis, as well as the long time and additional resources needed to recover and identify human remains. This task has been hampered by the involvement of multiple governmental agencies, without adequate coordination, including the General Authority for the Search and Identification of Missing Persons (GASIMP), which collected 1,756 DNA samples from families of those missing. Survivors have also been left to navigate the complicated processes involved to obtain death certificates of their missing loved ones, which are needed to claim many civil, social, property and other rights and access pensions and other state assistance – with women whose husbands are missing disproportionately impacted.

In the wake of the disaster, the rival governments announced financial compensation and provision of temporary housing for survivors, and allocated significant budgets for relief and reconstruction. By the end of November 2023, the GNS had distributed financial aid to at least 9,500 affected individuals. However, the GNU and de facto authorities in the east failed to ensure that those internally displaced to western Libya as well as affected refugees and migrants had equal and timely access to relief and rehabilitation measures without discrimination.

Compensation for affected Libyans has been marred by delays and concerns over the exclusion of those displaced to western Libya. Refugees and migrants affected by the flooding have been excluded from the financial compensation rolled out to Libyans, and several GNS decrees introducing support measures for those affected – such as for children who lost their parents and the waiving of fees to replace official documents – only apply to Libyans.

None of the authorities in Libya took measures to address the specific circumstances and needs of foreign nationals, including in failing to facilitate evacuations from affected areas and return to their home countries, and to provide information to relatives of those dead or missing. Further, refugees and migrants who lost their documents in the floods were rendered vulnerable to arrest and detention, as Libyan law criminalizes irregular entry and stay in the country, and security forces, armed groups and militias routinely arrest and arbitrarily detain undocumented refugees and migrants.

In the immediate aftermath of the crisis, the LAAF accelerated its well-honed use of brutal tactics to stifle dissent, restrict independent civil society and media, and maintain its iron grip on power. The LAAF and affiliated armed groups arbitrarily arrested at least nine people, including activists, journalists and peaceful protesters, who poured into Derna's streets on 18 September 2023 to express their anger at local and national officials and call for accountability and prompt

reconstruction. As of 28 February 2024, at least one remains arbitrarily detained without charge or trial and denied access to their families and lawyers. LAAF-affiliated armed groups and security forces have also prevented hundreds of Tawerghans, who have been displaced from their original homes since armed conflict in 2011, from returning to seven camps in the eastern city of Benghazi, where they had lived for over a decade and from where they were instructed to evacuate ahead of Storm Daniel. Other residents of their neighbourhoods have been allowed to return.

Justice elusive

Criminal investigations into the disaster, announced by the Public Prosecutor's office in the wake of Storm Daniel, led to the referral of 16 people on 27 December 2023 to the accusation chamber of for the Derna Court of First Instance on charges related to the dereliction of or refusal to perform their official duties. They include the head and two members of the Derna Municipal Council and officials responsible for the water management, damn infrastructure and reconstruction in Derna. At the time of writing, their trial in front of the Derna Court of Appeal was ongoing.

However, concerns remain over the judicial authorities' willingness and/or ability to hold to account powerful military and political actors including those affiliated to LAAF, as demonstrated by the investigation's focus on prosecuting low to mid-ranking officials, and omitting to investigate the responsibility of military and security actors, including for issuing conflicting instructions ahead of the expected storm and imposing a curfew in Derna on the eve of the flooding. In its reply to Amnesty International received on 7 February 2023, the Public Prosecutor's office maintained that decisions to impose curfews are administrative in nature and based on the discretion of the "managing authority", and therefore fall under the jurisdiction of the administrative judiciary, and not subject to criminal investigations.

All 20 residents of Derna interviewed by Amnesty International expressed their lack of faith in domestic investigations and trials, and their reluctance to lodge complaints with the judicial authorities for fear of reprisals from powerful militias and armed groups. In its reply to Amnesty International, the Public Prosecution's office confirmed its commitment to guarantee the safety of the victims' families and emphasized that no complaints were received in relation to threats against the victims' family members impeding their participation in investigations. The response also highlighted the efforts of the Public Prosecutor's office to collect the testimonies of survivors and others affected and confirmed the right of victims' families to obtain information and judicial data about the incident. However, the Public Prosecutor's office did not clarify specific mechanisms enabling those affected to access such information and did not respond to Amnesty International's query on whether it intended to share details on the progress of investigations and its findings with relatives of victims and society at large.

The criminal investigations and prosecutions into the Derna disaster are taking place against the backdrop of an entrenched climate of impunity in Libya. Instead of holding to account powerful and unruly militias with well-documented records of committing crimes under international law and other human rights violations, successive governments have sought to appease them and secure their loyalty by showering them with praise, salaries, high-level positions and legitimacy. The governments have also long ignored calls by Amnesty International to remove powerful commanders of armed groups and militias suspected of criminal responsibility for war crimes and other crimes under international law from positions of power or responsibility, enabling them to continue to commit crimes with impunity.

In the absence of meaningful prospects for accountability at the domestic level, Amnesty International has long called for an international investigative mechanism on the human rights situation in Libya, and expressed its deep disappointment at the decision of the UN Human Rights Council to end the mandate of the Fact-Finding Mission on Libya in March 2023, despite conclusions issued in its final report that crimes under international law continued unabated in Libya with impunity. Such a mechanism is desperately needed to establish the facts and circumstances surrounding the loss of life and destruction in the wake of Storm Daniel, and whether Libyan authorities and those in de facto control of affected areas failed to protect people's rights to life, health and other human rights, including in relation to new and increasing risks posed by climate change. Survivors and Libyan human rights defenders have also called for international investigations into the Derna disaster, highlighting that such investigations should identify those responsible and offer secure channels for survivors, witnesses and others to submit evidence.

To ensure that human rights are at the centre of their response to the Derna crisis, Amnesty International is calling on the Libyan authorities, and those with de facto control of eastern Libya, to:

- ensure non-discrimination in all disaster response, relief, recovery and reconstruction efforts, including in the provision of financial compensation and alternative housing;

- ensure that all those affected by Storm Daniel can enjoy their rights and do not face discrimination or reprisals based on any grounds, including their political or other opinion, national or social origin, migration status, displacement in western Libya or lack of documentation; and
- release all those arbitrarily detained solely for exercising their rights to freedom of expression and peaceful assembly; and put an end to reprisals against those critical of their response to the disaster.

Amnesty International is also calling on the international community to stand with survivors and families of victims by supporting efforts to establish an international mechanism, with a mandate and monitoring and investigative component, to:

- investigate and establish the facts and circumstances of all alleged violations and abuses of international human rights law and violations of international humanitarian law by all parties in Libya since March 2023, including inter alia establishing the facts and circumstances surrounding the loss of life and destruction in the context of Storm Daniel. This would include examining whether Libyan authorities and those in de facto control of affected areas failed to protect the population's rights to life, health, and other human rights; collecting, analysing and preserving evidence of such violations and abuses; identifying, where possible, those individuals and entities responsible; and making recommendations with a view to ending impunity and addressing its root causes.

2. METHODOLOGY

This report is based on research conducted by Amnesty International between September 2023 and February 2024 into how human rights were upheld in the lead-up and response to the catastrophic flooding in the city of Derna, triggered by Storm Daniel that hit eastern Libya on 10 September 2023.

Amnesty International researchers carried out in-depth interviews with 65 people – 50 men and 15 women. Among them were 22 residents of Derna who survived the floods: eight were internally displaced after their homes were destroyed; five are former detainees or relatives of those arbitrarily detained for taking part in Derna protests or otherwise criticizing the crisis response; three are foreign nationals who were living in affected areas; two are doctors who participated in rescue efforts and/or treatment of those injured; and two are local politicians. The remaining 43 interviewed were people involved in, or informed about, the crisis response, including civil society actors, lawyers, medical and humanitarian personnel, staff in international organizations, and Libyan officials involved in search efforts and the identification of the remains of the deceased. To research the forced displacement of members of the Tawerghan community from Benghazi following the floods, Amnesty International interviewed two local activists.

The interviews were carried out through secure messaging applications or by phone. All interviews were conducted in Arabic without the use of interpreters. Individuals were selected on the basis of their willingness to share information with Amnesty International. Some interviewees requested anonymity out of concern for their safety. As a result, Amnesty International has used pseudonyms and removed identifying details from some of the cases featured in this report.

Irregular internet connectivity in Derna and other flood-affected cities as well as internet disruption in the immediate aftermath of the floods and protests in Derna, limited Amnesty International's ability to carry out in-depth and, in some cases, follow-up interviews.¹

Amnesty International also reviewed audiovisual material related to rescue missions; official documents; statements made by Libyan officials, including on their social media accounts; and reports by UN agencies, Libyan and international organizations, and the media.

On 24 October 2023, Amnesty International wrote to Khalifa Heftar, General Commander of the Libyan Arab Armed Forces (LAAF),² requesting access to eastern Libya, including Derna, in early 2024, but received no official response by the time of publication.

On 12 January 2024, Amnesty International wrote to the Tripoli-based Public Prosecutor's office, seeking information and clarifications on criminal investigations and prosecutions related to the Derna catastrophe. The information provided in the 25-page response, received on 7 February 2024, is reflected throughout the report. On 25 February 2024, Amnesty International shared the findings and recommendations presented in this report to the Chief of Staff of the LAAF, Abd al-Razzaq al-Naduri, and the Acting Prime Minister of the eastern-based Government of National Stability (GNS), Osama Hammad. No responses had been received from the two officials by the time of publication.

¹ Telephone and internet links were disrupted on 19 September 2023 in Derna following the Sahaba mosque protests (see box in section 4.6 of this report). Even though connectivity had been affected by the floods, it was partially restored on 12 September 2023 at around 7pm, according to the Libyan Post Telecommunications & Information Technology Company (LPTIC), which announced on its Facebook page that 115 of 194 stations were again operational in Derna. In another statement on its Facebook page at about noon on 19 September 2023, the LPTIC blamed "a rupture in the optical fibre" link for the renewed outage in Derna, noting that it "could result from a deliberate act of sabotage". Network data from NetBlocks confirmed that Derna experienced internet disruptions on 19 September 2023.

² Amnesty International considers that the Libyan Arab Armed Forces (LAAF), as de facto authorities in control of territory and exercising government-like functions, are bound by international human rights obligations.

Amnesty International expresses its deep gratitude to all survivors for their courage in speaking to the organization and sharing their ordeals. Amnesty International also extends its appreciation to human rights defenders, activists, humanitarian and other civil society actors, lawyers and journalists inside and outside Libya who shared information and analysis with the organization.

3. BACKGROUND

3.1 POLITICAL LANDSCAPE

Libya is fragmented between two entities competing for legitimacy, governance and territorial control. The Government of National Unity (GNU) controls the capital Tripoli and most of western Libya. The Government of National Stability (GNS) is allied to the self-proclaimed Libyan Arab Armed Forces (LAAF), which is in control of most of eastern and southern Libya. Each entity is backed by a myriad of militias and/or armed groups, operating with varying degrees of independence and frequently having their own command-and-control structures.

The existence of two rival governments means that state institutions – including the ministries of interior, justice, education, defence and health – are also split, with separate ministers in eastern and western Libya. Since 2014, the LAAF-allied ministries have been running the day-to-day government functions in territory under LAAF control, including public service provision, with observers and residents noting that real power lies with the LAAF and not the ministries. Despite UN-mediated efforts to end the political impasse and unify state institutions, no new dates have been agreed for presidential and parliamentary elections, which were indefinitely postponed in December 2021 amid disagreements over the electoral framework.³

Derna, a coastal city in eastern Libya with an estimated population of 120,000, has been controlled by the LAAF since May 2018, following a prolonged siege and heavy bombardment, including indiscriminate attacks, of the city, then under the control of the Derna Mojahedin Shura Council, also known as the Derna Security Force. After the LAAF took control of the city, thousands of Derna residents were forcibly displaced to western Libya after armed groups allied to the LAAF ordered them to leave the city and/or looted and destroyed their homes and other property in reprisal for their actual or perceived support of the Derna Security Force.⁴ According to the International Organization for Migration (IOM), at least 3,854 households or approximately 19,270 individuals had been displaced from Derna by 18 June 2018, most of who had not returned to their homes at the time of writing, for fear of reprisals.⁵

3.2 STORM DANIEL

³ Amnesty International, *Libya: Elections delayed amid a climate of repression* (Index: MDE 19/5097/2021), 22 December 2021, <https://www.amnesty.org/en/documents/mde19/5097/2021/en>

⁴ Amnesty International, "Libya: Protect civilians under siege in Derna", 11 June 2018, <https://www.amnesty.org/en/latest/news/2018/06/libya-protect-civilians-under-siege-in-derna>

⁵ International Organization for Migration (IOM), Displacement Tracking Matrix, "Libya – Derna Flash Update 4 (11-14 June 2018)", <https://dtm.iom.int/reports/libya-%E2%80%94-derna-flash-update-4-11%E2%80%9414-june-2018>

On 10 September 2023, Storm Daniel struck the north-eastern coast of Libya, causing heavy rainfall.⁶ This triggered the collapse of two dams in Derna at 2.50am on 11 September. The devastating floods left thousands dead and missing, and caused widespread destruction and displacement.

Other areas in eastern Libya impacted included Sousa, Toukra, Tolmeita, Al-Bayda, Shahat, Albayadah, Benghazi and other regions in Jabal Al-Akhdar (Green Mountain). As of 28 November 2023, the death toll stood at 4,352.⁷ At least 44,862 people were displaced, according to the IOM, while some 8,000 remain missing, according to UN figures.⁸

Experts estimated that after the dams collapsed, 30 million cubic metres of water gushed down the Derna mountains towards the coast, submerging entire neighbourhoods and pushing people, vehicles and debris into the sea. By some estimates, the deluge destroyed or heavily damaged at least a quarter of the city, including homes, schools, hospitals and other buildings.⁹ According to the Derna Data Portal developed by UN-Habitat,¹⁰ which collated information on damage in Derna, at least 3,094 buildings and five bridges were destroyed or damaged.

A World Bank report issued on 24 January 2024 stated that physical damage and losses totalled USD 1.65 billion, equivalent to almost 3.6% of Libya's 2022 GDP. It added that the disaster affected the lives of around 1.5 million people, or 22% of Libya's population, and destroyed or damaged over 18,500 houses, or 7% of the country's housing stock. The report estimated that USD 1.8 billion was needed for recovery and rehabilitation.¹¹

The two collapsed dams, the Abu Mansour dam and the Derna dam (also known as Al-Belad dam), were built in 1973 and 1977, respectively, by a company from the former Yugoslavia on behalf of the Libyan ministry of agriculture. The Abu Mansour dam was 74m high and had a storage capacity of 22.5 million cubic metres of water, while the Derna dam was 45m high and had a storage capacity of 1.5 million cubic metres.¹² According to World Weather Attribution, the dams were constructed on the basis of relatively low average rainfall expectations, and were likely not designed to withstand a rainfall event of the intensity of Storm Daniel. However, such extreme weather events have become much more likely because of the human-induced climate change.¹³

Experts had long warned of the need to maintain the dams and the consequent dangers Derna faced.¹⁴ In the mid-1990s, according to the Free Cyrenaica organization, the Libyan government under Mu'ammarr al-Gaddafi used medium-range missiles against armed groups in the Wadi Karsa and Derna regions, resulting in a significant crack in the Derna dam that was not subsequently repaired. In November 2022, hydrologist Abdelwanees Ashoor of Omar al-Mukhtar University in the city of Al-Bayda published research arguing that the dams needed periodic maintenance to avoid catastrophe.

In its 2021 annual report,¹⁵ issued in September 2022 and reviewed by Amnesty International, the Libyan Audit Bureau raised the alarm that the two Derna dams had not been maintained despite budgets allocated in 2012 and 2013 on the basis of requests by the Ministry of Water Resources (MoWR)¹⁶ for EUR 2.28 million. According to Libyan Audit Bureau records, the original contract was awarded to a private company in 2007 to maintain the two dams and build a third one in Derna, and the MoWR continued to extend letters of guarantee to the company until 2014. According to information gathered by Amnesty International, no maintenance was carried out on the two dams after the contracts were awarded, and no third dam was built. On 19 September 2023, four days after the Public Prosecutor's office announced criminal investigations into the Derna disaster, the head of the Libyan Audit Bureau, Khalid Shakshak, sent him a report¹⁷

⁶ Libyan National Meteorological Centre, Facebook post, " نشرة الامطار الجوية كميات الامطار المسجلة خلال الـ 24 ساعة ابتداء من الثانية صباحا ليوم الاحد 2023/9/10 حتى الساعة الثامنة " , " صباحا ليوم الاثنين 2023/9/11 " , "Daily Rainfall Bulletin recorded rainfall in past 24 hours from 8:00am on Sunday 10/9/2023 to Monday 8am 11/9/2023", 11 September 2023, [<https://www.facebook.com/photo.php?fbid=811961244271345>, (in Arabic).

⁷ UN Office for the Coordination of Humanitarian Affairs (OCHA), "Libya: Flood Response Humanitarian Update (as of 28 November 2023)", 2 December 2023, <https://reliefweb.int/report/libya/libya-flood-response-humanitarian-update-28-november-2023-enar>

⁸ OCHA, "Libya Floods: Multi-Thematic Rapid Needs Assessment Report (19-26 September 2023)", 22 October 2023, <https://www.unocha.org/publications/report/libya/libya-floods-multi-thematic-rapid-needs-assessment-mtrna-report-19-26-september-2023>

⁹ OCHA, "Libya Floods: Multi-Thematic Rapid Needs Assessment Report", (previously cited).

¹⁰ Derna Data Portal, "Situation Overview", <https://derna-portal-unhabitat-roas.hub.arcgis.com> (accessed on 2 February 2024).

¹¹ World Bank, "Libya Storm and Flooding 2023, Rapid Damage and Needs Assessment", 24 January 2024,

<http://documents.worldbank.org/curated/en/099353101242428521/DU153d4e1711e33e145321b8881cf996ea3ac7>

¹² Dave Petley, "Further information about Derna dams", EOS, 14 September 2023, EOS, <https://eos.org/thelandslideblog/further-information-about-the-wadi-derna-dams>

¹³ Mariam Zachariah and others, "Interplay of climate change-exacerbated rainfall, exposure and vulnerability led to widespread impacts in the Mediterranean region", World Weather Attribution, 18 September 2023, <http://hdl.handle.net/10044/1/106501>

¹⁴ Abdelwanees A. R. Ashoor, "Estimation of the surface runoff depth of Wadi Derna Basin by integrating the geographic information systems and Soil Conservation Service (SCS-CN) model", Sabha University Journal of Pure and Applied Sciences, 27 November 2022, <https://doi.org/10.51984/jopas.v21i2.2137>

¹⁵ Libya Audit Bureau, 2020, تقرير ديوان المحاسبة لسنة 2020 [Audit Bureau Report for 2020], <https://www.audit.gov.ly/ar/reports>, (in Arabic).

¹⁶ According to letter of the Public Prosecutor's office, the Ministry of Water Resources was subsequently abolished and replaced by the General Water Authority.

¹⁷ LANA, "LANA, تقرير ديوان المحاسبة : لا يوجد أي قيود رقابية من قبل الديوان تعيق عمليات التنفيذ حتى تاريخ انهيار السدود ووقوع الكارثة", ["Audit Bureau report: "There are no supervisory restrictions by the Bureau that hinder implementation processes until the date of the collapse of the dams and the occurrence of the disaster"], 19 September 2023, <https://lana.gov.ly/post.php?lang=ar&id=288571> (in Arabic).

confirming that the Ministry of Water resources had obtained the necessary authorization and financial resources to implement projects designed to maintain the two dams in Derna. Acknowledging the scale of the rainfall during Storm Daniel, the Libyan Audit Bureau recommended engaging an international consulting firm to ascertain whether the failure to adequately maintain dams had led or contributed to their collapse.¹⁸



BUTHAINA AFFAN – THE ONLY SURVIVOR IN HER APARTMENT BLOCK

Buthaina Affan, a 21-year-old woman from Derna, lived with her family in the Awqaf building in the Wadi Derna (Derna valley) neighbourhood in the city centre. She recounted the terrifying night of 11 September 2023, when the entire building, which consisted of seven floors and 48 apartments, was swept away, and with it, her parents, brother, in-laws, nephews, nieces and neighbours. She was the only person to survive. She told Amnesty International:

“It was 2.50am... My father and I left our apartment on the third floor and ran to the roof of the building. My brother and mother had gone up before us, together with our neighbours, all climbing the stairs to escape the water. They thought that the roof of the building, with its height of approximately 30m, would protect them from drowning, but fate had a different opinion. In seconds, I sprinted to the fourth floor, looked behind me, and [saw that] the water had covered the entire floor. I lost track of my father. I reached the fifth floor, crowded with children and women. [I could hear] their voices, screams, and prayers to God. My mother was climbing the stairs with our neighbour, and when I almost reached her, I called her, and she turned to look at me. In those seconds, everything changed as the building was collapsing.

“I saw how the water took them all before reaching me at the corridor’s end. The strong water flow took me out, and the torrent took me away. I saw streets and houses being demolished until I emerged to the water’s surface. It was only a matter of seconds before I managed to grab a [tree] trunk with my hand. Otherwise, I would have drowned in the water again. My hair was tied to a tree, and my main concern was not to let go of the tree trunk so as not to die. There were people on the roof of another building who heard me screaming. The men on the roof shined their mobile phone flashlights towards me, encouraging me to hold on. I held on to that tree until dawn, until the water level began to lower, and everything had ended. At this moment, I started to think about who had survived and who had died: my mother, my brother, where had the water taken them? Did my sister, her children, and her husband drown in water? All these questions had no answer. That was the worst day of my life, and it still is to this day. I stayed for the rest of September and the beginning of October in the hospital, and they did not leave my thoughts. We found no trace of them [my family]”.

At least 44,862 people (8,907 households) were displaced from the city of Derna and other affected areas due to the floods, according to data collected in October 2023 by IOM’s Displacement Tracking Matrix (DTM).¹⁹ Over 90% ended up in 18 municipalities across north-eastern Libya, mainly in Derna, Benghazi and Jabal Al-Akhdar regions, while the remainder moved to western Libya. Just over half of the internally displaced people (52%) lived in self-paid rented accommodation, while 45% lived with host families and about 2% sought shelter in public buildings and informal camp-like settings. Some 5,669 individuals (1,139 households) displaced by Storm Daniel returned to their homes, notably to Toukra (1,605 returnees), Shahat (1,200) and Labriq (1,170). According to IOM’s DTM, the top three humanitarian priority needs for those newly displaced by floods were accommodation, health services and food.²⁰

¹⁸ See Chapter 5 “Investigations into Storm Daniel”

¹⁹ IOM, *IOM Libya: Impact of storm Daniel: An update on displacement and needs following the floods in north eastern Libya*, November 2023, <https://dtm.iom.int/reports/libya-impact-storm-daniel-update-displacement-and-needs-november-2023>

²⁰ IOM, *IOM Libya: Impact of storm Daniel: An update on displacement and needs following the floods in north eastern Libya* (previously cited).

3.3 LIBYA'S VULNERABILITY TO CLIMATE CHANGE IMPACTS

Climate change experts at the United Nations University stated, "the floods in Libya have highlighted the devastating impact of climate change and exposed the country's high vulnerability to extreme weather events". The experts warn that Libya's "disaster risk management was fragmented due to the ongoing conflict, the dam infrastructure ageing, and its early warning systems [being] inadequate".²¹

The study "Interplay of Climate Change-Exacerbated Rainfall, Exposure and Vulnerability Led to Widespread Impacts in The Mediterranean Region", conducted by 13 meteorologists and climate experts and assessed by eight writers and researchers in the wake of Storm Daniel, concluded that the likelihood of extreme weather events had risen fiftyfold, with a 50% increase in intensity, compared to a 1.2C colder climate.²²

Libyan activists and organizations have highlighted how Libya's ageing and poorly maintained infrastructure exacerbates the risks posed by climate change. According to Fayeza Dayhoum of the Free Cyrenaica organization, four other smaller dams burst in Jabal Al-Akhdar region of eastern Libya due to the heavy floods on 11 September, namely Al-Qarawi dam in Al-Bayadah, Al-Kaki dam linking Taknis with Al-Bayadah, Al-Mukhaili dam and Samalos dam. Dave Petley, an expert in the management of landslides, also warned in the aftermath of Storm Daniel that "climate change is an existential threat as rainfall totals start to exceed the design capacity. In such cases, new engineering is needed".²³

²¹ Michael Hagenlocher, Sanae Okamoto and Nidhi Nagabhatla, "Libya flood reveals disaster prevention deficit in fragile states", United Nations University, 10 November 2023, <https://unu.edu/article/libya-flood-reveals-disaster-prevention-deficit-fragile-states>

²² Mariam Zachariah and others, "Interplay of Climate Change-Exacerbated Rainfall, Exposure and Vulnerability Led to Widespread Impacts in the Mediterranean Region", (previously cited).

²³ Dave Petley, "Further information about Derna", The Landslide Blog, Eos Magazine, American Geophysical Union (previously cited)

4. HUMAN RIGHTS CONCERNS IN THE CRISIS RESPONSE

4.1 CONFLICTING INSTRUCTIONS AHEAD OF STORM DANIEL

The impacts of catastrophic dam bursts can be mitigated through adequate, regularly reviewed and properly implemented risk reduction protocols that include real-time monitoring of forecasts, water volumes and warning systems²⁴ to alert people downstream of dams of possible failures and the need to evacuate. However, ahead of Storm Daniel, officials in eastern Libya provided Derna residents with conflicting instructions on whether to evacuate or remain at home under curfew, which, according to Libyan civil society activists and other experts interviewed by Amnesty International, contributed to the staggering loss of life.

On 7 September 2023, three days before the heavy rainfall hit north-eastern Libya, the Libyan National Meteorological Centre issued early warnings, notifying all government authorities of expected adverse weather conditions and urging them to roll out preventive measures.²⁵

On 8 September, the office of the Acting Prime Minister of the GNS, Osama Hammad, issued a warning to people in Derna and surrounding areas to “stay away” from valley streams and low-lying areas to avoid the risks of torrents and expected floods. However, the warning did not include clear information on risks or instructions on evacuations from neighbourhoods most likely to be affected.²⁶

On 9 September, Osama Hammad issued Decree 72 of 2023 designating 10 and 11 September 2023 as official holidays due to expected adverse weather conditions and for the GNS minister of Interior to issue instructions to all security bodies to limit traffic in affected areas.²⁷

²⁴ The UN Office for Disaster Risk Reduction defines an early warning system as “an integrated system of hazard monitoring, forecasting and prediction, disaster risk assessment, communication and preparedness activities systems and processes that enables individuals, communities, governments, businesses and others to take timely action to reduce disaster risks in advance of hazardous events.” It notes that effective “end-to-end” and “people-centred” early warning systems may include four interrelated key elements: (1) disaster risk knowledge based on the systematic collection of data and disaster risk assessments; (2) detection, monitoring, analysis and forecasting of the hazards and possible consequences; (3) dissemination and communication, by an official source, of authoritative, timely, accurate and actionable warnings and associated information on likelihood and impact; and (4) preparedness at all levels to respond to the warnings received. It further notes that these four interrelated components need to be coordinated within and across sectors and multiple levels for the system to work effectively and include a feedback mechanism for continuous improvement, and that failure in one component or a lack of coordination across them could lead to the failure of the whole system”. See UN Office for Disaster Risk Reduction, Early warning system, <https://www.undrr.org/terminology/early-warning-system>

²⁵ World Meteorological Organization, “Storm Daniel leads to extreme rain and floods in Mediterranean, heavy loss of life in Libya”, 13 September 2023, <https://reliefweb.int/report/libya/storm-daniel-leads-extreme-rain-and-floods-mediterranean-heavy-loss-life-libya>

²⁶ Libyan Government of National Stability (GNS), Facebook video post, “كلمة رئيس مجلس الوزراء الدكتور أسامة حماد خلال إحاطته أمام مجلس النواب الليبي عن أعمال الحكومة ودورها “ خلال كارثة العاصفة دانيال “Speech by Prime Minister Osama Hammad during his briefing to the House of Representatives on the government’s work and role during the Storm Daniel disaster”, 28 November 2023, www.facebook.com/MidiaGovLibyan/videos/1106589747173947 (in Arabic, accessed 2 February 2024).

²⁷ Derna municipal council, Facebook video post, “حكم تقرير و طارئة عطلة تحديد بشأن ٢٠٢٣ لسنة ٧٢ رقم السريعة الاستجابة و للطوارئ العليا اللجنة رئيس و الوزراء مجلس رئيس قرار “ [“Decision of the Prime Minister and Chairman of the Supreme Committee for Emergency and Rapid Response No. 72 of 2023 regarding an emergency holiday and a ruling report”], 9 September 2023, <https://www.facebook.com/photo/?fbid=897215265184071> (in Arabic).

Also on 9 September, the Derna Municipal Council called for the evacuation of the coastal areas of Al-Jbeilah, Sayidah Khadija and Wadi al-Naqa, as well as the summer resorts on the coast extending to Al-Karsa, some 6km west of Derna.²⁸ The same day, the Derna Security Directorate in the LAAF-aligned ministry of interior issued Statement No. 1,²⁹ which instructed residents of the area from Al-Hussayn in the east to Lathrun in the west, as well as those in valleys, in particular Wadi al-Shawar, to exercise caution and cooperate with security personnel in evacuations. That day, the Libyan Red Crescent in Derna drove around the coastal areas, including Al-Jabal, and warned residents via loudspeakers to evacuate immediately given expected adverse conditions for “their and their children’s safety”.³⁰ According to media reports, some Derna residents did evacuate,³¹ mainly from the coastal areas. However, three survivors from Derna told Amnesty International that residents of Wadi Derna (16km from the coast), which was among the worst-affected areas, were not reached by outreach and evacuation efforts.

In the evening of 9 September, the media office of Derna Municipal Guards broadcast a video in which an official stated that municipal guards together with the LAAF had carried out evacuations of coastal Derna neighbourhoods, and were now preparing to enforce a curfew from 10pm based on instructions from Major General Embarek Mustafa Bouharara, head of the Derna Security Directorate and had established an emergency room to respond to the expected adverse weather conditions.³²

On 10 September, Major General Embarek Mustafa Bouharara announced via a video statement a curfew in the city³³ from 7pm on 10 September until 8am on 11 September. Also on 10 September, the media office of the Derna Security Directorate issued Statement No. 2,³⁴ which called on Derna residents to follow the instructions of the Derna Emergency and Rapid Response Room to respect the curfew and avoid going out unless absolutely necessary. However, on the same day, it issued Statement No. 3, which urged residents of Wadi al-Hussein, Dhail al-Wadi, Wadi Ambach, Wadi al-Shawar and the shops overlooking the sea to evacuate immediately.³⁵

About 90 minutes before the dams collapsed at 2.50am on 11 September, the MoWR declared that Derna’s dams had been inspected and were in good condition, refuting claims on social media that the Derna dam had collapsed, but indicating that contact had been lost with staff at the Abu Mansour dam due to power cuts and road closures.³⁶ Ten minutes after the dams collapsed, the MoWR announced that the dams had reached capacity, advising residents downstream in the valley to evacuate. At that point, it was too late.

²⁸ Derna Municipal Council, Facebook video post, #“متابعات الطوارئ_درنه” [“#Emergency_Followups_Derna”], 10 September 2023, <https://www.facebook.com/watch/?v=565668388964986> (in Arabic).

²⁹ The Media Office of the Security Directorate - Derna, Facebook post, “الجوي الاحوال بشأن درنة امن مديرية بيان”, [“Statement by the Derna Security Directorate regarding the weather conditions”] 10 September 2023, <https://www.facebook.com/photo/?fbid=622061613407088> (in Arabic).

³⁰ Derna Now, Facebook video post, “العائلات اخلاء عملية ب يقوم الاحمر الهلال”, [“The Red Crescent evacuates families”], 9 September 2023, <https://www.facebook.com/watch/?ref=search&v=821416696028969> (in Arabic).

³¹ Washington Post, “How government neglect, misguided policies doomed Libya to deadly floods”, 5 October 2023, <https://www.washingtonpost.com/world/2023/10/05/libya-derna-floods-disaster-government/>; and Reuters, Casualties in Libya floods could have been avoided with warning system: WMO chief”, 14 September 2023, <https://www.reuters.com/world/africa/casualties-libya-floods-could-have-been-avoided-with-warning-system-wmo-chief-2023-09-14/>

³² Media office of the Derna Municipal Guard Directorate, Facebook video post, “تنفيذا لتعليمات السيد مدير مديرية الحرس البلدي درنه لواء مسعود صالح حمد للفروع التابعه للمديرية قام فرع الحرس البلدي درنه بقيادة عقيد حفيظ الجريبي برفقه الاجهزه الامنيه وذلك لإخلاء الأحياء القريبه من الشواطئ وكذلك فرض حظر تجول للمواطنين سيبدأ منذ الساعة 12 ليلا ونرجوا من جميع المواطنين In implementation of the instructions of the Director of the Derna Municipal Guard Directorate, Major General Masoud Saleh Hamad, for the branches affiliated with the Directorate, the Derna Municipal Guard branch led by Colonel Hafeez Al-Jaribi, accompanied by security bodies to evacuate the coastal neighbourhoods and to impose a curfew from 12am asking for all to cooperate with the Municipal Guards”, 9 September 2023, <https://www.facebook.com/watch/?ref=search&v=664490592302089> (in Arabic).

³³ News of ministries, bodies and institutions of the State of Libya, Facebook video post, #متابعات | أمن مدير | “بوحاررة أمبارك” دكتور لواء درنة# أمن مدير | متابعات, [“Followups | #Derna Security Director, Major General Dr. Embarek Bouharara, announces a curfew within the city due to the expected emergency weather conditions”], 10 September 2023, <https://www.facebook.com/watch/?v=696943189163138> (in Arabic).

³⁴ Media Office of the Security Directorate – Derna, Facebook post, “مديرية أمن درنة بيان غرفة الطوارئ والاستجابة السريعة درنة”, [“Derna Security Directorate, Statement of the Emergency and Rapid Response Room, Derna”], 10 September 2023, <https://www.facebook.com/photo/?fbid=622061760073740> (in Arabic).

³⁵ Media Office of the Security Directorate – Derna, Facebook post, “مديرية أمن درنة بيان غرفة الطوارئ والاستجابة السريعة درنة”, [“Derna Security Directorate, statement of the Emergency and Rapid Response Room, Derna”], 10 September 2023, <https://www.facebook.com/photo/?fbid=622062216740361> (in Arabic).

³⁶ Ministry of Water Resources, Facebook post, “تويه عام”, [“General disclaimer”], 11 September 2023, <https://www.facebook.com/photo.php?fbid=300971079193639> (in Arabic, accessed 2 February 2024).

In addition to concerns over conflicting messages and instructions by local authorities ahead of Storm Daniel, even the meteorological warnings that were disseminated did not include information on the risks posed by the ageing dam infrastructure and the possible impact of adverse conditions to people, property, livelihoods and infrastructure, as per the guidelines of the Public Weather Service programme of the Weather and Disaster Risk Reduction Department of the World Meteorological Organization.³⁷ The World Meteorological Organization assessed that the devastating loss of life in Derna could have been avoided with proper warnings and evacuations.³⁸



KHADIJA 'THE WATER HAS RETURNED!'

On the night of 11 September, 20-year-old Khadija³⁹ was home with her family in the neighbourhood of Wadi al-Warsh in the west of Derna, when she heard a loud sound that she thought was thunder. She recounted what happened next:

“I heard my sister’s voice saying, ‘The water is entering.’ I ran to her and saw that the water had seeped through the kitchen door... I grabbed my sister’s hand and went to the living room... The water continued to flow until half of the house was filled. Then, my father was able to open the [front] door, and the water gushed out. My sister and I hurried to get some things. My father warned us, ‘The water has returned. Get to the roof.’ There, we saw something tall, black, approaching. It took me a few seconds to realize that it was a flowing wave sweeping away everything in its path. For a few moments, I was submerged under water. I stopped breathing and closed my eyes. I was underwater for some time until I felt that I was close to the surface. I pulled myself up to the surface and saw what remained of the [Derna] valley to my right, and I turned my gaze to the left and saw the roof of a building; I held onto the railing of roof for a few seconds, but I could not hold on. After I let go, I quickly found a [floating] pillow that I grabbed to help me not drown again. I remained like this for about 10 minutes until I saw a sofa, swam towards it and climbed onto it...

“I called my family, but no one answered me. I thought it was the end until a man asked me, ‘Who is screaming?’ I gave my name, then heard a woman’s voice saying, ‘I am your mother. Are you okay? Stay where you are’. Moments later, a building collapsed in the direction from where my mother’s voice came, and the sound of her screaming faded. I started shouting, ‘Mum,’ and heard her replying that she was fine... We remained in this state until the water level decreased. Someone came out carrying a lamp and threw us two jackets, some water, and a rope to hold on to. My mother was some distance away, which made matters more difficult due to the rubble, and [pieces of] iron and wood that filled the place. When I reached her, I saw my mother’s face covered in blood. I thought she had lost her sight. Then I realized that her nose was bleeding because a tree that had fallen on her...

A young man helped my mother [to get to the roof]. I went up to the roof of the building and waited until sunrise. In the morning, we walked out, and saw corpses, the extent of the destruction, and people carrying their relatives’ bodies in shrouds on their shoulders. I heard the screams of mothers and children. I searched for my family members, but I could not find anyone. After a week, I learned that the people who lived in the same area had all died. In our street, where 31 people lived, only four survived”.

Khadija’s father and twin sister were among those who died.

4.2 RIGHT TO INFORMATION ABOUT MISSING RELATIVES

³⁷ The United Nations Office for Disaster Risk Reduction and World Meteorological Organization, *Global Status of Multi-Hazard Early Warning Systems 2023*, 3 December 2023, <https://www.undrr.org/media/91954/download?startDownload=true>

³⁸ ABC News (Australia), YouTube video, “Mass deaths in Libya could have been prevented with weather agency: UN ambassador” , 15 September 2023, https://youtu.be/-LsPjui4z4U?si=4cGZowpr_6y20Tt0&t=79 (accessed 2 February 2024).

³⁹ Pseudonym.

Survivors of disasters have the right to timely information about their missing relatives. Six months after the devastating floods, Derna residents are still haunted by the unknown fates and burial places of their missing loved ones. Their suffering is compounded by the rushed burials of thousands of bodies in mass graves by local authorities and volunteers without identification in the immediate aftermath of the crisis, and the time and resources needed to recover and identify human remains buried in mass graves.

The process is further complicated by the involvement of four Tripoli-based and GNU-affiliated governmental agencies, namely the General Authority for the Search and Identification of Missing Persons (GASIMP), the Criminal Investigations Department at the ministry of interior, the Expertise and Research Centre at the ministry of justice, and the National Authority for DNA Fingerprinting Research and Analysis (NADRA). All these bodies were instructed by the Tripoli-based Public Prosecutor's office to join a single technical working group under the leadership of the office. However, according to individuals directly involved in the process of recovering and identifying the remains of victims, no proper coordination took place and instead the agencies competed duplicating efforts .

Estimates vary of the number of people who went missing in the wake of the floods. On 12 September, the GNS ministry of health announced that over 12,000 people were missing,⁴⁰ while the UN Office of the Coordination of Humanitarian Affairs (OCHA) estimated it was 8,000.⁴¹

As of 22 September, 3,753 bodies had been recovered, according to Mohamed Eljarh, the former spokesperson for the Libya Higher Committee for Emergency and Rapid Response, which the GNS established in the aftermath of Storm Daniel to provide immediate relief and medical aid to survivors.⁴² Derna residents interviewed by Amnesty International said that human remains continued to wash up daily on Derna's shores until the middle of November, and expressed fears that thousands more bodies had yet to be recovered.

Immediately after the disaster, the rescue team of Derna municipality, accompanied by hundreds of volunteers and acting under the supervision of the LAAF, buried over 2,500 bodies in a rushed manner,⁴³ saying the aim was to prevent the spread of infections and diseases, according to several well-informed sources interviewed by Amnesty International, including a Derna medical professional, a local activist and GASIMP officials.

Civil society activists and humanitarian workers raised concerns about the authorities' failure to adopt measures to enable the identification of victims before burial, including recording the exact location of an individual's burial as well as other relevant information and recovered belongings. On 15 September, in a joint news release,⁴⁴ the International Federation of the Red Cross and Red Crescent Societies (IFRC), the International Committee of the Red Cross (ICRC) and the World Health Organization (WHO) warned that the speedy burying of bodies in mass graves could be detrimental to the population, given the long-lasting mental distress for family members as well as "social and legal problems" . According to a field manual for first responders on the management of dead bodies after disasters developed by the Pan American Health Organization and updated by the WHO, ICRC and IFRC, "careful documentation and mapping of the burial site are important to ensure that the dead bodies can be traced throughout the process. Responders should make sure that each dead body, and its body bag or coffin, is securely tagged with its unique body code on a waterproof label or paper in plastic before burial."⁴⁵

Kamal Abu Bakr, head of the GASIMP, told Amnesty International that as of 30 November 2023, Derna residents were still reporting missing relatives. He explained that the GASIMP was working on drawing a genetic mapping factsheet for families of victims to facilitate the process of identifying bodies buried in mass graves. According to Kamal Abu Bakr, as of 10 December, 1,875 bodies had been exhumed from the Al-Dhahr Al-Hamr and Martouba cemeteries, near Derna, and

⁴⁰ Alarabiya, "أرقام رسمية ليبية صادمة.. آلاف الضحايا والمفقودين في أحياء جرفت بكاملها بدرنة ["Shocking official Libyan figures: Thousands of victims and missing people in entire neighbourhoods of Derna that were swept away"], 12 September 2023, <https://shorturl.at/ostwF> (in Arabic).

⁴¹ OCHA, "Libya Floods: Multi-Thematic Rapid Needs Assessment Report (19-26 September 2023)" (previously cited).

⁴² Albayan, "مسؤول ليبي: ارتفاع عدد ضحايا الإعصار 'دانيال' إلى 3753 قتيلاً في درنة", ["Libyan official: Rise of Storm Daniel victims to 3,753 killed in Derna"], 23 September 2023, <https://www.albayan.ae/world/arab/2023-09-23-1.4732382>

⁴³ Derna Zoom, X video post, "دفن مئات الضحايا جماعيا في منطقة الظهر الحمر", ["Mass burials of hundreds of victims in area of al-Dhahr al-Ahmar], 13 September 2023, <https://twitter.com/dernazoom/status/1701884223378882784>

⁴⁴ International Committee of the Red Cross (ICRC), "International Federation of Red Cross and Red Crescent societies (IFRC) and WHO, "Dead bodies from natural disasters and conflict do not generally pose health risks, Red Cross and WHO say", 15 September 2023, <https://www.icrc.org/en/document/dead-bodies-natural-disasters-and-conflict-do-not-generally-pose-health-risks>

⁴⁵ Pan American Health Organization, WHO, ICRC and IFRC, *Management of Dead Bodies after Disasters: A Field Manual for First Responders, Second Edition*, 2016, <https://iris.paho.org/handle/10665.2/31295> (accessed on 8 February 2024).

5,621 DNA samples had been collected. Of 1,875 recovered bodies, 1,847 were re-shrouded and buried in individual graves, with documentation and a barcode, in Al-Fatayeh cemetery in Derna, while the remaining 28 bodies were kept in a morgue.

Teams from the GASIMP, Red Crescent and Emergency Medicine and Support Center exhumed the bodies from mass graves, following authorization by the Tripoli-based Public Prosecutor's office. In its response to Amnesty International received on 7 February 2024, the Public Prosecutor's office clarified that it had established an advisory secretariat to support investigations into the fate of missing persons, examine the remains of unidentified persons, determine the causes of their deaths, collect DNA samples from the uncovered remains and the families of the missing, and inform relatives of results.

On 14 October, the Public Prosecutor's office published a video on its Facebook page announcing visits by forensic medical consultants and specialists in genetic fingerprint technology to the burial sites of flood victims in Derna.⁴⁶ According to the video, the team's mission was to examine the remains of unidentified people, determine the causes of their deaths, and collect genetic fingerprint samples from the deceased and from families of missing persons. According to the video, the GNU ministry of health had established dedicated facilities for identifying victims, including 360 refrigerators to facilitate the preservation of human remains and laboratories to perform genetic fingerprinting testing.

Kamal Abu Bakr said that the GASIMP opened two offices in the affected areas, namely in Shiha in Al-Wadi region, west of Derna, and in Bab Tobruk, east of Derna, to collect information and DNA samples from the families of missing persons. He added that, as of 24 January 2024, families had reported 2,143 missing individuals, while the total number of DNA samples collected from families reached 1,756. Similar statistics were provided to Amnesty International in the letter by the Public Prosecutor's office of 7 February 2024, which indicated that 1,767 DNA samples were collected from families of the missing, and 2,836 samples were collected from unidentified persons' remains. Kamal Abu Bakr explained that the process of matching DNA samples in laboratories with the samples of bodies exhumed from mass graves would take approximately two years and need additional financial and human resources. He also noted the challenges of accurately estimating the total number of bodies that were buried in a rushed manner in the first days of the disaster and of identifying all relevant locations, given that the burials were carried out without proper coordination by various actors, including the LAAF, national and municipal police, rescue teams, Derna residents, and volunteers from further afield.

Kamal Abu Bakr also noted GASIMPs efforts to identify the remains of foreign nationals killed during the floods, including adopting measures, in coordination with the Ministry of Foreign Affairs and International Cooperation, to send teams to Egypt, Turkey, Syria, Niger and Sudan to collect samples from families of those missing. Similarly, in its response to Amnesty International, the Public Prosecutor's office noted its outreach to relevant embassies and requests for the collection of DNA samples from the families of missing foreign nationals.

Not knowing the fate or resting place of loved ones compounds the suffering of survivors, as they are unable to mourn or bury their loved ones according to their customs. The lack of death certificates also impacts a host of civic, economic, social and inheritance rights and creates bureaucratic obstacles for survivors – in particular women who lost their husbands – in accessing available assistance, including widows' pensions.

Buthaina Affan, who lost all her family in the floods,⁴⁷ told Amnesty International that she visited the centre operated by the GASIMP to provide her blood sample in the hope of identifying the bodies of her missing loved ones, and reported the names and details of her missing family members to the police in Derna. She expressed her concerns over expected delays in obtaining death certificates and the difficulties this would create for her to access government benefits, including housing allowances. She also noted that she needed legal assistance to navigate the complicated bureaucratic process of updating her personal status in her identity documents and to claim her inheritance and other social rights, and did not have the financial means to secure a lawyer. According to information available to Amnesty International, authorities did not put in place any measures to ensure that impacted individuals have access to free legal advice and assistance to help them to claim their rights.

These difficulties stem from Libyan laws, including personal status laws, which stipulate that the death of a missing husband is acknowledged four years after he is registered as missing. In relation to other missing persons, their death can

⁴⁶ Attorney General Office State of Libya, Facebook video post, "حفظ الجثث درنة" ["Preservation of Derna corpses"], 14 October 2023, <https://www.facebook.com/attorneygeneral.ly/videos/168282382226699>

⁴⁷ See section 3.2 "Storm Daniel" .

only be registered following a court decision or proof of death. According to Article 25 of Law No. 17 of 1992, “the missing status ends with the proof of the missing person’s life or death, or a judgment considering him/her dead.”⁴⁸

On 26 November 2023, the GNS minister of justice, Khaled Masoud, submitted a proposed law to the GNS prime minister to consider a missing person as dead after six months,⁴⁹ rather than four years, to address the rights of heirs as well as to enable married women with missing husbands to be recognized as widows.⁵⁰ No information was made publicly available on whether this proposal was tabled for discussions at the Tobruk-based House of Representatives, Libya’s parliament allied to the LAAF.

4.3 COMPENSATION FOR DISPLACED AND AFFECTED COMMUNITIES

Amnesty International found, through interviews with survivors and civil society activists and a review of official statements on assistance for those affected by the floods, that the GNU, as well as the de facto authorities in the east, failed to ensure that all internally displaced people and others affected by the flooding enjoyed equal and timely access to relief and rehabilitation measures without discrimination.

In the aftermath of the floods, the Tripoli-based government and the de facto authorities in eastern Libya announced the provision of housing and other assistance to affected families. While some 13,033 individuals in Derna and other impacted municipalities in eastern Libya received financial compensation from the GNS by 16 January 2024, families displaced to western Libya spoke of delays in receiving compensation or assistance in securing accommodation. Due to their actual or perceived opposition to the LAAF, some families in the east told Amnesty International that they refrained from approaching the authorities to claim compensation in fear of reprisals.

The rival Libyan governments approved significant budgets for relief and reconstruction efforts in the wake of the floods. On 14 September 2023, the GNS-aligned House of Representatives⁵¹ approved an emergency budget of LYD 10 billion (USD 2.07 billion),⁵² and the GNU approved a budget of LYD 2 billion (USD 414.4 million).⁵³ Their decisions followed Decree No. 73/2023 by the GNS prime minister, which allocated LYD 200 million (USD 41.4 million) to address the damage in 19 affected areas.⁵⁴

During a parliamentary session on 27 November 2023, Osama Hammad, Acting Prime Minister of the GNS, presented a report on the actions and measures taken by the GNS in response to the floods.⁵⁵ According to the report, the GNS allocated LYD 278 million (USD 57.38 million) in total for the immediate flood response. He briefed the House of Representatives on the distribution of LYD 178 million (USD 37 million) in compensation for damage to properties,

⁴⁸ Law No. 17 of 1992 regulating minors and those of equivalent status, 28 October 1992, <https://lawsociety.ly/en/legislation/law-no-17-of-1992-regulating-of-minors-and-those-of-equivalent-status/> (accessed 8 February 2024).

⁴⁹ Bawabat al-Wasat, Facebook video post, “ملف المفقودين بدرنة على طاولة وزارة العدل” [“The file of the missing persons in Derna discussed by the Ministry of Justice”], 29 November 2023, https://www.facebook.com/watch/?ref=embed_video&v=1504343733696204 (in Arabic).

⁵⁰ Libyan News Agency (LANA), “جامعة درنة تنظم ملتقى حوارى حول أحكام المفقود في القانون الليبي” [“The University of Derna organizes a dialogue forum on provisions on missing persons in Libyan law”], 26 November 2023, <https://lana.gov.ly/post.php?lang=ar&id=295476> (in Arabic).

⁵¹ In 2014, the House of Representatives relocated from Tripoli to Tobruk and allied with the LAAF. In September 2021, the House of Representatives passed a no-confidence motion against the interim GNU government and later appointed the rival GNS.

⁵² LANA, “النواب يقر ميزانية طوارئ بقيمة 10 مليار دينار لمعالجة آثار الفيضانات في شرق البلاد” [“The House of Representatives approves an emergency budget worth LYD 10 billion to address the consequences of floods in the east of the country”], 14 September 2023, <https://lana.gov.ly/post.php?lang=ar&id=288155> (in Arabic).

⁵³ LANA, “حكومة الوحدة الوطنية تخصص ملياري دينار للمدن المنكوبة” [“The Government of National Unity allocates LYD 2 billion for affected cities”], 12 September 2023, <https://lana.gov.ly/post.php?lang=ar&id=287964> (in Arabic).

⁵⁴ The Libyan Government, Facebook post, “إحاطة رئيس مجلس وزراء الحكومة الليبية الدكتور أسامة حماد أمام مجلس النواب في بنغازي” [“Briefing of the Prime Minister of the Libyan Government, Dr. Osama Hammad, before the House of Representatives in Benghazi”], 27 November 2023 <https://www.facebook.com/photo/?fbid=333487739315658&set=a.112442711420163> (in Arabic).

⁵⁵ The Libyan Government, Facebook video, “كلمة رئيس مجلس الوزراء الدكتور أسامة حماد خلال إحاطته أمام مجلس النواب الليبي عن أعمال الحكومة ودورها خلال كارثة العاصفة دانيال” [Speech by Prime Minister Osama Hammad during his briefing before the House of Representatives on the government’s work and role during the Storm Daniel disaster], 28 November 2023, <https://www.facebook.com/MidiaGovLibyan/videos/1106589747173947> (in Arabic).

livestock and agricultural goods to 7,623 impacted individuals in 17 affected areas excluding Derna.⁵⁶ He added that a further LYD 104 million (USD 2.6 million) was distributed as compensation for damage to houses and other properties in the city of Derna, reaching 1,868 affected people. Osama Hammad noted that GNS Decree No. 75/2023, issued on 11 September 2023, allocated LYD 30.5 million (USD 6.3 million) in response to the immediate needs of the municipalities in the affected areas. An additional LYD 47.5 million (USD 9.8 million) was allocated to the hospitals and medical centres in the affected areas, based on decree No. 82/2023 issued on 15 September 2023.

On 29 September, Faraj Kaeem, deputy minister of interior of the GNS, was quoted in the media stating that individuals whose homes were completely destroyed would receive LYD 100,000 (approximately USD 20,000). Those whose homes were "partially" destroyed would receive LYD 50,000 (approximately USD 10,000), while LYD 20,000 (approximately USD 4,100) would be granted to residents who lost furniture and household appliances.⁵⁷ In a video published on the Facebook page of the GNS on 3 December, Abu Bakr al-Zwai, undersecretary of the GNS ministry of local government and chairman of the Committee to Survey the Damage, announced that the committee had completed an inventory of approximately 85% of the damaged homes and other properties in Derna.⁵⁸ According to a statement published on the GNS Facebook page on 6 December, a total of 3,010 families in Derna had received financial compensation.⁵⁹

On 26 September, the GNS announced the completion of some housing projects on the outskirts of Derna city as a temporary alternative for families who had lost their homes. Two affected Derna residents told Amnesty International that the GNS notified them on 30 November that they would receive apartments in the "Korean Buildings" in Derna, a housing project initially built by Mu'ammar al-Gaddafi's government, once construction work and repairs had been completed.

According to its letter to Amnesty International received on 7 February 2024, the Public Prosecutor's office registered 8,547 individual complaints regarding damaged property in Derna and delegated assessments of damages to relevant experts including engineers and accountants. The Public Prosecutor's office specified that the work was ongoing, and that once completed, results will be shared with relevant government agencies. The Public Prosecutor's office also reaffirmed the right of families of victims and those affected to file claims in front of civil courts, or become a civil party in criminal proceedings. It also noted that in cases of manslaughter, victims' families have the right to "blood money" (*diya*) by the person or state entity responsible for the death.

A Derna resident, who asked for identifying information to be withheld over concerns of reprisals by the LAAF, told Amnesty International that many families in Derna were still not aware of the registration process to receive compensation, including for those displaced in the west. According to Derna residents interviewed by Amnesty International, most found out about this process through information disseminated on the Facebook pages of the GNS or GNU ministries and local authorities or through word of mouth, which disadvantages those with little or no access to the internet. The aforementioned Derna resident added that some families did not approach the de facto authorities in the east fearing reprisals against them because of their actual or perceived opposition to the LAAF.

Mabrouka Heweidi, a 27-year-old medical student from Derna, who was displaced with her family from Derna to Tripoli after their home was destroyed, told Amnesty International:

"We left our home because of the disaster. I wanted to shed light on my suffering. I am continuing to study at the University of Tripoli until I return to Derna. I started training in a hospital for five days, and because we did not have transportation, I used to go to the training by taxi with my brother. The cost was very high. Why do we pay these sums that

⁵⁶ The Libyan Government, Facebook post, "نص إعانة رئيس مجلس الوزراء الدكتور أسامة حماد، أمام مجلس النواب الليبي، عن أعمال الحكومة ودورها خلال كارثة العاصفة دانيال" [Text of Prime Minister Dr. Osama Hammad's briefing, before the Libyan House of Representatives, on the government's work and role during the Storm Daniel disaster.], 28 November 2023, <https://www.facebook.com/MidiaGovLibyan/posts/pfbid06AsvG5QGgyBqocu3U4ABZnTDicuGtur67KjGYptnKc9TD2z5qduY9kfi8cD8m6cql> (in Arabic).

⁵⁷ France 24, "Four more officials held after Libya flood disaster", 29 September 2024, <https://www.france24.com/en/live-news/20230929-four-more-officials-held-after-libya-flood-disaster>

⁵⁸ The Libyan Government, Facebook video, "لجنة حصر وتقييم الأضرار تواصل عملها بالمناطق المتبقية من درنة وتستمر في عملية صرف صكوك جبر الضرر المخصصة من الحكومة الليبية لدرنة" [The Committee to Survey and Evaluate Damages continues its work in the remaining areas of Derna and continues the process of disbursing reparation allocated by the Libyan government in Derna], 3 December 2023, <https://www.facebook.com/watch/?v=886204579879365> (in Arabic).

⁵⁹ The Libyan Government, Facebook post, "لجنة التعويض وحصر الأضرار تسلم الدفعة التاسعة من صكوك التعويضات على 445 عائلة متضررة من السيول والفيضانات في درنة" [The Committee for Compensation and Surveying Damages distributes the ninth batch of compensations for 445 families affected by torrents and floods in Derna], 7 December 2023,

<https://www.facebook.com/MidiaGovLibyan/posts/pfbid02Vf1Zq39TfBHVBeLbmz4jnzRvewYQr5npi8K93ZBz65a554A6wb8QDUR7uRRMhLtl> (in Arabic).

some may see as small? I am supposed to receive compensation from the state. We hear about families who received compensation while they were not harmed. We need transparency in paying the compensation.”

Mabrouka Heweidi reported that most people displaced from Derna to western Libya were left without help. She added:

“My family was advised by local authorities [in eastern Libya] and relatives to go back to Derna to receive compensation. My elder brother stayed there and registered our family for compensation, but nothing has been received yet. Again, we are paying the price of political division and mismanagement.”

Even Derna residents who remained in eastern Libya noted delays in receiving compensation. For instance, Ahlam al-Fallah, a former candidate for the municipal council elections in Derna who lost two siblings during the floods, told Amnesty International that her family’s house was flooded with mud and silt, forcing them to leave it and rent accommodation. She returned to the family home in early December after carrying out repairs and maintenance work at her own expense, including removing the mud and installing new doors and windows. Ahlam al-Fallah also lost her car in the flood. She explained to Amnesty International on 6 December 2023:

“Two committees, one assigned by the LAAF and the second by the Tripoli government, visited me. Both committees completed more than three-quarters of the census and inventory work. I received from these two committees a statement containing a description of the damages I reported, but so far, I have not been paid for the damage to my house and car.”

HUMANITARIAN RELIEF IN THE AFTERMATH OF THE CRISIS

Storm Daniel wreaked havoc on Derna’s road and bridge infrastructure, which hampered the movement of affected people, rescue crews, government services and aid. The first emergency deliveries only arrived 36 hours after the onset of the disaster. In the following days, additional humanitarian aid landed at Benina airport, with the IFRC, UN agencies and other organizations assisting the Libyan authorities with relief and recovery. Some of these humanitarian actors expressed concern that the pace of their collective efforts were not keeping up with the needs of residents and noted that the city was facing shortages of medicine, food and shelter, and warned of the growing risk of water-borne diseases.⁶⁰

Activists and others involved in providing initial humanitarian relief told Amnesty International there were delays in aid reaching some affected areas, in part due to the plethora of checkpoints established by the LAAF and in part because medical teams from western Libya and at least one international rescue team were instructed to leave Derna on 19 September. A UN spokesperson told the media on 19 September that a UN team was “not authorized to proceed” to Derna, but confirmed that rescuers and humanitarian workers already in Derna were allowed to continue operating.⁶¹

4.4 DISCRIMINATION AGAINST REFUGEES AND MIGRANTS

Refugees and migrants living in eastern Libya affected by the floods faced discrimination in accessing compensation and other support rolled out by the authorities. The authorities also failed to address the specific circumstances and needs of foreign nationals, including by facilitating evacuations from affected areas and returns to their home countries, and in the provision of information to relatives of those who died or were missing.

According to IOM data, prior to Storm Daniel, there were 19,285 foreign nationals in Derna district, mainly from Chad, Egypt, Sudan and Syria, with 8,670 residing in the city of Derna, hundreds of whom are believed to have died in the floods.⁶² The IOM estimates that 1,715 foreign nationals were displaced by the flooding, mainly to other parts of north-eastern Libya, with dozens initially seeking shelter in schools in the city of Derna.

The Libyan human rights organization Belaady, which focuses on the rights of refugees and migrants, told Amnesty International that together with the Al-Abereen Foundation, a Tobruk-based group, ran hotlines and carried out field visits

⁶⁰ Islamic Relief, “Derna at risk of second humanitarian crisis in aftermath of floods”, 15 September 2023, <https://reliefweb.int/report/libya/derna-risk-second-humanitarian-crisis-aftermath-floods>

⁶¹ Reuters, “UN says it was blocked from reaching Libya flood-hit Derna”, 19 September 2023, <https://www.reuters.com/article/idUSL8N3AV4IR>

⁶² IOM, *Libya – Migrant Report 47 (March-April 2023)*, 8 August 2023, <https://dtm.iom.int/reports/libya-migrant-report-47-march-april-2023>

to collect information on affected foreign nationals. The organizations recorded 871 foreign nationals, including from Egypt (669), Sudan 139, Syria (47) , and the Occupied Palestinian Territories (15), as missing in the wake of the floods. Families of foreign nationals raised concerns about the lack of information on whom to contact in Libya for information, increasing their anguish. Belaady stressed the absence of mechanisms, including registration platforms, for families outside Libya to communicate with search teams and missing persons' committees. Relevant embassies and foreign ministries reported the names of missing documented foreign nationals to the GNS, but no official mechanism was set up to report those missing who were refugees or migrants with irregular migration status.

Further, the Libyan authorities did not establish specific mechanisms to address the needs of refugees and migrants affected by the floods, including those who worked in affected hospitals and schools, and lost their homes and livelihoods. Foreign nationals who lost their passports and other identity documents during the floods became increasingly vulnerable to arbitrary arrest and detention. Libyan legislation criminalizes the irregular entry to and stay in Libya of foreign nationals, and Amnesty International, among others, has long documented the arrests and indefinite arbitrary detention of undocumented refugees and migrants in Libya.⁶³

No clear measures were introduced to assist foreign nationals wishing to leave Libya in the wake of the floods, or to provide affected people with information on the possibilities of safe and voluntary returns. For instance, Amnesty International learned that an Algerian family of two adults and four children was stranded in eastern Libya and unable to travel to western Libya from 11 September until 22 November 2023, fearing arbitrary arrest as all their passports and other identity documents were lost in the floods.

On 12 October 2023, the GNS Council of Ministers issued Decree No. 103/2023, establishing a committee to count the foreign nationals living in Derna and other cities affected by the floods and to estimate the damages they incurred. The decree allocated the committee, composed of 10 officials under the leadership of Abdulhadi al-Hawajj, the GNS Minister of Foreign Affairs and International Cooperation, two weeks to complete its work. After five weeks, on 14 November, Abdulhadi al-Hawajj announced during a meeting of the committee the government's "interest in granting compensation for all Arabs and foreigners of various nationalities" affected by the floods, and set the deadline of 20 November 2023 for the committee to complete its work. To date, the GNS has not made public the findings of the committee or announced any concrete measures related to compensation for foreign nationals affected by the floods. In a briefing to the House of Representatives on 27 November 2023, the GNS Acting Prime Minister Ossama Hammad made no reference to efforts by the GNS to address the needs of affected foreign nationals when reporting on the GNS response to the Derna crisis. Further, concerns remain over the exclusion from the announced compensation scheme – even if implemented – of affected refugees and migrants in Libya with an irregular migration status.⁶⁴

According to information obtained by Amnesty International, foreign nationals have yet to receive any compensation. For instance, according to Ibrahim Jumaa, a member of the crisis committee at the Palestinian consulate in Derna, "the Libyan government gave no financial compensation to the 90 affected Palestinian families".⁶⁵

According to official documents analyzed by Amnesty International, on 6 November 2023, members of the Sudanese community in Derna and other affected areas submitted a request for compensation to the authorities, listing 42 Sudanese families who lost loved ones and incurred material damages in the floods, in addition to 31 Sudanese whose businesses were destroyed. To Amnesty International's best knowledge, none of the affected Sudanese nationals have received any financial compensation.

⁶³ Amnesty International, *Libya: 'Between life and death': Refugees and migrants trapped in Libya's cycle of abuse* (Index: MDE 19/3084/2020), 24 September 2020, www.amnesty.org/en/documents/mde19/3084/2020/en ; Amnesty International, *Libya's dark web of collusion: Abuses against Europe-bound refugees and migrants* (Index: 19/7561/2017), 11 December 2017, www.amnesty.org/en/documents/mde19/7561/2017/en ; Amnesty International, *'Libya is full of cruelty': Stories of abduction, sexual violence and abuse from refugees and migrants* (Index: MDE 19/1578/2015), 11 May 2015, www.amnesty.org/download/Documents/MDE1915782015ENGLISH.pdf ; Amnesty International, *Scapegoats of fear: Rights of refugees, asylum-seekers and migrants abused in Libya* (Index: MDE 19/007/2013), 20 June 2013, www.amnesty.org/en/documents/MDE19/007/2013/en ; Amnesty International, *'No one will look for you': Forcibly returned from sea to abusive detention in Libya* (Index Number: MDE 19/4439/2021), 15 July 2021, <https://www.amnesty.org/en/documents/mde19/4439/2021/en>

⁶⁴ Libya is not a signatory to the 1951 Refugee Convention, and has no memorandum of understanding with the United Nations High Commissioner for Refugees (UNHCR).

⁶⁵ The Guardian, "Months after deadly floods in Libya, migrants' families still await news of the missing", 21 November 2023, <https://www.theguardian.com/global-development/2023/nov/21/months-after-deadly-floods-in-libya-migrants-families-still-await-news-of-the-missing>

On 21 September 2023, the GNS Council of Ministers issued Decree No. 286/2023, which discriminated against affected foreign children by excluding them from assistance provided to children who lost their families as a result of the floods.⁶⁶ The decree stated: “Every child holding Libyan nationality who lost family because of Storm Daniel will be granted the status of sponsored by the state. The Libyan state shall provide social, health care, and psychological support for every child included in this decree. The sponsorship package includes paying monthly expenses, providing adequate housing, and covering educational and [medical] treatment expenses” . The decree also effectively excludes children of Libyan mothers and non-Libyan fathers, given the discriminatory legislation in Libya that denies Libyan mothers their right to confer nationality to their children. Also on 21 September 2023, the GNS Council of Ministers issued Decree No. 287/2023, which also discriminated against affected migrants and refugees by only exempting “Libyan nationals residing in Derna and the cities and regions from paying the fees for obtaining official documents, including those related to the registration and renewal of motor vehicles and driving licences, as well as commercial, industrial, and vocational licences.”

4.5 FORCED DISPLACEMENT OF TAWERGHANS

In the aftermath of the floods, the de facto authorities in eastern Libya barred hundreds of Tawerghan internally displaced people from returning to camps where they had been living since 2011. Tawerghan activists told Amnesty International that on 10 September, LAAF’s 128 and 166 brigades, the 2020 battalion of the Tarek Ben Zeyad (TBZ) armed group, the Benghazi Security Directorate, and the Supreme Security Committee ordered the residents of the seven internally displaced camps of Tawergha in and around Benghazi, where some 350 Tawerghan families had been living for over a decade, to evacuate due to adverse weather conditions. Unlike other residents in the same neighbourhoods who were also evacuated, the Tawerghan have not been allowed to return.

Back in August 2011, around 40,000 residents of Tawergha were forced to flee their homes when they came under attack by militias from neighbouring Misratah, after pro-Gaddafi forces used Tawergha as a launching ground in their offensive on Misratah. The vast majority of Tawerghans were displaced and have lived in makeshift housing and camps across the country ever since. A small number returned to Tawergha following a reconciliation agreement between local officials from Misratah and Tawergha in 2017.⁶⁷ While the agreement paved the way for returns, the city is still reeling from massive and deliberate destruction, and the lack of services and employment opportunities.⁶⁸ Despite this, at least 80 families from a group of 350 Tawerghans families who were instructed to vacate Benghazi camps have since returned to Tawergha. Other families live with relatives or in rented accommodation in Benghazi or nearby suburbs.

4.6 RIGHTS TO FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

From the onset of the flood disaster, the LAAF and affiliated armed groups have clamped down on any criticism or dissent. Since 12 September 2023, the LAAF and affiliated armed groups have arbitrarily arrested at least nine individuals solely for peacefully exercising their human rights, including expressing criticism of the authorities’ response to the disaster, participating in peaceful protests or calling for accountability. Those targeted include journalists, peaceful protesters and activists. At least one remained arbitrarily detained as of 7 February 2024.

Among those still subjected to enforced disappearance and arbitrarily detention is 46-year-old activist Al-Numan al-Jazwi. The LAAF-affiliated Internal Security Agency (ISA) armed group arbitrarily arrested him at the Khawla Institute in Derna on 16 September 2023, while he was filming aid distribution efforts. His relatives had no information about his fate or whereabouts for seven days until an ISA agent informed his father, who had gone to the ISA’s headquarters in Derna in search of his son, that Al-Numan al-Jazwi had been arrested because of the content of his Facebook account. However,

⁶⁶ The Libyan Government, Facebook post, <https://www.facebook.com/photo/?fbid=298498299481269>, [Council of Ministers Decree No. 286/ 2023 granting state-sponsored status and determining some benefits], 22 September 2023, <https://www.facebook.com/photo/?fbid=298498299481269> (in Arabic, accessed 2 February 2024).

⁶⁷ Amnesty International, “Libya: Tawergha IDP camp attacked by militia in danger of further attack and demolition” 10 August 2018, <https://www.amnesty.org/en/latest/news/2018/08/libya-tawergha-idp-camp-attacked-by-militia-in-danger-of-further-attack-and-demolition>

⁶⁸ Amnesty International, “We are not safe anywhere”: Tawerghans in Libya (Index: MDE 19/007/2012), 8 June 2012, www.amnesty.org/en/documents/mde19/007/2012/en

the agent refused to say where he was detained or allow relatives to visit. According to Al-Numan al-Jazwi's brother, prior to the abduction Al-Numan al-Jazwi gave two media interviews on 14 and 15 September 2023,⁶⁹ during which he criticized the authorities' lack of preparedness ahead of the floods, and their poor response after the storm struck. His relatives learned from sources close to ISA that, following his arrest, Al-Numan al-Jazwi was detained for five weeks at an ISA facility in Al-Sahel al-Sharqi neighbourhood in Derna city before he was transferred to the ISA's headquarters in Sidi Hussein in Benghazi. According to information gathered by his family, he has not been charged with any offence or brought to the prosecution for questioning.

In another case documented by Amnesty International, content creator Jamal El Gomati was arbitrarily arrested on 17 September 2023 after reporting live from Derna hours after the floods, when he publicly accused officials of corruption and responsibility for the disaster. Human rights activists told Amnesty International that armed men in plain clothes, believed to be from the ISA armed group, seized him from his hometown of Shahat in Jabal Al-Akhdar. He was subjected to enforced disappearance for three days before being released on 19 September 2023 following interventions by a prominent LAAF commander.

SAHABA MOSQUE PROTEST

The LAAF and affiliated armed groups ramped up their repression of dissent and restrictions on media after hundreds of Derna residents protested outside the Sahaba mosque in Derna on 18 September 2023. Demonstrators expressed their anger and called for the resignation of Derna officials, including the speaker of the House of Representatives, Aguila Saleh, and his close relative, the then Derna mayor, Abdel-Moneim al-Ghaithi. Protesters also demanded accountability and the prompt reconstruction of the city by international companies.

According to information gathered by Amnesty International from families of detainees, protesters, former detainees and human rights activists, at least seven people were arrested in connection to the protest, and held them for periods ranging from several days to over four months. One of the protest organizers, Fadi⁷⁰, was arbitrarily arrested from his family home by armed men from the TBZ on 18 September 2023. According to his relatives, TBZ armed men beat him with their rifle butts, before forcing him into a vehicle and taking him to an unknown location. TBZ has denied him visits and any contact with his family until his release on 7 February 2024.⁷¹

From the onset of the crisis, journalists said they were required to obtain security clearances to access Derna and other affected areas, and faced other access restrictions and interference in their work by LAAF-affiliated armed groups. Two Libyan journalists told Amnesty International that local officials stopped and interrogated them on 14 September 2023 before ordering them to leave the city. After the Sahaba mosque protests, the LAAF ordered journalists to leave the city, reversing their decision the next day but instructing remaining journalists not to approach rescue teams. Journalists working with international media outlets consistently reported being followed by LAAF military media agents and witnessed officials asking interpreters not to translate content critical of the authorities.

⁶⁹ Libya Al-Ahrar, Youtube video: "حوار الليلة 2023-09-14" [Tonight's discussion 09-14-2023], 15 September 2023, <https://www.youtube.com/watch?v=lc1kfKfb2a0&t=301s> (in Arabic); Libya Al-Ahrar TV, قناة ليبيا الأحرار, #مباشر | تغطية خاصة بشأن الأوضاع في درنة والمناطق المنكوبة", [Live | Special coverage on the situation in Derna and the affected areas], 15 September 2023, <https://www.facebook.com/LibyaAlAhrarTV/videos/641102664489934> (in Arabic).

⁷⁰ Pseudonym

⁷¹ Amnesty International, *Libya: 'We are your masters': Rampant crimes by the Tariq Ben Zeyad armed group* (Index: MDE 19/6282/2022), 19 December 2022, <https://www.amnesty.org/en/documents/mde19/6282/2022/en/>

4.7 REPRISALS AGAINST PRISONERS

In the aftermath of the floods, activists raised concerns about the situation of detainees held in flood-affected areas, including in the notorious Gernada prison located near the city of Al-Bayda in eastern Libya, where LAAF critics and opponents, including Derna residents, have been held since 2014.

On 18 September 2023, two Libyan NGOs – the Libyan Crimes Watch and the Defender Center for Human Rights – issued a joint statement raising the alarm about the situation of hundreds of prisoners held in Gernada prison in light of reported damage to the prison, and urged the authorities to immediately allow prisoners to communicate with their families.⁷² An activist, with direct knowledge of the situation, told Amnesty International that the Gernada prison authorities carried out reprisals against prisoners from Derna for demanding to receive news about their loved ones following the floods. According to information gathered by Amnesty International, prisoners were denied phone calls, visits by families, health care, sufficient food, and potable water.

Their ongoing detention without contact with the outside world has raised further fears about their wellbeing, given the well-documented pattern of LAAF and affiliated armed groups subjecting those in their custody to torture and other ill-treatment, including through beatings with various objects such as pipes (locally referred to as “tubu BBR”), flogging, the administration of electric shocks, and threats of further harm to them and their loved ones.⁷³

⁷² Libyan Crimes Watch (LCW) and Defender Center for Human Rights (CHRDA), “LCW and CHRDA demand immediate disclosure on the situation of detainees in Qirnada prisons after hurricane Daniel, 18 September 2023,

<https://lcw.ngo/en/blog/lcw-and-chrda-demand-immediate-disclosure-on-the-situation-of-detainees-in-qirnada-prisons-after-hurricane-daniel>

⁷³ Amnesty International, *Libya: ‘We are your masters’* (previously cited); Amnesty International, “Libyan Government of National Unity must not legitimize militias and armed groups responsible for harrowing abuses” , 6 August 2021, <https://www.amnesty.org/en/latest/news/2021/08/libya-government-of-national-unity-must-not-legitimize-militias-and-armed-groups-responsible-for-harrowing-abuses> ; Amnesty International, “Military courts sentence hundreds of civilians in sham torture tainted trials” , 26 April 2021, <https://www.amnesty.org/en/latest/news/2021/04/libya-military-courts-sentence-hundreds-of-civilians-in-sham-torture-tainted-trials-2/>; Amnesty International, *Amnesty International Report 2022/2023: The state of the world’s human rights* (Index: POL 10/5670/2023), 27 March 2023, <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>, pp. 235-239.

5. INVESTIGATIONS INTO STORM DANIEL

During his visit to Derna on 15 September 2023, the Tripoli-based Public Prosecutor, Al-Siddiq al-Sour, announced the opening of investigations into the causes of the dams' collapse, stressing that his office would “analyse the incident” with a view to determining any criminal responsibility.⁷⁴ Six months later, concerns remain over the effectiveness of the investigations, in particular in addressing the responsibility of senior officials and powerful commanders of armed groups.

In a lengthy response to Amnesty International's letter requesting details on the progress of investigations received on 7 February 2024, the Public Prosecutor's office confirmed having initiated criminal investigations against 16 current or former officials. In the letter, the Public Prosecutor's office noted that 14 defendants had been summoned for interrogations and placed in pre-trial detention in various locations including the Gernada prison near Al-Bayda and prisons in Benghazi. According to the list shared by the Public Prosecutor's office, they included the head of the Derna Municipal Council, Abdel-Moneim al-Ghaithi, and two of its members Ahmed Al-Barakat and Ahmed Amdorad; two officials in the Derna Stability Committee, Farhat Al-Fitouri and Ahmed bin Shtwan; the General Director of the Derna Reconstruction Fund Ali Buhiri, and seven officials from the General Water Authority and General Dam Administration - Omar Salem, Omar Al-Moghraby, Al-Bahloul Al-Shakanti, Ahmed Al-Sifaw Al-Qibli, Abdullah Al-Tunisi, Ahmad Aqgam, and Abdul Qader Al-Amami. The two remaining defendants - the head of the Derna Stability Committee and Deputy Governor of the Central Libya Bank, Ali Al-Harbi, and the engineer responsible for the maintenance of the two dams in Derna, Mahmoud al-Zoubidi - were being tried in their absence as they were outside Libya.

At the time of writing, their trial was ongoing before the Derna Court of Appeals on charges related to the dereliction of or refusal to perform official duties and misuse of public funds, resulting in the manslaughter and/or harm to thousands of people. However, higher-ranking officials and commanders, and members of powerful armed groups, have not been investigated let alone prosecuted, raising fears that they will evade justice.

While the Public Prosecutor's response to Amnesty International contained details of the investigations and the names of 16 officials being criminally investigated and prosecuted, this information that has not been shared publicly. In response to Amnesty International's question on whether the Public Prosecutor's office intended to share details on the progress of investigations and its findings with relatives of victims and society at large, the office confirmed its commitment to the rights of victims' families and those affected to obtain information and judicial data about the incident, but did not clarify specific mechanisms enabling those affected to access such information.

The Public Prosecutor's office did issue a number of press releases, and held one press conference, providing updates on the progress of investigations. For instance, on 25 September 2023, the Public Prosecutor announced the establishment of a committee to analyse the reasons for the collapse of the two dams, specifying that the committee had carried out

⁷⁴ Attorney General Office – State of Libya, Facebook post, “إِنْتَقَلَ الْمُسْتَشَارُ النَّائِبُ الْعَام، يَوْمَ الْجُمُعَةِ الْمَوْافِقَ 15 / 9 / 2023، إِلَى مَدِينَةِ دَرْنَة” [On Friday 15 September 2023, the public prosecutor visited the city of Derna], 17 September 2023, <https://www.facebook.com/attorneygeneral.ly/posts/pfbid0ZtBu8V4m7ocQoVdgp2VuR9B4P4vUCKxTxwdg12dMB3t7haXiP2B44wnBAGvYW94al> (in Arabic).

investigations in Derna, Benghazi and Tripoli.⁷⁵ In its letter to Amnesty International, the Public Prosecutor's office noted that the committee inspected the affected areas, recorded casualties and the material damage resulting from the disaster, examined relevant documents, tracked financial transfers and gathered witness accounts. The committee also conducted an audit of the administrative and financial procedures related to the contracts for the maintenance of the two dams awarded to a private company. The committee further investigated the payments by water resources management officials made in 2014 to the contracted company despite "proof that it had breached its contractual obligations" and failed to complete the work. The committee also investigated whether the local authorities in Derna failed in their duty to avert the dangers facing the city's residents ahead of the floods. A special advisory secretariat was established by the office to support the technical aspects of the committee's work, composed of experts in forensics, genetic fingerprinting, and disaster management. Another expert advisory committee of engineers and scientists was established to assist in determining the causes of the collapse of the two dams.

It was also publicly announced on 25 September 2023 that the Public Prosecutor had questioned the current and former heads of the General Water Authority; the current and former directors of the dams' administration; the head of the dams' implementation and maintenance department; the head of the dams' department in the eastern region; and the head of the General Water Authority in Derna. The press release indicated that the head of Derna Municipal Council, who the GNS Minister of Local Government suspended on 18 September 2023, was questioned regarding allegations that he abused his position and deviated from the mandate of managing the funds allocated for the reconstruction and development of the city of Derna.⁷⁶ After the interrogations, these eight officials were placed in pre-trial detention on accusations of mismanaging the administrative and financial tasks assigned to them, contributing to the catastrophic loss of life through their actions or omissions, failing to take precautions against disasters, and causing economic losses to the country.⁷⁷

On 28 September 2023, the Public Prosecutor's office announced the detention of four other officials, namely two members of Derna Municipal Council, the director of the Derna reconstruction projects' office, and the chairman of the technical committee for the implementation of the reconstruction plan, regarding accusations that their failure to adequately perform their professional duties contributed to thousands of deaths and substantial economic losses.⁷⁸

On 27 December 2023, the public prosecutor's office announced the detention of two other officials, namely the chairman of the Derna City Reconstruction Fund, and a member of the financial committee charged with implementing the reconstruction plan, in connection to the collapse of the dams. The same day, the Public Prosecutor referred 16 individuals to the accusation chamber of the Derna Court of First Instance.

During a press conference on 3 January 2024, the public prosecutor announced that two defendants had been referred to the accusation chamber in their absence as they had fled Libya, and that arrest warrants had been issued against them. He also indicated the prosecution's request to issue an Interpol Red Notice for their arrest.⁷⁹

Media reported that on 11 January 2024, the judge of the accusation chamber of the Derna Court of First Instance referred 14 defendants to the Court of Appeal on charges related to the dereliction of or refusal to perform their official duties.⁸⁰ No information was made publicly available on the names of the defendants or the progress of the trial.

None of the 20 residents of Derna interviewed by Amnesty International for this report submitted information or otherwise engaged with the Public Prosecutor's investigations. Several were not even aware of the investigation, while others were sceptical about the ability of the Public Prosecution to carry out independent investigations and bring charges against senior government officials or powerful commanders or members of armed groups. In its letter to Amnesty International, the Public Prosecution's office confirmed its commitment to guarantee the safety of victims' families and emphasized that

⁷⁵ The Public Prosecutor's office, Facebook post, "سلطة التحقيق تُحرّك الدعوى الجنائية في مواجهة ستة عشر مسؤولاً عن إدارة مرفق السودان" ["The investigating authority initiates a criminal case against 16 officials responsible for managing the dam facility"], 25 September 2023, <https://www.facebook.com/photo/?fbid=779527983975338> (in Arabic).

⁷⁶ The Libyan Government, Facebook post, "قرار وزير الحكم المحلي رقم ٦٠ لسنة ٢٠٢٣ بشأن حل المجلس التسييري لمدينة درنة" [Decree of the Minister of Local Government No. 60/ 2023 regarding the dissolution of the Municipal Council of the city of Derna], 18 September 2023, <https://www.facebook.com/photo/?fbid=296538229677276> (in Arabic, accessed 2 February 2024).

⁷⁷ LANA, "مكتب النائب العام : الحبس الاحتياطي لستة عشر مسؤولاً عن إدارة مرفق السودان في البلاد" [Public Prosecutor's office: Pretrial detention for 16 officials responsible for managing the country's dam infrastructure], 25 September 2024, <https://lana.gov.ly/post.php?lang=ar&id=288975> (in Arabic).

⁷⁸ LANA, "النائب العام يأمر بحبس أربعة مسؤولين بسبب كارثة فيضانات مدينة درنة" [The public prosecutor orders the detention of four officials due to the flood disaster in the city of Derna], 29 September 2024, <https://lana.gov.ly/post.php?lang=ar&id=289302> (in Arabic).

⁷⁹ LANA, "الوطني الرقم ومنظومة درنة وسدي الجماعية المقابر في والقضايا البلاغات من عدد عن يكشف العام النائب"

" [Public prosecutor reveals a number of reports and cases in the mass graves, Derna dam, and the national number system], <https://lana.gov.ly/post.php?lang=ar&id=298934> (In Arabic)

⁸⁰ The Libya Observer, "Derna dams rupture case sent to Court of Appeals, 12 January 2024, <https://libyaobserver.ly/news/derna-dams-rupture-case-sent-court-appeals>

no complaints were received in relation to threats against the victims' family members impeding their participation in investigations. The letter also highlighted the efforts of the Public Prosecutor's office to collect the testimonies of survivors and others affected, but did not respond to Amnesty International's query on whether it intended to share details on the progress of investigations and its findings with relatives of victims and society at large.

A resident of Derna explained his reluctance to engage with domestic investigations and his lack of faith in the ability and willingness of judicial authorities to provide redress:

"I was detained and tortured for three years in Gernada prison by an LAAF-affiliated armed group, and when I was released, I never thought of filing a case in the court against the perpetrators. Today, I have the same feeling. The local courts are not safe judicial bodies to seek justice for the victims of the Derna floods, which include five of my immediate family and more than 40 of my extended family."

The investigations into the Derna disaster are taking place against the backdrop of judicial authorities who have been unable and unwilling to hold to account those responsible for crimes under international law in Libya. Instead of holding to account powerful and unruly militias with well-documented records of committing crimes under international law and other human rights violations, successive governments have sought to appease them and secure their loyalty through showering them with praise, salaries, high-level positions and legitimacy. Successive governments have also long ignored calls by Amnesty International to remove powerful commanders of armed groups and militias suspected of criminal responsibility for war crimes and other crimes under international law from positions of power or responsibility, enabling them to continue to commit violations or entrench impunity, pending criminal investigations and prosecutions.⁸¹

Similarly, in its final report issued on 31 March 2023, the UN Fact-Finding Mission on Libya highlighted concerns about impunity and the independence of the judiciary in Libya. It stated that it found reasonable grounds to believe that "acts had been committed that undermined the independence of the judiciary and curtailed the rule of law in Libya. The Mission received reports of judges being replaced to fix an outcome, sentences that were adapted to serve certain interests and cases that were not brought to trial owing to tribal affiliations".⁸²

The prevailing climate of impunity raises serious concerns about the ability and willingness of judicial authorities in Libya to deliver truth, justice and reparations. Calls for pursuing international accountability⁸³ are growing among survivors and Libyan human rights defenders in the aftermath of the floods, following years of poor governance and mismanagement by rival governments, and the free reign of militias and armed groups prioritizing their self-interest over the lives and wellbeing of the people living in Libya.

In the absence of any meaningful prospects for accountability at the national level, Amnesty International has long emphasized the urgent need for an independent international investigative mechanism on the human rights situation in Libya. It also expressed its regret at the decision of the UN Human Rights Council in March 2023 not to extend the mandate of the UN Fact-Finding Mission on Libya or establish a follow-up accountability mechanism, and instead adopt a capacity-building resolution with no monitoring or reporting competency.⁸⁴ An independent international investigative mechanism is desperately needed to establish the facts and circumstances surrounding the catastrophic loss of life and destruction in the wake of Storm Daniel, including examining whether the Libyan authorities and those in de facto control of affected areas failed to protect people's rights to life, health and other human rights.

⁸¹ Amnesty International, "Libya: Ten years after uprising abusive militias evade justice and instead reap rewards", 17 February 2021, <https://www.amnesty.org/en/latest/news/2021/02/libya-ten-years-after-uprising-abusive-militias-evade-justice-and-instead-reap-rewards-2/>

⁸² The Independent Fact-Finding Mission on Libya, *Detailed findings of the Independent Fact-Finding Mission on Libya*, 24 March 2023, UN Doc A/HRC/52/CRP.8.

⁸³ Lawyers For Justice Libya and others, "Group calls for an independent international inquiry into the catastrophe in Derna and east Libya", 26 September 2024, <https://www.libyanjustice.org/news/accountability-action-group-calls-for-an-independent-international-inquiry-into-the-catastrophe-in-derna-and-east-libya>

⁸⁴ Amnesty International, "HRC 52 – Oral Statement: Interactive Dialogue with the Fact-Finding Mission on Libya" (Index: IOR 40/6635/2023), 3 April 2023, <https://www.amnesty.org/en/documents/ior40/6635/2023/en/>

6. LEGAL FRAMEWORK

Libya is a state party to core international treaties which protect the rights to life, freedom of expression, peaceful assembly, adequate standard of living, and prohibit arbitrary detention, torture and other ill-treatment, as well as discrimination on any prohibited grounds including race, sex, ethnicity, religion or political or other opinion, birth or other status. These treaties include the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Convention on the Protection of the Rights of All Migrant Workers and their Families (CMW), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) with a general reservation⁸⁵ that the treaty's implementation cannot conflict with personal status laws derived from Shari'a⁸⁶. It is also party to the African Charter on Human and Peoples' Rights (ACHPR), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), and the Arab Charter on Human Rights.

Libya has not ratified the Convention for the Protection of All Persons from Enforced Disappearances, and the Optional Protocol of the Convention against Torture (CAT-OP).

Where de facto authorities, such as the LAAF, are in control of territory and exercising government-like functions, they are also bound by international human rights law.

In its General Comment 36 on the right to life under Article 6 of the ICCPR, the UN Human Rights Committee specified that, "the duty to protect life [...] implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include [...] degradation of the environment [...]. The measures called for to address adequate conditions for protecting the right to life include, where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions, such as the bolstering of effective emergency health services, emergency response operations (including firefighters, ambulance services and police forces) and social housing programmes. [...] States parties should also develop, when necessary, contingency plans and disaster management plans designed to increase preparedness and address natural and manmade disasters that may adversely affect enjoyment of the right to life, such as hurricanes, tsunamis, earthquakes, radioactive accidents and massive cyber attacks resulting in disruption of essential services."⁸⁷

⁸⁵ The Committee is concerned at Libya's "remaining reservations to article 2 concerning the right to inheritance and article 16, paragraphs (c) and (d) regarding marriage and divorce, as it is of the opinion that these reservations are contrary to the object and purpose of the Convention." UN Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding observations - Libyan Arab Jamahiriya*, 6 February 2009, UN Doc. CEDAW/C/LBY/CO/5, para. 13.

⁸⁶ The Committee "considers reservations to article 2 or to subparagraphs of article 2 to be, in principle, incompatible with the object and purpose of the Convention and thus impermissible under article 28, paragraph 2." UN Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation 28: on the core obligations of States parties under article 2 of the Convention, 16 December 2010, UN Doc. CEDAW/C/GC28, para. 41.

⁸⁷ UN Human Rights Committee, General Comment 36: Right to Life (Article 6), 3 September 2019, UN Doc. CCPR/C/GC/36, para. 26.

The UN Human Rights Committee further noted that “Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life. The obligations of States parties [to the ICCPR] under international environmental law should thus inform the content of article 6 of the Covenant, and the obligation of States parties to respect and ensure the right to life should also inform their relevant obligations under international environmental law. Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors. States parties should therefore ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments and consult with relevant States about activities likely to have a significant impact on the environment, provide notification to other States concerned about natural disasters and emergencies and cooperate with them, provide appropriate access to information on environmental hazards and pay due regard to the precautionary approach.”⁸⁸

The African Commission on Human and Peoples’ Rights, in its General Comment 3 on the right to life, affirmed that, in order to protect the right to life, state actions should “include, inter alia, preventive steps to preserve and protect the natural environment and humanitarian responses to natural disasters, famines, outbreaks of infectious diseases, or other emergencies.”⁸⁹

Article 11 of the ICESCR recognizes the right to adequate housing. As recalled by the Committee on Economic, Social and Cultural Rights (CESCR) in its General Comment 4, forced evictions are a gross violation of human rights and prima facie incompatible with the requirements of the ICESCR and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.⁹⁰ Further, in its General Comment, CESCR clarified that procedural protections should be applied in relation to forced evictions. “States shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected”⁹¹. The CESCR added that . “Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected cannot provide for themselves, they should be provided with adequate alternative housing, resettlement, or access to productive land”.⁹²

The UN Guiding Principles on Internal Displacement recognize, inter alia, the right of everyone “to be protected against being arbitrarily displaced from his or her home or place of habitual residence”. Guiding principle 7 (1) establishes that “Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored to avoid displacement altogether.” Guiding principle 7 (2) also stipulates that “The authorities undertaking such displacement shall ensure to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated”; and guiding principle 7(3) states that “(b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation; (c) The free and informed consent of those to be displaced shall be sought; (d) The authorities concerned shall endeavor to involve those affected, particularly women in the planning and management of their relocation; (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities shall be respected”. Guiding principle 9 further provides that “States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands” .⁹³

The rights to liberty and security of person, including protection from arbitrary arrest or detention to freedom of opinion and expression, and to freedom of peaceful assembly are provided for under the ICCPR. According to Article 9 of the ICCPR, no one shall be subjected to arbitrary arrest or detention or deprived of their liberty except on such grounds and in

⁸⁸ UN Human Rights Committee, General Comment 36: Right to Life (Article 6), 3 September 2019, UN Doc. CCPR/C/GC/36, para. 62.

⁸⁹ African Commission on Human and Peoples’ Rights, General Comment 3: The Right To Life (Article 4), 57th Ordinary Session, 4-18 November 2015, para. 41.

⁹⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 4: The right to adequate housing (Art.11 (1)), 13 December 1991, UN Doc. E/1992/23, para. 18.

⁹¹ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 7: The right to adequate housing (Art.11 (1)), 20 May 1997, UN Doc. E/1998/22, paras. 13, 15,

⁹² UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 7: The right to adequate housing (Art.11 (1)), 20 May 1997, UN Doc. E/1998/22, para 16.

⁹³ UN Commission on Human Rights, Guiding Principles on Internal Displacement, 22 July 1998, UN Doc.E/CN.4/1998/53/Add.2, pages 7-8.

accordance with such procedures as are established by law. In accordance with the jurisprudence of the UN Working Group on Arbitrary Detention, as well as General Comment 35 of the UN Human Rights Committee, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of peaceful assembly (art. 21), freedom of association (art. 22) and freedom of opinion and expression (art. 19), is arbitrary.⁹⁴ The Declaration of Principles on Freedom of Expression in Africa by the African Commission on Human and Peoples' Rights states it aptly: "No one shall be subject to arbitrary interference with his or her freedom of expression. Any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary and in a democratic society."⁹⁵

The right to freedom of opinion and expression is provided for under Article 19 of the ICCPR. States must "guarantee the right to freedom of expression, including the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers. This right includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others, subject to the provisions in article 19, paragraph 3, and article 20. It includes political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse."⁹⁶ Restrictions on the right to freedom of expression must be compatible with the requirements set out in Article 19 (3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life, and killing, cannot be compatible with Article 19.⁹⁷

The prohibition of discrimination and the right of everyone to equality before the law is enshrined in a variety of human rights instruments, including the ICERD, which defines racial discrimination as "any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin [...]". Article 2 imposes an obligation on states parties to prohibit and eliminate any act or practice of racial discrimination against persons and/or groups by public authorities or any other person, group or organization. Article 5 requires states parties to guarantee the right of everyone, without distinction, to equality before the law in the enjoyment of their human rights. This includes the right to personal security and protection by the state against violence or bodily harm, regardless of whether harm is inflicted by government officials or by any individual group or institution (article 5(b)). In accordance with Article 6, states must not only ensure the effective protection against racial discrimination of everyone within their jurisdiction, but also provide access to remedies and adequate reparations to victims. In its General Recommendation 30, the Committee on the Elimination of Racial Discrimination urged states to "ensure that non-citizens enjoy equal protection and recognition before the law and in this context, to take action against racially motivated violence and to ensure the access of victims to effective legal remedies and the right to seek just and adequate reparation for any damage suffered as a result of such violence. In addition to ensure the security of non-citizens."⁹⁸

State must conduct prompt, thorough, effective, independent and impartial investigations in relation to alleged human rights violations and bring those responsible to justice, including in relation to violations to the right to life.⁹⁹ The Human Rights Committee noted that a failure to investigate or bring to justice alleged perpetrators in itself amounts to a separate breach of obligations under the ICCPR. The Committee added that "investigations into allegations of violations of article 6 [right to life] must always be independent, impartial, prompt, thorough, effective, credible and transparent. In the event that a violation is found, full reparation must be provided, including, in view of the particular circumstances of the case, adequate measures of compensation, rehabilitation and satisfaction. States parties are also under an obligation to take steps to prevent the occurrence of similar violations in the future", further noting that such "investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates".¹⁰⁰ The Human Rights Committee further highlighted the obligation of state parties to establish the truth relating to the events leading to a deprivation of life, identify the bodies of the victims, share relevant details about the

⁹⁴ UN Human Rights Committee, General Comment 35: Liberty and security of person (Article 9), 16 December 2014, UN Doc. CCPR/C/GC/35, para. 17.

⁹⁵ African Commission on Human and Peoples' Rights, Resolution on the Adoption of the Declaration of Principles on Freedom of Expression in Africa (2002), 23 October 2002, ACHPR /Res.62(XXXII)02, art. IV, paras. 1-2.

⁹⁶ UN Human Rights Committee, General Comment 34: Freedoms of opinion and expression (Article 19), 12 September 2022, UN Doc. CCPR/C/GC/34, para. 11

⁹⁷ UN Human Rights Committee, General Comment 34: Freedoms of opinion and expression (Article 19), 12 September 2022, UN Doc. CCPR/C/GC/34, para. 23

⁹⁸ The Committee on the Elimination of Racial Discrimination, General Recommendation 30: Discrimination Against Non-Citizens, 12 March 2004, UN Doc. CERD/C/64/Misc.11/rev.3, paras. 18-19.

⁹⁹ UN Human Rights Committee (HRC), General Comment 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, UN Doc. CCPR/C/21/Rev.1/Add.13, para. 18, <https://digitallibrary.un.org/record/533996?ln=en>

¹⁰⁰ UN Human Rights Committee, General Comment 36: Right to Life (Article 6), 3 September 2019, UN Doc. CCPR/C/GC/36, paras. 24,64.

investigation to the victim's relatives and make public information about the investigative steps taken and the findings, conclusions and recommendations emanating from the investigation.

7. CONCLUSION AND RECOMMENDATIONS

Six months after Storm Daniel hit Derna and other coastal areas in eastern Libya, survivors are still reeling from the unprecedented devastation and loss of life. Their suffering is compounded by the inadequate response of Libyan authorities and those in de facto control of Derna and other affected areas, and their failure to ensure that all those affected have equal access to relief and reconstruction efforts without discrimination, including on the grounds of tribal or political affiliations, nationality and/or legal status.

Competing Libyan authorities have announced their commitment and dedicated significant budgets for the reconstruction of affected areas, and the International Conference for the Reconstruction of Derna and other affected cities did take place in Derna and Benghazi on 1-2 November 2023 with the participation of 162 international companies from 26 countries. However, local residents have complained about the lack of transparency in reconstruction plans and the failure to genuinely involve those affected. All Derna residents interviewed by Amnesty International consistently raised concerns over the impact of the competition between the rival governments on their enjoyment of economic and social rights and their timely and equitable access to relief and reparations for the harm suffered. A human rights-compliant approach that considers the needs of at-risk groups, in particular Derna residents displaced to western Libya, refugees and migrants, and ethnic minorities, is desperately needed to ensure that all those affected can enjoy their rights, including to be meaningfully consulted and involved in decisions that affect their lives.

The near total impunity enjoyed by armed groups and militias for crimes under international law and serious human rights abuses, the absence of a unified government, and the erosion of national institutions have long plagued Libya, and continue to undermine recovery and reconstruction efforts in Derna and other flood-affected areas. Libyans have long lost trust in the national judiciary to provide them with remedy and reparations. At best, they deem it unable to hold to account powerful commanders and members of armed groups and politicians. At worst, they see it as complicit in covering up crimes and shielding powerful actors from prosecution.¹⁰¹ Survivors and Libyan human rights defenders have

¹⁰¹ Amnesty International, “Libya: Hold Stability Support Authority militia leaders to account”, 4 May 2022, <https://www.amnesty.org/en/latest/news/2022/05/libya-hold-stability-support-authority-militia-leaders-to-account/>; Amnesty International, “Libya: State-financed militia must be held to account for extrajudicial execution in Misratah”, 31 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/libya-state-financed-militia-must-be-held-to-account-for-extrajudicial-execution-in-misratah/>; Amnesty International, “Libya: The Internal Security Agency intensifies crackdown on freedom of expression”, 23 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/libya-the-internal-security-agency-intensifies-crackdown-on-freedom-of-expression/>; Amnesty International, “Libya: Government of National Unity must not legitimize militias and armed groups responsible for harrowing abuses”, 6 August 2021, <https://www.amnesty.org/en/latest/news/2021/08/libya-government-of-national-unity-must-not-legitimize-militias-and-armed-groups-responsible-for-harrowing-abuses/>; Amnesty International, “Libya: Ten years after uprising abusive militias evade justice and instead reap rewards”, 17 February 2021, <https://www.amnesty.org/en/latest/news/2021/02/libya-ten-years-after-uprising-abusive-militias-evade-justice-and-instead-reap-rewards-2/>

acknowledged that the Tripoli-based Public Prosecutor's investigations into the collapse of the dams may lead to prosecutions of low- and mid-ranking officials, but have expressed serious doubts, given the climate of impunity prevailing since 2011, that powerful political or military actors will ever be held to account domestically.¹⁰²

Amnesty International has expressed its deep disappointment in the decision of the UN Human Rights Council in March 2023 to end the mandate of the UN Fact-Finding Mission on Libya, and to instead adopt a capacity-building resolution.¹⁰³ With justice remaining elusive in Libya, it is critical for the international community to support efforts to establish an international mechanism, with a monitoring and investigative component, and mandated to establish the facts and circumstances of all alleged violations of international humanitarian law and international human rights law committed by all parties in Libya since March 2023, when the mandate of the Fact Finding Mission on Libya ended.

Accountability and guarantees of non-repetition are all the more pressing with the increased likelihood of further climate-induced disasters, exacerbated by Libya's ageing and poorly maintained infrastructure.

Paving the way for international avenues for redress is crucial for survivors in Derna and other affected areas, as well as people in Libya at large, to demonstrate that the international community stands with them in their demands for truth, justice and reparation.

The Derna tragedy has also exposed the devastating impact of Libya's descent into chaos since the 2011 armed conflict, characterized by the proliferation of militias and armed groups across the country, and the fragmentation of state institutions. Among other things, this affects the country's ability to adapt to the risks to people in Libya from climate-induced extreme weather events, which are increasing in intensity and frequency.

The tragedy should serve as a wake-up call for the Libyan government, as a party to the United Nations Framework Convention on Climate Change,¹⁰⁴ to play its fair part, along with all other states, in mitigating further global heating caused by human-induced greenhouse gas emissions by transitioning its economy away from reliance on fossil fuels in a just, equitable and human rights compliant transition to renewable energy, with higher income states with the greatest historical responsibility for emissions and high-income fossil fuel-producing states moving furthest and fastest.¹⁰⁵

Amnesty International is consequently making the following recommendations:

To the Libyan authorities in Tripoli and the LAAF:

- Ensure the immediate release of all those arbitrarily detained by the ISA, the TBZ or other LAAF-affiliated armed groups solely for exercising their rights to freedom of expression, association and peaceful assembly, including on account of their actual or perceived criticism of the LAAF. Ensure that all those deprived of their liberty are held in conditions meeting international standards for the treatment of prisoners, and have access to their families, lawyers and any medical care they require.
- Ensure that human rights are central in the response to the flooding disaster, including in the short, medium and long term. Response efforts should ensure the right to information and participation in decision-making of all groups, particularly those most affected. Ensure non-discrimination in all disaster response, relief, recovery and reconstruction efforts, including in the provision of financial compensation and alternative housing, and that all those affected by Storm Daniel can enjoy their rights and are not otherwise discriminated or subjected to reprisals based on their race, ethnicity, colour, sex, gender, language, political or other opinion, national or social origin, sexual orientation, marital status, property, migration status, stateless status, disability, birth, age, displacement in western Libya, lack of documentation, including death certificates for missing relatives, or other status.
- Ensure survivors have a right to timely, relevant, accessible and accurate information without discrimination. At a minimum, survivors should have access to timely information regarding those who are dead or presumed to be dead, any available information about missing relatives or friends, and specific details regarding the provision of

¹⁰² Libya Crimes Watch (LCW), "The Libyan Anti-Torture Network, including LCW, launched an urgent appeal about the Derna disaster", 6 October 2023, <https://lcw.ngo/en/blog/the-lan-including-lcw-launched-an-urgent-appeal-about-the-derna-disaster/>

¹⁰³ UN Human Rights Council, Resolution 52/41: Technical assistance and capacity-building to improve human rights in Libya, 11 April 2024, UN Doc A/HRC/RES/52/41.

¹⁰⁴ United Nations Climate Change, United Nations Framework Convention on Climate Change: Libya, <https://unfccc.int/node/61101> (accessed 9 February 2024).

¹⁰⁵ Amnesty International, *Fatal Fuels: Why human rights protection urgently requires a full and equitable fossil fuel phase out*, 13 November 2023 (Index: POL 30/7382/2023), <https://www.amnesty.org/en/documents/pol30/7382/2023/en/>

housing, food, water, shelter, medical, reproductive health and other essential services. Authorities should put in place clear procedures to ensure that survivors whose relatives are missing are able to claim their civil, family, property and economic and social rights, such as those related to child custody, inheritance, pension and entitlements to public assistance, without the condition of having death certificates. Survivors should be provided with adequate legal and other support to navigate administrative and legal processes.

- Support internally displaced people to make voluntary and informed decisions about their future, without discrimination. Authorities must commit to develop and implement a plan to either provide affected people with adequate alternative housing or repair and rebuild housing that is safe in the affected areas, without discrimination. All decisions concerning alternative housing, whether in the form of resettlement or housing built in the flood affected areas, must be taken after a process of genuine consultation with affected people; and ensure that Tawerghan internally displaced people, who have been forcibly displaced from camps in and around Benghazi, are allowed to return.
- Ensure that effective criminal investigations are carried out into the causes and circumstances leading to the vast loss of life in the Derna floods, including by examining whether Libyan authorities and those in de facto control of affected areas failed to protect people's rights to life, health and other human rights. Investigations must be thorough, prompt, transparent, impartial and independent, and address the responsibility of high-ranking officials, including security and military personnel. Where there is sufficient admissible evidence, seek to prosecute those responsible in proceedings that meet international standards for fair trial in civilian courts and without recourse to the death penalty.
- Extend an invitation to the UN Special Rapporteur on the protection and promotion of human rights in the context of climate change; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living; and respond favourably, with no further delay, to visit requests of seven special procedures of the UN Human Rights Council, in particular the Special Rapporteur on the human rights of migrants; the Special Rapporteur on trafficking in persons, especially women and children; the Working group on Arbitrary Detention; and the Working group on Enforced or Involuntary Disappearances; to conduct a country visit including to Derna and other areas affected by Storm Daniel.
- Regularly review disaster early warning procedures to ensure that they are fit for purpose and incorporate lessons learned from the Derna floods as well as international best practice, seeking international cooperation and assistance where necessary, and incorporate them into Libya's National Adaptation Plan.
- Review Libya's Nationally Determined Contribution (NDC) under the Paris Agreement as a matter of urgency, with a view to strengthening its 2030 targets, and develop a new NDC with ambitious targets in line with its fair share for emissions reduction to meet the imperative of keeping global warming to below 1.5C above pre-industrial levels in order to avoid the worst impacts of climate change.

To the international community:

- UN member states should support efforts to establish an international investigative mechanism on the human rights situation in Libya, with a monitoring and investigative component and a mandate to investigate and establish the facts and circumstances of all alleged violations and abuses of international human rights law and violations of international humanitarian law by all parties in Libya since March 2023, including:
 - inter alia establishing the facts and circumstances surrounding the loss of life and destruction in the context of Storm Daniel;
 - examining whether Libyan authorities and those in de facto control of affected areas failed to protect people's rights to life, health and other human rights;
 - collecting, analysing and preserving evidence of such violations and abuses;
 - identifying, where possible, those individuals and entities responsible for violations or abuses of human rights or violations of international humanitarian law and international human rights law, or other related crimes, with a view to ensuring that those responsible are held accountable; and
 - making recommendations, in particular on accountability measures, with a view to ending impunity and addressing its root causes, and ensuring accountability, including, as appropriate, individual criminal responsibility, and access to truth, justice and reparation for victims.

- In order to avoid the worst impacts of climate change, including by minimizing the risk of further extreme weather events like Storm Daniel, and in line with the outcome of the first global stocktake on implementation of the Paris Agreement,¹⁰⁶ parties to the Paris Agreement that have not already done so should revisit and strengthen the 2030 targets in their NDCs as necessary to align with the Paris Agreement temperature goal by the end of 2024. All parties, in their next NDCs, should also include ambitious, economy-wide emission reduction targets, covering all greenhouse gases, sectors and categories and aligned with limiting global warming to 1.5C, as informed by the latest science, and align their NDCs with long-term low greenhouse gas emission development strategies, with higher income countries with the greatest historical responsibility for emissions, and others in a position to do so, including high income fossil fuel producing states, moving first and fastest.

¹⁰⁶ UNFCCC, *Outcome of the first global stocktake*, 13 December 2023, UN Doc. FCCC/PA/CMA/2023/L.17, paras. 37-40.



**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

IN SECONDS EVERYTHING CHANGED

JUSTICE AND REDRESS ELUSIVE FOR DERNA FLOOD SURVIVORS

In September 2023, Storm Daniel, an extreme weather event made more likely by climate change, triggered the collapse of two ageing dams in Libya, claiming thousands of lives and leaving a trail of destruction. Six months later, truth, justice and adequate reparations for survivors remain elusive.

Amnesty International found that Libyan authorities and those in de facto control failed to ensure that financial compensation and other forms of reparation are afforded to all those affected without discrimination. While criminal investigations led to the indictment of 16 lower to mid-level officials over their role in failing to prevent the disastrous consequences of Storm Daniel, investigations did not address the responsibility of senior military commanders and political officials.

With no prospects for justice domestically, the organization calls on the UN Human Rights Council to establish an international mechanism, with a mandate and monitoring and investigative component, to establish the facts and circumstances of all alleged violations and abuses of international human rights law and violations of international humanitarian law by all parties in Libya since March 2023. This includes examining whether Libyan authorities and those in de facto control of affected areas failed to protect people's rights to life, health and other human rights in connection to Storm Daniel.