

# Situation report on the Misrata & Tawergha reconciliation process February 2014



## About this Foundation

The Tawergha Foundation staff members were part of the development, construction and management of two large-scale fully integrated poultry and dairy projects at Tawergha and Ghot Sultan in Libya between 1982 and 1991.

Having lived with the Tawerghan people for a long period of time will not contribute to having an unbiased opinion about this issue. We acknowledge that this report is written with the intend to enable the Tawerghans returning to their land and houses and our foundation goals are intended for the good of the Tawerghan youth.

It is however our sincere opinion that Libya, the Revolution and Misrata will benefit, should the Tawerghans be able to return to their town. This humanitarian crisis does not pass by unnoticed to the world and thereby contaminates the name of Libya, the Revolution and Misrata which will bring shame to the children of Libya should this situation continue.

The Tawergha Foundation was established to support the Tawergha Youth Organization. The youth is the future backbone of a society and the youth organization for Tawergha was established for the boys and girls from Tawergha to benefit from advances in Libya so that they can contribute to the rebuilding of their village and country.

The Tawergha Foundation provides learning solutions & resources and we enable awareness & reconciliation projects to support with their development & employment goals.

The Tawergha Foundation doesn't just reveal the outrage of human rights abuse against the people from Tawergha or the crimes committed against humanity but inspires hope for a better Libya through public action and international solidarity. We help stop human rights abuses by mobilizing our members and supporters to put pressure on governments, armed groups, companies and intergovernmental bodies.

We pursue the following objectives:

- Advance the return of the refugees from Tawergha to their village.
- Create awareness inside and outside Libya for their situation.
- Provide development for the population of Tawergha through training and courses.
- Enable employment and self- sufficiency for the people of Tawergha.
- Obtain justice and compensation for the victims from Tawergha.

Our Mission:

The families from Tawergha should be united as soon as possible so they can start to rebuild their lives. In the meantime we will work with the UN mission in Libya (UNSMIL & UNHCR) and the Libyan Humanitarian Relief Agency (LibAid) and numerous other organizations to address concerns relating to protection during displacement, the continuity of humanitarian assistance, the identification of interim and durable solutions and assisting their return in any way possible.

## Summary

Although many promises have been made, more than two years after the ethnic cleansing of their town, the Libyan government has still not been able to provide security and justice or assist the people from Tawergha to return home.

44,000 to 47,500 Tawerghans are currently living in appalling conditions in internally displaced person camps across Libya.

Misrata militias have been torturing and massacring people from Tawergha since 2011, in revenge for the siege on their city and crimes, allegedly executed en committed by the Gaddafi military units who had taken their positions in Tawergha.

This situation report reflects our opinion on the current status of the reconciliation process between Misrata and Tawergha, based on approximately one hundred reports written by dozens of organizations and countries and statements made by people from the Libyan government, inhabitants from Misrata and refugees from Tawergha.

As some of the official documents we used as a base for this situation report, contradict or lack evidence for their claims, we strongly advice not to go to war over our findings or suggestions.

Libya should pursue its future on a solid grounding of equality, justice and respect for the rule of law and human rights. These intentions and values are written in the draft version of the Libyan Constitution and should be honored.

Ensuring the safe return, protection and support of the Tawerghans will greatly contribute to this effort and is vital to a successful attempt at national reconciliation.

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## Introduction

The word Tawergha stems originally from a word of the Amazigh language, pronounced "Tamort Taoragt or Taorgat" which means the green island or green land, this because of the lakes and the many canals branching off in different directions for over ten miles from its source.

Tawergha is an ancient traditional Libyan town, located halfway on the coastal road linking the eastern and western parts of Libya.



The north boundary of the municipality is situated 38 km south of the city of Misrata (which is the third biggest city in Libya) and it is bordered to the east by the "the Gulf of Sirte", on the west by the administrative borders of the city Bani Walid and on the south by the administrative borders of Sirte.

Tawergha used to include 21 residential suburbs and had 44 to 48 thousand inhabitants, the total number depending on the different sources.

The area enclosed one of the most important strategic projects for agricultural production, (Agricultural Tawergha Project) with 3000 cultivated hectares. There used to be a compound for cattle poultry livestock production, which was built in the 1980s.

The project included 600 milking cows and a factory for the production of milk and its derivatives, the complex for the production of poultry meat with a capacity of 6 million birds annually and all necessary recourses like a slaughter plant and a feed mill. It used to be one of the most successful projects in terms of quality production.

This large project was based on the most prominent natural features in Libya, the famous water of Tawergha with a permanent underground flow which stretches all the way in a westerly direction towards the capital, Tripoli.

The region of Tawergha is still regarded as the oldest and the second largest water reservoir in Libya and is famous for water, greenery, date palm trees and for the color brown because of the skin color of its population.

The Tawerghans have darker skin color then the citizens from the neighboring town Misrata and because of that they were treated as lesser Libyans. During the Gaddafi regime their living conditions and opportunities slightly improved.

Many Misrata citizens didn't agree with Gaddafi on the chances he offered the people of Tawergha and we were personally told multiple times by the Misratan that the people of Tawergha did not deserve the positive attention as they were black, less than dogs and bad Muslims in their eyes.

Although Gaddafi probably had a different opinion on his status, many people thought him to be a dictator. The few revolts during his 42 years of reign were dealt with brute force and many opposition members were mistreated, tortured or killed.

In 2011, two out of three major Libyan cities opposed the Gaddafi regime with protest which started out as peaceful demonstrations against the regime.

Gaddafi tried to suppress the protests with violence and the people of Benghazi and Misrata responded with the Libyan revolution on the 17<sup>th</sup> of February.

After months of fighting and horrendous crimes committed on both sides, the revolutionaries were on the verge of being defeated near Benghazi and the world feared a massacre. To prevent a genocide, the United States, England and France pressed NATO into action.

Within days the army of Gaddafi was targeted by a dozen countries and after months of NATO bombing on the Libyan military positions, the rebels regained the initiative and the Gaddafi regime was pushed back.

Gaddafi used the town of Tawergha and Tmana in the East and neighboring areas of Zliten in the West , and Bani Walid from the South to station his troops and military equipment during the siege of Misrata, firing heavy artillery into the city on a daily basis.

The people of Misrata blame all of Tawergha that some civilians assisted the military during the siege of their city in 2011. Pictures and a video recordings before the attacks, show that a truckload of Tawerghans joined the military convoy and the Misratan claim that crimes have been committed.

Misrata faced heavy shelling and sniper fire from Gaddafi's troops for two months until rebel forces successfully pushed Gaddafi troops to the periphery of the city. More than 1,000 people reportedly died in the assault on Misrata.

When the Libyan army weakened by NATO air bombardments, Tawergha became the first target for NTC Misratan brigades and in August (2011) Tawergha was raided by rebels and militiamen who humiliated, imprisoned and brutally tortured 1300 men, many of whom were massacred as black scapegoats for the crimes committed by the regime of Gaddafi.

The town of Tawergha was ethnically cleansed and 44,000 to 47,500 people were evicted or fled the violence. Their houses and shops were looted, blown up or set on fire and the infrastructure and community buildings destroyed by NATO and militia bombardments.

Many Tawerghans were tracked down to be imprisoned and tortured by a special Misrata hunting party of 70 members specifically assigned to this task and the rest of the population of Tawergha found their way to the Internally Displaced Persons camps all over Libya.

The internally displaced people from Tawergha are easy targets and fair game in the camps. The rebels and militia members enter the camps unopposed while randomly shooting people without sparing the lives of women and children or the elderly and abduct boys and men for torture. Many torture victims are killed afterwards.

Although many people from Misrata do not agree with the Misrata militia ethnically cleansing or imprisoning and torturing innocent people from Tawergha, they also let us know that it is not up to Misrata to act.

The GNC members from Misrata told us that it is up to the government to assist in the reconciliation process and that it is out of their hands, but we noticed that members from the Libyan government who dare to bring up the subject are threatened and even tortured themselves.

For the past two years the various human rights organizations have written extensive and outraged reports about their fate but to date, the new regime in Libya failed to provide security and justice for these people.

NATO's war in Libya was proclaimed as a humanitarian intervention—bombing in the name of “saving lives.” We can see NATO played an important role in the ethnic cleansing of Tawergha, an ethnic cleansing of which they had been forewarned and in which they decided, nonetheless, to participate. However the international community does not actively protect civilians from Tawergha, who are subjected to torture and genocide on a daily basis until the writing of this report.

## Revolution and Civil War

At the outbreak of the revolution on 15.02.2011 the population of Tawergha was safe and did not know the size of the movement that occurred in the eastern region of Libya (Benghazi), nor that it had spread to the city of Misrata.

After the Gaddafi regime started to concentrate their troops in the cities surrounding Misrata, the military tightened their security grip, especially in Tawergha where, according to sources, more than 11,500 soldiers of Gaddafi were stationed with all their gear and military vehicles. These battalions, accompanied by mercenaries, were led by two of the sons of Gaddafi; Kamis and Mu'tasim.

The situation inside the town of Tawergha became unbearable as the region could not maintain the volume of brigades, mercenaries and volunteers who mainly came from the south. The military confiscated property to punish Tawerghans if they would fail to sponsor the occupants army. The citizens of Tawergha were not allowed to leave without permission or without specifying the time they would return.

Many actions of Tawergha rebellion against the regime of Gaddafi were undertaken, which ended by the rebel cells from Tawergha being arrested. Some of these rebels from Tawergha were transferred to the internal security station in Sirte and after investigation were relocated to Tripoli where they were imprisoned in the Abu Salim prison.

After the fighting had started the people of Tawergha helped soldiers, who refused to participate in combat against Misrata, so that they could flee via safe routes only known by the Tawerghan.

A number of officers from Tawergha, who defected from the Gaddafi military, provided high quality operational support to the rebels, existing of arms and knowledge. Other rebels in Tawergha gave the coordinates of the army stationed in Tawergha to the rebels in Misrata. The Tawerghans claim that these actions in support of the revolution have not been acknowledged or appreciated by the people from Misrata.

The people of Tawergha continued to suffer death on a daily basis exposed to fire brigades of Gaddafi, fire brigades of the rebels and bombardments by NATO, which bombed sites with military vehicles stationed in residential neighborhoods, which falsely were said to be abandoned by the Free Libyan media.

The villagers were dying in silence in Tawergha, where they were caught between the hammer and the anvil of the rebel- and the battalions of the regime.



## Accusations and Rumors

After the defeat of the Gaddafi regime and the burning of its institutions, a inter-tribal dissension broke out in Misrata between the tribes of Albrakat, Almaadan ,Orvlh, Zliten and Tawergha between those who participated and did not participate in the uprising.

Accusations from all sides as to who benefited of the previous regime were subject of dispute and have fomented in tribal sedition which ended in the expulsion of the people living in the area Alqoshi outside of Misurata, leaving all assets in Misrata as spoils for the rebels.

After the Tawerghans fled their houses in Misrata for fear of harm and losing their lives, young men of Misrata started to burn the houses and remaining belongings.

In Misrata many people believed that all of the people of Tawergha had willingly participated in the attack on Misrata and even sometimes in mass rape, one of the most unspeakable crimes, the army and militia members from Tawergha allegedly would have committed.

Officials in Misrata have sought to justify the violations against the people from Tomina, Kararim, and Tawergha committed by the Misrata militias by exaggerating these allegations.

The accusations made against families of Tawergha were mostly based on rumors. The Council of Tawergha had to address many of the leaders of the military and local elders of Misrata in order not to let this sedition develop, but to no avail.

We have searched through all of the official reports on specific rape incidents committed in Misrata and although we found a few which we added in the next chapter, we didn't find any official report stating that Tawerghans have raped women from Misrata.

The two reports containing specific information about Misratan women being raped count up to four stories about rape and in all four cases the perpetrators are soldiers. Only one rape incident is reported by someone directly involved with the victim and two of the statements made by the same man lack any credibility and we are amazed that they made it into the report and have been used in the media and by the rebels to justify the ethnic cleansing.

### **International Commission Human Rights Council Report:**

*In Benghazi, the father of a 30 year old Libyan woman informed the Commission that his daughter was detained in her house in Misrata for two days and raped by Government forces. She had returned to check on the safety and whereabouts of her brother when Government forces "came and restrained them for two days, keeping them in separated rooms. They were raping her, while trying to extract information from my son about the 'rebels.'"*

*Several sources, for instance, spoke about a 10 year old girl raped in Misrata by Government forces who was later treated at al-Jamahiryia Hospital in Benghazi.*

*The commission received, but was unable to verify, individual accounts of rape.*

<http://www.tawergha.org/docs/libya-international-commission-human-rights-council-report-apr-2011-english.pdf>

## Physicians for Human Rights Report:

*One witness reported that Gaddafi forces transformed an elementary school into a detention site where they reportedly raped women and girls as young as 14 years old.*

[Question: where does it state that ‘the girls were as young as 14’ in Mohamed’s statement?]

*PHR also documented reports of honor killings that occurred in response to these rapes.*

[Question: where are the other reports? PHR uses only one ‘witness’ who has seen nothing.]

### **PHR: Mohamed’s statement about rape by Gaddafi forces:**

*Mohamed regularly passed Alwadi Alahdar elementary school on one of Tomina’s rural roads en route to the front line. Mohamed reported that he heard the cries of women and girls on several occasions while passing the school. He reported seeing tanks and other military vehicles at this school in April 2011. On one occasion, in the quiet of the night, he heard drunken laughter through the open windows of the school building. He heard women cry out in pain and a man yell, “Shut up you dogs!” Mohamed is convinced that Gaddafi troops forcibly detained these women and girls and gang raped them.*

*He said he heard directly from five separate male heads of nearby households and close friends that some of their daughters and wives had been raped by Gaddafi forces.*

*One father confided in Mohamed that his three daughters aged 15, 17, and 18 had gone missing after Gaddafi troops arrived in Tomina. They returned to the family in late April and told their father that they had been raped in the Alwadi Alahdar elementary school for three consecutive days. In what is known as an “honor killing,” Mohamed related to PHR investigators, this father slit each of his daughters’ throats with a knife that day and killed them.*

[Question: Why didn’t Mohamed tell the other militia members about these crimes while this was happening (as he heard the cries on ‘several’ occasions)? He states that there are military vehicles and tanks at the school so why do the Misratans blame the Tawerghans for these alleged crimes? Who is the father having killed three (or was it four) of his daughters?]

<http://www.tawergha.org/docs/libya-physicians-for-human-rights-report-witness-to-war-crimes-in-misrata-aug-2011.pdf>

## Foreign Affairs Report:

*“... Yet recent reports [1] by the U.N. and by advocacy groups shed doubt on these claims. Amnesty International, for example, has been unable [2] to locate a single rape victim, or even anyone who knows a victim...”*

<http://www.tawergha.org/docs/libya-foreign-affairs-on-rape-reporting-during-war-aug-2011-english.pdf>

**Our findings from the official reports:**

We tried very hard to find anything substantial on the rape allegations as the people from Misrata use the alleged rape crimes by Tawerghans as the main reason why the ethnic cleansing, the unlawful imprisonment and torture is justified and we thought the conviction of the perpetrators to these crimes would solve the issue but we have a hard time finding any.

When we speak to people from Misrata many of them claim that Tawerghans have confessed while being tortured and therefore must be guilty of the crimes.

How any rational thinking human being can use information obtained by torture as evidence for the accusations is beyond our imagination and we strongly advise the international community to live up to their responsibility and assist the Misratan citizens, the Libyan justice department and the Libyan government in providing actual justice to the victims of the alleged rapes and to the thousands of innocent prisoners being held without indictment for all these years while being severely tortured and killed.

The international community must assist the newly emerging civilian authorities in providing basic services to the Libyan people as Libya develops a constitutional framework and mechanisms and builds civil society and institutions.

Such a difficult process can best succeed if Libya confronts without revenge the legacy of severe human rights violations committed by the previous regime and by the revolutionaries.

Individual accountability for crimes under the rule of law is the best guarantee for preventing future human rights violations and ending a cycle of violence and to provide justice and accountability for all Libyans.

In the current absence of developed legal institutions, it is crucial that Libyan transitional authorities fully collaborate with the International Criminal Court (ICC). The Libyan people must develop a screening process that will keep human rights violators out of future positions of power.

## Ethnic cleansing

The ethnic cleansing of Tawergha lasted from March until the 11<sup>th</sup> of August (2011), in the month of Ramadan, when the mass killings occurred on the day of the “liberalization” of the town.

On that day the tragedy of Tawergha started with the rebels of Misrata entering Tawergha from four sides assisted by NATO bombing, who started to shell targets in residential neighborhoods.

The shelling continued during the morning, which brought harm and death to many people buried by bombed buildings, and which forced people to flee on foot because most cars were without fuel, which increased the magnitude of the disaster.

The inhabitants of Tawergha could only flee eastward following the withdrawing brigades of Gaddafi, which were also bombed from the eastern side of Tawergha, forcing the people to retreat along the muddy roads which led many to their deaths in the surrounding swamps of the sabkha region (salt plain swamps) as many of the people drowned, especially the elderly and pregnant women and the sick and disabled didn't make it out alive.

The Tawerghans fled to the town of Al Heisha, mostly on foot as although there were some cars, there was not enough petrol available. Some of the people of Al Heisha helped to fetch several of the people of Tawergha from the desert and the sabkha region, and also collected some of the remains and body parts of Tawerghans and buried them in Al Heisha.

Three days after the disaster, some people of Tawergha could get access to fuel and dispersed to other cities. (e.g. Sirte, Jafra, Zala, Sabha, Tripoli, Tajoura, Bani Walid, Tarhunah)

For many Tawerghans this was not an option because they had neither the money nor the means having barely survived the slaughter. Many fleeing refugees were rescued from the remote desert area without any basic necessities of life.

The torturing and killing started from the first moment the Misrata militia arrived in Tawergha. The endless kidnapping, torture and murdering of civilians went on in all the regions and cities starting with Al Heisha, until the arrival of a battalion of rebels from Ajdabiya and Benghazi to the Jafra region, which have protected the parents and children from Tawergha. As a result many of the Tawerghan people were keen on deportation to Benghazi in coordination with military junta who showed respect for life.

The Misrata battalions of death, (Thobacks, Alnacim, Almoharb, Warrior, Martyrs, Sir Garib, Alniser, Ahasam, Tripoli Street, Ahmed Kerkom), mistreated the women, children and the elderly at the Alimdad site and kidnapped the youth from Tawergha who were brought to Misrata for, unlawful imprisonment, torture and many were killed.

The Misrata militia hunted down all Tawerghan refugees and took their cars, mobile phones and money, burning cars and property of the people that were not of value to them. This occurred in Tripoli and other cities that have been sheltering displaced people. A number of Tawergha local council members were arrested, assaulted and the complete paper and electronic council archive was stolen in addition to loss of personal property at the hands of rebels from Misrata.

## Destruction of Tawergha

After the residents from Tawergha were expelled and were barred from returning, militias of Misrata started to systematically destroy the town and farms.

All property was looted and the buildings were not spared from destruction including all public places, like banks, hospital, mosques and schools which have been burned down after the theft of their contents. The village water tower was demolished with explosives and the dairy and poultry equipment was confiscated and the buildings were destroyed.

A total of 1,690 damage sites were identified from satellite analysis between July 28, 2011 and August 18, 2012.

There were likely at least two distinct phases of arson and demolition-related attacks in Tawergha. The first and smaller of the two phases immediately followed the capture of Tawergha (from mid-August to late October 2011) and was followed by a lull in destruction for about one month (between October 21 and November 24). The second and main phase of building destruction occurred between November 24, 2011 and May 25, 2012, with a total of 1,373 damage sites, representing over 81% of all detected damages.

It is probable that over 92% of all identified damages resulted from arson attacks, with the remainder of damages probably caused by controlled demolition with explosives (4.9%), air strikes (1.4%) and the remainder possibly by artillery fire (direct or indirect).

Video footage posted on YouTube in March and April 2012 that appears to show militias from Misrata demolishing a municipal water tower and several residential buildings in Tawergha was reviewed in detail against known demolition sites identified in satellite imagery. A positive match has been made between buildings in the videos and buildings identified in satellite imagery, confirming the location and time period in which the video was recorded.

<http://www.tawergha.org/docs/libya-hrw-report-2013-tawergha-ethnic-cleansing-satanalysis.pdf>

## Prisoners and Torture

When we communicate with people from Misrata, whether they are politicians, military or civilians, the general response to our accusations on the torturing or killing of innocent inhabitants from Tawergha is denial, trivialization or the justification of those events.

Although we published nearly one hundred official reports on our website written by dozens of well-established human rights organizations, governments or other highly trustworthy sources and created a online torture victims database with horrific pictures and the stories behind the images, many people from Misrata will not accept that their freedom fighters are capable of committing such crimes against innocent civilians.

The Local Council of Misrata has denied their involvement in the crimes after Human Rights Watch threatened them with possible indictment and prosecution by the ICC, and they redirect the blame to the government for not providing the necessities for proper management of prisoners or the resources to provide justice.

Foreign countries have assisted with this issue and a new prison has been build and the guards are following training to enable them to handle prisoners without the use of force. These efforts have little effect however as the director of the prison admits that prisoners are taken by members of the Misrata militia and are later returned heavily tortured. There is nobody to stop them he explained.

Visiting family members from the nearly thousand Tawerghans being held in captivity are often harassed or are in danger of being imprisoned or tortured themselves.

### **International Criminal Court (ICC) Prosecutor Statement 14 November 2013:**

*It is a matter of great concern that thousands of detainees remain in uncertain conditions in the country, with multiple and apparently well-founded allegations of torture and even killings in detention having been reported.*

*My Office fully shares the concerns of the United Nations that unless this problem is effectively addressed now, it will only escalate with time.*

*It is incumbent upon the Ministers of Justice, Interior and Defence of the State of Libya to speedily ensure that detainees are transferred to proper government-controlled detention facilities where they can be either charged with their due process rights fully respected, or released where appropriate.*

*Torture and inhuman treatment of prisoners should have no place in the new Libya.*

Although many promises have been made by the Misrata Local Council to release prisoners who are held without charge or indictment for nearly three years, only a handful of prisoners have been released until the writing of this report.

<http://tawergha.org/official-reports.html>

<http://tawergha.org/torture-victims-database.html>

<http://www.tawergha.org/docs/libya-tawergha-icc-prosecutor-statement-unsc-en-14-nov-2013.pdf>

## Current Situation

The people of Tawergha are displaced, scattered over more than 26 different camp sites all over Libya. The Tawerghans who managed to retain some finances, migrated out of Libya to prevent their sons from being tortured or killed.

The refugees of Tawergha decided to return to their city on 25.06.2013 and asked the government to provide transport and protection for their journey.

The Prime Minister issued a statement asking to postpone the return. The members of the former Local Council of Tawergha cooperated to maintain their positions in the government.

This caused confusion among the people from Tawergha, of which a group decided to return in spite of the Councils request to stay. This group was ready to leave for Tawergha on 25.06.2013, but the authorities prevented their action and promised that there would be a postponement of not more than ten days before all the refugees could go back to Tawergha.

Until last month no action had been taken and endeavors for the return to Tawergha did not exist.

There is an initiative of the Executive Office of the province of Cyrenaica which is still under negotiation and is confidential in nature.

As part of the negotiations, some Tawerghans detained in illegal prisons were released to express the intent of reconciliation, after which the elders of Tawergha provided an explicit apology for possible crimes allegedly committed by Tawerghan militia in Misrata.

Last month the Misrata Local Council decided to directly open communication channels between the Tawergha Local Council and the Misratan department for the Tawergha case. Over the past few days, a meeting was arranged with the Tawergha Local Council and the department in charge of the Tawergha case from Misrata.

The meeting was a welcomed success by both parties and there were agreements on many issues. The Misrata and Tawergha taskforce has decided to move forward and work closely to impose more pressure on the government to assist in their case and also to improve the humanitarian situation of displaced people.

They agreed to stay in direct contact to reduce the tension and not to escalate the situation by media and that all issues are to be directly discussed between the Misrata and Tawergha taskforce without any third parties. The agreements made during the meeting will be carried out in the coming days.

A return date is to be set, although there is plenty of reason for doubt as to whether the refugees of Tawergha will ever be allowed to return to their homes. People from Tawergha start to lose faith in a solution while their living conditions have gone from bad to worse in the displaced persons camps.

In spite of the state of chaos and non-functioning of law and order that Libya is suffering from up to this moment, the refugees hope that the Libyan State will soon provide safe and decent living conditions, proper education and good health care until the people of Tawergha may return home.

## Political Efforts

Tawergha requested the government and the National Congress to protect the refugees of Tawergha and find a solution for them to return to their town and land.

There have not been measurable actions performed by the State of Libya nor by the General National Congress on the basis of which could be concluded that reasonable efforts have been made to assist the people of Tawergha to return to their home.

Most of the reconciliation efforts are conducted by either tribal leaders or by non-governmental, humanitarian organizations. There are efforts made by civil society organizations, but the results are not binding on the parties of Tawergha and Misrata.

When it comes to the Tawergha case, it seems that the Libyan government has different priorities and allows the Misrata GNC members to dictate the actions the members of government are allowed to undertake in the reconciliation process.

The Tawergha case file was secretly handed over to the International Criminal Court in The Hague which it is currently investigating. The ICC has already stated their grave concerns on this issue.

### **The Libyan Government:**

Over the course of three years of ethnic cleansing and displacement, the Libyan government and the National Conference have not shown any serious endeavors towards the improvement of the situation nor made any visits to the refugee camps across the country while key figures from US Congress, the UK embassy, and several other embassies, international organizations and governments did make an attempt to visit the camps.

The Council of Tawergha tried to obtain an explanation from the Prime Ministry as to the reasons for not keeping his promises. According to the Council of Tawergha it is common knowledge that Tawergha is considered one of cities that lost the battle during the revolution because Tawergha was assumed to be on the side of the oppressor unlike Misrata, that choose the side of the rebels.

According to this 'winner/loser' idea, the people of cities that supported Gadhafi during the revolution are at the mercy of the winners. As a result their rights may not be granted. For the above mentioned reason the Council of Tawergha announced to boycott the upcoming election.

To make things worse and more prone to discrimination, the Municipal Government of Tawergha was removed off the list of official Municipal Governments. The purpose of this list is that the new Libya is to be divided into Municipal Governments in order to decentralize the role of the federal government and as a move towards more local municipal developments in each city.

The Council of Tawergha believes that the Libyan government is at the mercy of victorious cities like Misrata or Zentan, whose members of the government attempt to place dictating orders to the Libyan government regularly or even try to blackmail it. That the latter could be the case, seems to be indicated by the closure of the oil and gas export ports and the kidnapping of some key officials including the Prime Minister, Ali Zaidan, himself.



The Libyan National Congress issued the decision (No.123 The roadmap) regarding the return of displaced persons in and outside Libya as a whole, but the decision is irrelevant for the Tawerghans as it did not specify a timeframe nor schedule and did not specify whether this concerned the region of Tawergha or not.

Decision 123 was issued some time ago but was kept in a drawer and until today there are no serious efforts made to activate this decision. It is believed that this could be just a way of buying time and getting around mitigating the embarrassment that the government is facing.

### **The Tawergha Local Council:**

As the municipality of Tawergha has been officially canceled, the former members of the Local Council have not much to offer to lighten the hoarse conditions that the people of Tawergha encounter on a daily basis.

It is financially handcuffed as the Local Council is not funded by the government and lacks the official authority to make decisions. The Tawergha Local Council suffers from a lack of financial support from the Office for the Displaced Persons.

### **The Misrata Local Council**

We communicated with Misrata NTC and GNC members and the Misrata Local Council members on different occasions.

Mr. Mohamed Ibrahim, who is the head of the department in Misrata, responsible for the Tawergha case, stated that in the previous years there wasn't any direct dialogue between Tawergha and Misurata Local Council and all communication went through third parties.

The Misrata Local Council had high hopes that the Libyan state would adopt the Tawergha case but unfortunately there has been a complete sense of neglect and as a result the situation has become much worse since then. It is the opinion of the Misrata Local Council that the third parties in many cases did not explicitly pass over their viewpoints making things worse.

Last month the Misrata Local Council decided to directly open communication channels between the Tawergha Local Council and the Misratan department for the Tawergha case. Over the past few days, a meeting was arranged with the Tawergha Local Council and the department in charge of the Tawergha case from Misrata.

The meeting was a welcomed success by both parties and there were agreements on many issues. The agreements made during the meeting will be carried out in the coming days.

Human Rights Watch has received a direct answer from the Misrata Local Council in the past and we have added a few relevant paragraphs below to illustrate the fears and issues the Misrata Local Council has on the Tawergha case.

### **Official Statement by the Misrata Local Council:**

#### *Appalling prison conditions & the lack of justice:*

*We have demanded from the government the need to equip a prison to hold defendants that meets international standards, and we have asked the government to prosecute defendants swiftly in fair trials after the Public Prosecution reviews their files and obtains sufficient evidence. In this framework, we affirm that we are ready to turn detainees over to the Ministry of Justice at any time.*

#### *Torture, Violence & Ethnic Cleansing:*

*If there have been violations or irregularities,[against Tawerghans] these are no more than individual, and not systematic infractions. We have worked and are working to prevent this, and we are willing to prosecute any person proven to have committed violations, whatever his status or rank.*

*There are some brigades located outside the city of Misrata. These have been linked to the Misrata revolutionaries, but these brigades are not subject to the authority of the Misrata Local Council or its military council.*

*During these days, there was no attack on the property of the residents of Tawergha or their homes. What was done by unknown persons were individual acts that cannot be attributed to a particular body or specific persons. These assaults occurred after voices were raised and pressure increased on the people of Misrata to permit the people of Tawergha to return to their homes.*

#### *The Return of the Tawerghans:*

*Although no one has prevented the people of Tawergha from returning to their homes, we know that the people of Tawergha depend entirely on the city of Misrata for their livelihood, as it provides them with jobs and food. This means their return without the provision of jobs in their area is virtually impossible because they will be like refugees in their homes.*

*As coexistence between the two areas is impossible at the current time, we believe it is necessary to search for alternative solutions that will be appropriate and acceptable to the people of Tawergha. This is an appeal to the government and all citizens to solve this problem on the national level.*

*We ask the Libyan state to swiftly activate the law on transitional justice and provide all means of achieving this.*

<http://www.hrw.org/news/2012/04/11/misrata-local-council-response-human-rights-watch>

## Internally Displaced Person Camps

The IDPs from Tawergha live in crowded quarters, a single tent housing an entire family, squeezed in between other tents in a relatively small area. Many families are living with enormous grief over the loss of family members, either dead or missing.

Contact with their former daily life is nonexistent or limited, increasing the sense of loss and isolation. On top of the immense stress of the emergency situation which brought them to the shelter living in a camp is far from a pleasant experience.

The current humanitarian conditions have deteriorated as all aid comes from a limited number of Libyan businessmen or the Libyan Red Cross during the last three years. As this calamity goes on, the people of Tawergha feel that they have become a heavy burden on them.

Most elementary and high school kids cannot join schools near their camps as their school related documents are under the possession of the Misrata Council which refuses to hand them over. The same issue applies to employees working in the educational or health care sector although the documents for teachers have been cleared by the Libyan government.

As the UNCHR has scaled down their support in the IDP camps, the isolation has increased for the Tawerghans. At this moment only three UNCHR employees are on active duty in Benghazi and resources have been marginalized which results in busses carrying students or workers from and to the city have been canceled and many refugees cannot afford basic transportation costs.

Three major fires in the IDP camps, have added to their misery as the already cramped living quarters are now additionally over crowded. The UK ambassador has examined the campsite at the end of 2013, and has concluded that their situation is appalling. We have heard that four infants have died during winter due to the inhumane conditions.

The UNHCR continues to receive reports of former inhabitants of Tawergha being arrested and abducted and the refugees continue to receive messages from Misratans, threatening to kill them. We have noticed that the threats are openly conducted by certain Misratans on social media and is unopposed by any justice department or regime members in Libya.

## Recommendations

### To restore trust in the judicial system and ensure accountability

#### To the Supreme Judicial Council:

1. Revise the draft law on the judiciary to ensure that vetting mechanisms are not based on political affiliation by providing that, inter alia:

- a) an independent panel is tasked with vetting members of the judiciary;
- b) the process is transparent and that disbarred judges have the right to appeal; and
- c) judges are dismissed on the basis of a fair review of their performance and qualifications and not simply for having served on Gaddafi-era “special courts”.

#### To the Justice Ministry:

- 2. Establish, as a matter of urgency, a screening process to end arbitrary detentions.
- 3. Reactivate currently non-operative courts, and in districts where lingering distrust towards the state judiciary is the cause for their closure, reach out to local armed groups, notables and local councils to promote greater dialogue on the state justice system.
- 4. Reach out to ordinary citizens through media and civil society groups to explain the current judicial system and restore confidence in what many still perceive as a Gaddafi-era relic.
- 5. Ensure that detainees are transferred to proper government-controlled detention facilities where they can be either charged with their due process rights fully respected, or released where appropriate and be provided with compensation and rehabilitation.

#### To the General National Congress:

- 6. Revise the legal framework currently in place. This includes not only the Transitional Justice law but also the amnesty laws.
- 7. Pass a modified bill on the judiciary, as described above, so that judges are vetted by an independent panel, and use this, rather than the Political and Administrative Exclusion Law, as the principal means to weed out corrupt and tainted members of the judiciary.
- 8. Approve the draft laws on transitional justice and restriction of military jurisdiction to members of the armed forces.

9. Overcome political divisions and unblock the new Constitution's drafting process which should be inclusive and ensure the protection of fundamental freedoms, including women and minority rights.

**To the Office of the General Prosecutor:**

10. Ensure that all investigations and criminal trials, including those of former regime officials, respect due process and are conducted consistent with the Code of Criminal Procedure.

**To the International Community:**

11. Provide technical assistance and training to the Fact-Finding and Reconciliation Committee and its local sub-committees and support civil society organizations' efforts to document past and recent abuses.

**To help rein in armed groups**

**To the General National Congress:**

12. Amend law 38/2012 to clarify that perpetrators of crimes such as torture, murder and rape committed during and after the 2011 war will not be granted legal immunity.

**To the Office of the General Prosecutor:**

13. Hold members of armed groups accountable for their actions, notably those involving torture and death in detention.

**To the Interior Ministry and Defense Ministry:**

14. Bar individuals and armed groups responsible for serious crimes from leadership positions in the state security apparatus.

15. Ensure that units of the Supreme Security Committee (SSC), Libya Shield and other government-approved armed groups halt the practice of arresting individuals and storming homes or offices without warrant or evidence of wrongdoing.

16. Ensure that only official security units arrest so-called wanted individuals and that such units adhere strictly to due process.

## To reverse the ethnic cleansing

### To the International Community:

17. The international community should make a clear statement that crimes against humanity will not be tolerated under any circumstances. The local council of Misrata should be made aware that there will be consequences should they continue to prevent the Tawerghans from returning home.

### To the Misrata Local Council:

18. The Misrata Local Council members should make a clear statement in condemnation against the crimes against humanity committed by militia members from the Misrata region and start making an effort to enable the return of the Tawerghans. The official reports on this issue suggest that the following crimes against humanity have been committed by militia members from Misrata.

*"Crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:*

- (i) Murder;
- (ii) Genocide;

*"Genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life, calculated to bring about its physical destruction in whole or in part...*

- (iii) Deportation or forcible transfer of population;
- (iv) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (v) Torture;
- (vi) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (vii) Enforced disappearance of persons;
- (viii) The crime of apartheid;
- (ix) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health;

## To the General National Congress:

19. The Libyan National Congress should follow up on their roadmap for reconciliation (resolution No.123) regarding the return of displaced persons in and outside Libya as a whole and should start to assist in the reconciliation process.

20. The National Congress should grant all citizens of Tawergha full compensation for damages and loss of property that have been inflicted on them during the ethnic cleansing.

21. The General National Congress should adopt a law for providing legal framework for search and identification of missing persons and help recover bodies for re-burial. The relatives of missing persons should have an active involvement in the search and identification process. The Ministry for the Affairs of Families of Martyrs and Missing Persons should be given sufficient resources for carrying out its tasks which might take several years to accomplish.

As three years after the revolutions the GNC has not succeeded on its purpose to create an environment for the Libyan constitution to be written, we have selected some of the good stuff out of the draft version the NTC members wrote to emphasize the spirit of the Libyan Revolution.

### Constitutional Declaration February 2011 (draft):

*Based on the legitimacy of this revolution, and in response to the desire of the Libyan people and their hopes to achieve democracy, establish the political multitude and the estate of institutions, to create a society wherein all of us can live in stability, tranquility and justice; a society that can raise by science, culture, welfare and health, and that can bring up the new generations according to the Islamic spirit and love of goodness and home.*

*In the hope of seeking a society of citizenship, justice, equality, booming, progress and prosperity wherein there is no place for injustice, tyranny, despotism, exploitation and dictatorship. The interim Transitional National Council has decided to promulgate this Constitutional Declaration in order to be the basis of rule in the transitional stage until a permanent Constitution is ratified in a plebiscite.*

*Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities, and be subject to the same public duties and obligations, without discrimination due to religion, doctrine, language, wealth, race, kinship, political opinions, and social status, tribal or eminent or familial loyalty.*

<http://www.tawergha.org/docs/libya-i-transitional-national-council-constitutional-declaration-feb-2011-english.pdf>

<http://www.tawergha.org/docs/libya-crisisgroup-report-140-trial-by-error-justice-in-post-Gaddafi-libya.pdf>

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<http://www.tawergha.org/docs/libya-brookings-institution-report-national-reconciliation-dec-2013-english.pdf>

## Practical Solutions

We have read as much information we could find on the issue between Misrata and Tawergha and listened to many people and although we do not claim to have a solution solving all the problems between the two towns we do however have some recommendations and practical ideas to positively contribute to the reconciliation process.

The Misrata local council has made it clear that they have two major concerns about the Tawerghans returning to their houses.

First of all the council has concerns about the security situation of the Tawerghans. The Misrata local council claims that there is still a lot of hatred for the Tawerghans in Misrata and they are afraid they won't be able to guaranty their safety.

The council is also very concerned about the humanitarian aspect of their return as the militia members from Misrata have destroyed all the businesses and the dairy and poultry project in Tawergha therefore there is fear that the Tawerghans will not be able to provide for themselves.

We haven't found a solution for the Tawerghans who were living in Misrata to return as indeed we cannot provide security for them. Those families should receive full compensation for the loss of their property.

The people from the town of Tawergha should however be allowed to return home as soon as possible and to guaranty their safety we have asked the local council from Tawergha to sell a stretch of land so the government can build a military base with a military airport in Tawergha.

This will provide the government with a base to station their new recruits who are receiving training in Europe this moment and the security of the people from Tawergha will be guaranteed. A big army base will provide many jobs for the Tawerghans and will provide extra income for the stores and businesses in town.

We read in the country agriculture report that the Misrata Al-Naseem dairy factory has confiscated most of the dairy and poultry equipment and resources and we suggest that it is returned and the government will supply funding to rebuild the project. This will create enough jobs to support all of the Tawerghans who wish to return and they will be able to provide the army base with dairy and poultry products.

The government should build a prison on the military compound to hold the prosecuted Tawerghans. The Misrata local council has announced that they are willing to hand over prisoners if the government will ensure that justice will be done. A local military prison in Tawergha will provide a solution for all parties. The local council of Misrata are redeemed of their prisoners and the prisoners will be safe from torture by the Misrata militias. The Tawerghans will be safe to visit their family members in prison and the Libyan government does not have to fear for its good name.

We understand that it will take some time to arrange all the preparations and build the military base but we think this is a practical solution to enable the return of the Tawerghans.

In the meantime the Misrata Local Council should return the educational documentation of the youth from Tawergha, so they can continue their education.

<http://www.tawergha.org/docs/libya-agribusiness-development-report-2012.pdf>



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We have left out the names of sources we spoke to as many Tawerghans are still receiving death threats. We have learned that reprisal attacks on family members kept in Misratan prisons occur and Libyans from other towns we spoke to were afraid of retaliation should it be known that they provided information or support for the Tawerghan case.

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