

## **Situation report on the Misrata & Tawergha reconciliation process February 2014 (Summary)**



## Full version of this report

The full version of this report, containing background information, sources and references can be found on our website. The link below will redirect you to the full version of the report:

[2014-02-17-libya-tawergha-foundation-sitrep-on-the-misrata-tawergha-reconciliation-process-full-english](http://www.tawergha.org/official-reports.html)

## Content of this report

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.

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

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.

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

We have used information and paragraphs from official reports written by dozens of well-established human rights organizations, governments or other highly trustworthy sources. Although they are mainly written on account of the Tawerghan humanitarian issue, we have also found and used information from reports written from the Misrata point of view.

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 where afraid of retaliation should it be known that they provided information or support for the Tawerghan case.

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

<http://www.tawergha.org/news-items.html>

## Introduction

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



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

The Tawerghans have darker skin color than 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.

## Ethnic Cleansing

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.

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.

## 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.

We have searched through all of the official reports on specific rape incidents committed in Misrata and although we found a few, 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.

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.

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.

## Destruction of Tawergha

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

## 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.

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.

## Current Situation

The people of Tawergha are displaced, scattered over more than 26 different camp sites all over Libya.

The current humanitarian conditions have deteriorated as the UNCHR has scaled down their support in the IDP camps and all aid comes from a limited number of Libyan businessmen or the Libyan Red Cross.

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.

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.

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.

Until last month, no action has been taken and current endeavors for the return to Tawergha did not exist and are seldom discussed.

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

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

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.

## National Congress

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 follow through on this decision.

## Local Council of Tawergha

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

## Local Council of Misrata

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## 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
  - 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.

## Practical Solutions

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.

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

