HOUSING AND LAND RIGHTS NETWORK
Habitat International Coalition

4th Universal Periodic Review of Libya
Implementing the Human Right to Remedy

Habitat International Coalition (HIC) is an independent international nonprofit Coalition of organizations and individuals working in the field of human settlements. In consultative status with UN ECOSOC since 1993, HIC and its members comprise some 350 non-governmental and community-based organizations, academic and research institutions, social movements and like-minded individuals from over 80 countries in both North and South.

Housing and Land Rights Network is a thematic structure of HIC supporting Member organizations to develop programs and capabilities in the substance and advocacy of the human rights dimensions of habitat. HIC-HLRN channels specialized civil society cooperation with both the UN Human Rights System and Development System.

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Abbreviations:

$	dollar
a.k.a.	also known as
GNA	Government of National Accord
GPC	General People's Committee
HIC	Habitat International Coalition
HLP	housing, land and property
HLRN	Housing and Land Rights Network
HRC	Human Rights Council
Ibid.	ibidem [Latin: in the same place]
IDP	internally displaced persons
IOM	International Organisation for Migration
NATO	North Atlantic Treaty Organization
NGO	non-governmental organization
ODAC	Organization for the Development of Administrative Centres
op. cit.	opus citatum [Latin: work cited (above)]
RES	resolution
UN	United Nations
UNDP	United Nations Development Programme
UNOCHA	United Nations Office for the Coordination of Humanitarian Assistance
UNSMIL	United Nations Support Mission in Libya
UPR	Universal Periodic Review
US	United States
VNR	Voluntary National Review

Introduction

1. This submission poses questions and recommendations for Libya to ensure "effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity," as guaranteed in ICCPR,[1] which Libya ratified in 1976. It treats two types of remedy:

   - Housing, land and property (HLP) restitution and
   - Transitional justice (TJ) processes.

Housing, land and property restitution

2. In this review period, the need for HLP restitution, among other forms of reparation, arises from three principal causes involving (1) forced dispossession during the previous government (1969–2011), (2) forced displacement due to subsequent violent conflict, and (3) climate change-induced displacement.

Dispossession during the previous government

3. Motivated by the ideology of Muammar Ghaddafi's *Green Book*,[2] Libyan legislation during 1969–2011 regulated the right to property. Law No. 4/1978 expanded the scope of properties subject to State acquisition, restricting real-property rights to one property per family or individual with minimum 18 years of age. Owners were to be compensated, and the State would then distribute confiscated properties to needy citizens, with existing tenants of those properties taking priority.[3] Confiscated commercial or industrial premises would go to a new owner practicing a related craft or industry without owning a suitable property.[4]

4. The specialized Committee[5] managing the process was often reluctant to pay compensation, creating inordinate delays over years suggesting an undeclared policy to impede payments.[6] Many such cases remain outstanding until today. Law No. 4 violated the right to property also by denying the human right to participation in the process.[7] Even Public Administrative Control Authority admitted that misapplications were common.[8]

5. Amid widespread dissatisfaction, a 1986 Public Administrative Control Authority report on 'misapplications' of Law No. 4 led to a People's Court claims procedure for restoring or compensating confiscated properties. Law No. 5/1988 was to address these deficiencies, establishing the People's Court.[9] Its operation was cut short by serial legislative provisions significantly restricting victim claims.[10]

6. A 1998 General People's Committee (GPC) resolution[11] permitted restitution to pre-1978 home, workshop and land owners (and their adult sons) under certain conditions. If restitution was rendered impossible because it was now officially owned by another Libyan, GPC's resolution allowed original owners' compensation, or arrangements negotiated between the parties. In its short life (2006–11), the Restitution Committee' resolved 10,526 of 25,148 compensation claims received.[12] However, potential claims could have eventually reached 75,000 cases,[13] leaving the majority unremedied.

7. Libya's previous UPRs did not address these issues explicitly, but did recommend transitional justice processes. (See below.)

Forced displacement due to conflict

8. Serial conflicts since 2011 displaced some 925,000 Libyans from their homes by 2018. However, at Libya's 3rd UPR (2020), that number dropped to fewer than 300,000. The end of 2022 saw the lowest number since 2013, at about 135,000.[14]

9. Libya's human rights obligations toward conflict-induced displaced persons figured prominently in the 3rd UPR round. At least ten States urged Libya to uphold the human rights of internally displaced persons (IDPs), including by HLP restitution, all of which recommendations Libya accepted.[15]

10. In response to comments, Libya's UPR delegation stated that, to realize regional reconciliation and open roads between the regions, Libya's president decided to facilitate IDP returns in the western and southern parts of Libya after the 2014 conflict, and decreed to establish a fund for IDP remedy and rehabilitation.[16]

Forced displacement due to environmental hazards and climate change

11. More-recent monitoring of climate change-induced displacement and related consequences has revealed a new category of some 3,000 displaced Libyans between 2011 and 2017. That number exponentially increasing to 59,000 by May 2023, mainly due to storms and flooding.[17]

12. Rising temperatures and erratic precipitation patterns already have led to agricultural losses, diminished water resources, and increased dependence on food imports, straining government finances and exacerbating food insecurity.[18] Projections for 2040 indicate that water scarcity will worsen to severely reduce crop yields as much as 30% by 2060, especially in Libya's southern region where agriculture employs a quarter of the population.[19] A 2017 estimate projected 2.6°C warming by 2100 will cost Libya some US$1.7 billion[20]; however, loss and damage have far exceeded that figure within this UPR period.

13. In September 2023, Hurricane Daniel hit eastern Libya. Flooding breached the Derna and Abu Mansur Dams, already 50-year-old and unable to restrain normal rains. The downstream city of Derna was inundated. The deluge destroyed 891 buildings; partially damaged 211, and submerged 398 others in mud.[21] Killing some 30,000 inhabitants, with 8,000 missing,[22] that disaster displaced 43,400–56,000 others.[23] Fully 884,000 were in need of aid.[24] A joint needs assessment put the loss and damage from Derna disaster alone at US$1.8 billion.[25]

14. While that extreme event is attributable to climate change, direct human factors exacerbated the consequences. Libya's Organization for the Development of Administrative Centres (ODAC)[26] had contracted a Turkish firm for maintenance of

the dams, but it withdrew under NATO bombs, leaving the work unfinished and the funds unaccounted for.[27]

15. The Derna disaster revealed the nexus between climate change and human rights, in particular, rights to life, health, adequate housing, information and public participation. Meanwhile, forced displacement due to NATO actions and their aftermath also exemplifies **States' third duty in the UPR process**, namely addressing the extraterritorial obligations and, thus, the liability of other States, their organs and domiciled entities for violations inside the State under review.[28]

16. In Libya's 3rd UPR, only Fiji recommended that local communities be meaningfully engaged in the development and implementation of climate change and disaster risk-reduction policies.[29]

17. Libya's per capita greenhouse-gas emissions are the highest in Africa, mainly from electricity production and the oil sector, amounting to approximately 8.5 tons of carbon per person per year.[30] Libya's barrel-to-flare ratio ranks eighth in the world, which emissions increased from 2.3–5.9 million m^3 annually during 2016–2019.[31] Yet the country was the last to develop its National Determined Contribution as required by the Paris Agreement, and continues to struggle with carbon transparency.

18. In 2024, Libya's 2nd Voluntary National Review (VNR) on Agenda 2030 progress covered climate action (Goal 13). It noted: "Libya is working on preparing a national strategy to reduce disaster risks for the period 2024–2035." Other cited actions and initiatives were only nascent or prospective: including climate change in national policies, strategies and plans; establishing a Ministry of the Environment to replace the General Authority for the Environment; creating a department concerned with climate change within the Ministry; establishing the Libyan Center for Climate Change Research in 2023 affiliated with the Ministry of Higher Education and Scientific Research; and forming several ministerial committees concerned with climate action, renewable energy, and energy efficiency.[32]

Transitional Justice

19. The abuses of the previous government and conflicts since its downfall have necessitated restorative transitional justice as a foundation for rebuilding the human rights treaty-bound State. The Transitional Justice and National Reconciliation Law (2012)[33] and its replacement Transitional Justice Law (2013) (a.k.a. Law No. 29)[34] aimed at reconciling accumulated grievances, engendering reconciliation and remedying the causes of violations to guarantee their non-recurrence. However, they lacked minimal human rights criteria[35] and were never applied.

20. Following the April 2019 attack on the capital, the Government of National Accord (GNA) established a joint committee to monitor and document human rights violations, which submitted three reports documenting allegations of violations since that attack. However, the proposed process was neither sufficiently inclusive, nor did

it cover the full scope of violations, alleged perpetrators or periods of time covered. The process ultimately failed not only because of the deteriorating security situation and proliferation of armed groups, but also because of obstacles related to deeply rooted tribal divisions and controversial legislation such as the Political Isolation Law promising immunity for rebels who fought against Gaddafi.

21. The Law to conduct fact-finding into gross human rights violations and award reparations to victims did not ensure the independence, impartiality and competence of the Fact-Finding and Reconciliation Commission established under it. The scope of its mandate was insufficiently clear and its investigative powers were too weak to serve its purpose.

22. Nonetheless, UNSMIL repeatedly called for an inclusive, rights-based transitional justice and reconciliation process. Since the last UPR, international support for the transitional justice process has been expressed in the Berlin Conference[36] and endorsed by the UN Security Council.[37]

23. In the previous UPR round (2020), at least four States recommended Libya continue and escalate TJ efforts and end impunity.[38] On 7 January 2025, Libya's eastern House of Representatives adopted a new Transitional Justice and National Reconciliation Law.[39] However, the continuing fragmentation of governance—with GNA and two legislative bodies—poses a challenge to the law's implementation.

Questions arising:

24. Could Libya kindly explain if and how Hurricane Daniel and its lessons spurred policy reconsiderations and how environmental policy formulation has factored in re-unifying government and other state institutions?

25. What are prospects for reviving the TJ processes in light of the recent legislative developments?

26. How could other States better uphold their extraterritorial human rights obligations vis-à-vis Libya?

Recommendations arising:

27. All Libyan governance structures should end and remedy nepotism and other forms of corruption in public contracting.

28. Ensure that victims of human rights violations arising from human-made environmental hazards and climate-change enjoy full reparations aligned with A/RES/60/147.

29. All Libyan governance structures should support human rights-grounded TJ processes, especially reparations (aligned with A/RES/60/147) for victims as a requisite to national reconciliation.

30. The Prosecution and Reconciliation Commission in TJ processes be effectively competent, independent and impartial by establishing fair and transparent procedures and objective criteria for the selection of its members;

31. Ensure that Reconciliation Commission members have not been involved in committing past human rights violations, including through an independent and adequate prior vetting process;

32. Ensure that the Prosecution be able to instigate prosecutions not merely upon the Commission's referral, but also *proprio motu*, based on the availability and admissibility of sufficient evidence and the principle that the public interest requires a prosecution;

33. The TJ law and its implementation must provide jurisdiction over crimes under international law, including enforced disappearance, rape and other forms of sexual violence, war crimes and crimes against humanity; exclude amnesties, immunities and statutory limitations in prosecuting such crimes; guarantee the right to truth and public participation in a transparent TJ process; and provide full reparations to victims of gross human rights violations or abuses, or to their next of kin.

34. Ensure that all TJ-process reports be made public and appropriately disseminated.

35. Overhaul the criminal law framework, including the Code of Criminal Procedure, to guarantee compliance with international human rights law, before the TJ Chambers start operating.

36. That all States, their organs and domiciled entities individually and collectively in relations with Libya support the unity and integrity of Libyan governance, including the TJ and national reconciliation processes.

37. That all States with past, present (or future) military involvement in Libya fulfill their international-cooperation and extraterritorial human rights obligations by making restitution for their respective roles in dismembering and fragmenting Libya.

38. Libya and all States continue to support and cooperate with UNSMIL in state-building and national-reconciliation processes.

39. Seek UN Security Council support for UNSMIL to facilitate cooperation in mitigating, adapting to, and recuperating loss and damage from the impacts of climate change and environmental hazards.

40. Seek international assistance and cooperation to provide divided government institutions with opportunities for peaceful collaboration in managing natural resources, such as shared water management and early-warning systems.

Endnotes:

[1] International Covenant on Civil and Political Rights, resolution 2200 (XXI), 16 December 1966, Article 2.3(a), https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights.

[2] Muammar al-Qaddafi, The Green Book: Part II - The Solution of the Economic Problem: Socialism, 3 vols, (Tripoli: The Green Book Center, 1980), p. 58.

[3] Article 7 of Law No. 4; Articles 5 and 7 of Executive Regulations of Law No. 4 of 1978.

[4] Suliman Ibrahim and Jan Michiel Otto, "Resolving Real Property Disputes in Post-Ghaddafi Libya in the Context of Transitional Justice," Final Report of a Libyan-Dutch Collaborative Research Project (Tripoli: Van Vollenhoven Institute for Law, Governance and Society (VVI), Leiden University and The Centre for Law and Society Studies, University of Benghazi, with support of the Royal Netherlands Embassy in Libya, 2017), p. 8, https://www.universiteitleiden.nl/binaries/content/assets/rechtsgeleerdheid/instituut-voor-metajuridica/resolving-real-property-disputes-in-post-ghadaffi-libya.pdf.

[5] Ibrahim and Otto, *op. cit.*, p. 22; also Articles 16 and 21 of the Executive Regulations to Law No. 4.

[6] Mary Fitzgerald and Tarek Megerisi, *Libya: Whose Land Is It? Property Rights and Transition in Libya* (London: Legatum Institute, 2015), pp. 7–8, https://en.minbarlibya.org/wp-content/uploads/2016/07/libya-whose-land-is-it-2015-transitions-forum.pdf .

[7] Guaranteed under ICCPR, Article 25, *op. cit.*

[8] See Executive Regulations of Law No. 4 of 1978, Article 16; Suliman Ibrahim, "Property Claims in Post-Ghaddafi Libya: Political Debates and Justice Seeking in the Aftermath of Law 4/1978," *Hague Journal on the Rule of Law*, No. 9 (2017), pp. 144–45. Inspector General's Circular No. 2/1986 addressed to the Secretaries of the General People's Committees and the Secretaries of the People's Committees for Municipalities.

[9] The People's Court, Law No. 5 of 1988 on the establishment of the People's Court, *Official Gazette* Special Issue, 1 June 1988, https://security-legislation.ly/latest-laws/law-no-5-of-1988-on-the-establishment-of-the-peoples-court/.

[10] General People's Congress, Law No. 7/1997 'Concerning Amending Some Provisions Related to Law No. 5 of 1988 Establishing the People's Court', *Official Gazette* Issue 10 (29 May 1997); General People's Congress, Law No. 10/1997 'Concerning Special Provisions of Ownership, Eviction, and Expulsion Lawsuits on Real Property Allocated to Society', *Official Gazette*, Issue 2 (21 February 1998); General People's Congress, Law No. 11 of 1992 Concerning Special Provisions of Real Property Ownership, *Official Gazette*, Issue 27 (5 September 1992).

[11] General People's Committee Resolution No. 108/2006 'Regarding Procedures for Completing Compensation for Real Estate Subject to the Provisions of Law No. 4', 27 April 2006.

[12] Statistics issued by the Committee of 2006, December 2012, cited in Ibrahim, *op. cit*, pp. 111, 17, 29, 32.

[13] *Ibid.*, pp. 11, 9, 29.

[14] IDMC reported 278,000 IDPs in December 2020 (https://www.internal-displacement.org/countries/libya). After December 2020 returns, Statistika reported 245,463 (https://www.statista.com/statistics/1222286/number-of-internally-displaced-persons-in-libya-by-region/). UNOCHA reported (245,283) at end of February 2021 (https://reports.unocha.org/en/country/libya/); IOM Displacement Tracking Matrix identified and located 348,372 since 2014 (https://www.iom.int/countries/Libya) and Ministry of Displaced Persons Affairs reported an average of 343,180 displaced persons by October 2019.

[15] Recommendations of Austria, Belgium, Canada, Chad, Fiji, Iran, Iraq, Kenya, Republic of Korea and Mexico. Human Rights Council, Report of the Working Group on the Universal Periodic Review: Libya, A/HRC/46/17, 5 January 2021, paras. 148.94, 148.259, 148.260, 148.262, 148.264, 148.269, 148.273, 148.274, 148.275 and 148.279, respectively, https://docs.un.org/A/HRC/46/17.

[16] *Ibid.*, para. 121.

[17] Internal Displacement Monitoring Centre, "Libya," (last updated 24 May 2023), https://www.internal-displacement.org/countries/libya/.

[18] Frederic Wehrey, "Libya's Climate Vulnerability and Adaptation on the Periphery," Carnegie Endowment for International Peace, 6 June 2024, https://carnegieendowment.org/research/2024/06/libya-climate-vulnerability-adaptation-periphery?lang=en.

[19] Atlantic Council, "Climate Profile: Libya," undated, https://www.atlanticcouncil.org/programs/middle-east-programs/rafik-hariri-center-for-the-middle-east/empowerme/macromena/climate-profile-libya/.

[20] USAID, "Climate Change Risk Profile: Libya," *Conflict and Environment Observatory* (1 February 2017), https://ceobs.org/usaid-2017-climate-change-risk-profile-libya/.

[21] "Libya floods destroy at least 891 buildings in the coastal city of Derna - state media," Reuters (17 September 2023), https://www.reuters.com/article/libya-storm-damages-idAFS8N37R01R/.

[22] Human Rights Watch, "Libya: Derna Flood Response Costs Lives," 6 December 2023, https://www.hrw.org/news/2023/12/06/libya-derna-flood-response-costs-lives. UNOCHA cites an estimated range of 6,000–10,000 persons. UNOCHA, "Libya Flood Response Flash Appeal Extension Addendum Jan - Mar 2024 (Issued December 2023)," https://www.unocha.org/publications/report/libya/libya-flood-response-flash-appeal-extension-addendum-jan-mar-2024-issued-december-2023.

[23] UNOCHA, "Libya: Flood update," Flash Update No. 3, 16 September 2023, https://reliefweb.int/attachments/c21b5090-e281-415b-8022-20304d52e631/2023-09-16_Libya%20floods_Flash%20Update%203%20Final.pdf.

[24] UNOCHA, (December 2023), *op. cit.*

[25] World Bank, *Libya Storm and Flooding 2023. Rapid Damage and Needs Assessment* (Washington: World Bank, 2023), https://documents1.worldbank.org/curated/en/099353101242428521/pdf/IDU153d4e1711e33e145321b8881cf996ea3acf7.pdf.

[26] "Corruption Threatens Libya's Derna Again (1)," *Libya Tribune* (29 December 2024), https://en.minbarlibya.org/2024/12/29/corruption-threatens-libyas-derna-again-1/.

[27] World Bank, "Libya Overview," updated 20 September 2024, https://www.worldbank.org/en/country/libya/overview; "Human Factors at Derna," *Land Times/*أحوال الأرض, Issue 29 (September 2023), https://landtimes.landpedia.org/newsdes.php?id=qm5n&catid=ow==&edition=pHE=.

[28] General Assembly, Written statement* submitted by Habitat International Coalition, a non-governmental organization in special consultative status, A/HRC/24/NGO/81, 4 September 2013, https://docs.un.org/en/A/HRC/24/NGO/81.

[29] A/HRC/46/17, *op. cit.,* para. 148.114.

[30] Christopher Laker, "Accelerating Climate Action in Libya," United Nations Development Programme (UNDP), 2023. https://www.undp.org/libya/blog/accelerating-climate-action-libya.

[31] Global Gas Flaring Reduction Partnership (GGFR), *Global Gas Flaring Tracker Report* (Washington: World Bank, July 2020), p. 5, https://pubdocs.worldbank.org/en/503141595343850009/WB-GGFR-Report-July2020.pdf.

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[34] Law No. (29) of 2013 on Transitional Justice, 12 February 2013, https://security-legislation.ly/latest-laws/law-no-29-of-2013-on-transitional-justice/.

[35] Law No. 29 failed to provide for jurisdiction over crimes under international law, including enforced disappearance, rape and other forms of sexual violence, war crimes and crimes against humanity. It failed to exclude amnesties, immunities and statutory limitations in prosecuting such crimes. Nor did it guarantee the right to truth or public participation in a transparent TJ process. Moreover, it did not provide full reparations to victims of gross human rights violations or abuses, or to their next of kin

[36] The Berlin Conference on Libya: Conference Conclusions, 19. January 2020, https://unsmil.unmissions.org/conclusions-second-berlin-conference-libya-23-june-2021.

[37] Security Council, Resolution 2510 (2020) 8722nd meeting, 12 February 2020, para. 50, https://docs.un.org/en/S/RES/2510%20(2020).

[38] Notably Netherlands, Norway, Tunisia and Qatar. A/HRC/46/17, *op. cit.,* paras. 148.243, 148.54, 148.167 and 148.139, respectively.

[39] Ahmed Elumami, "Libya`s Eastern Parliament Approves TJ Law, toward Unity," *Reuters* (8 January 2025), https://hic-mena.org/activitydetails.php?title=Libya`s-Eastern-Parliament-Approves-TJ-Law,-toward-Unity&id=qGxnYw==.