



HUMAN
RIGHTS
WATCH

Unacknowledged Deaths

Civilian Casualties in NATO's Air Campaign in Libya



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Summary and Recommendations



UNACKNOWLEDGED DEATHS

Civilian Casualties in NATO's Air Campaign in Libya



NATO AIR STRIKES INVESTIGATED BY HUMAN RIGHTS WATCH

TRIPOLI

An air strike hit the al-Gherari family home on June 19, 2011, killing five people. NATO conceded a “weapons system failure.”

SORMAN

Multiple air strikes hit the large, walled farm of the el-Hamedi family, headed by a former member of Gaddafi’s Revolutionary Council, on June 20, 2011. The strikes killed eight family members and five staff.

ZLITEN

An air strike hit the home of Mustafa al-Morabit on August 4, 2011, killing his wife and two of their children.

MAJER

Multiple air strikes hit the compounds of the Gafez and al-Jarud families on August 8, 2011, killing 34 people.

BANI WALID

Air strikes hit two houses owned by the Jfara family, on the night of August 29 or early morning of August 30, 2011, killing five members of the family, including a nine-year-old girl.

SIRTE

A series of air strikes hit the seven-story Imarat al-Tameen apartment building on September 16, 2011. Many of the apartments were abandoned but one man and one woman were killed.

AL-GURDABIYA

An air strike hit the Gidwar family home on September 23, 2011, killing one man and two girls, and wounding at least four people.

SIRTE

An air strike struck the home of the Dyab family on September 25, 2011, killing three women and four children, and possibly Brig. Gen. Musbah Dyab.

*“I just need an answer from NATO:
Why did you destroy my home
and kill my family?”*

FAIZ FATHI JFARA, BANI WALID, JANUARY 23, 2012

This report documents civilian casualties in the air campaign by the North Atlantic Treaty Organization (NATO) in Libya in 2011. NATO says it took extensive measures to minimize civilian harm, and those measures seem to have had a positive effect: the number of civilian deaths in Libya from NATO strikes was low given the extent of the bombing and duration of the campaign. Nevertheless, NATO air strikes killed at least 72 civilians, one-third of them children under age 18. To date, NATO has failed to acknowledge these casualties or to examine how and why they occurred.



International humanitarian law, also known as the laws of war, requires that all attacks be directed at military targets. Civilians are immune from deliberate attack. While not all civilian casualties indicate a violation of the laws of war, attacks cannot be indiscriminate or cause disproportionate civilian loss.

In some cases, the presence of a lawful military target at NATO bombing sites where civilians died is in doubt. Extensive field investigations by Human Rights Watch uncovered no or only possible indications of Libyan government forces, such as military weaponry, hardware or personnel, or communications equipment, at seven of eight



(above) A NATO air strike hit the Gidwar family home in al-Gurdabiya, east of Sirte, on September 23, 2011, killing an elderly man and two girls aged 8 and 10.

(right) Abdulhamid Gidwar, 15, lost his left leg below the knee when the NATO air strike hit his family's house.

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NATO air strikes struck the Imarat al-Tameen apartment complex in downtown Sirte multiple times on September 16, 2011, killing one man and one pregnant woman.

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sites. The circumstances raise serious questions about whether these areas struck were valid military targets at the time of attack.

NATO contends that all of its targets were military objectives, and thus subject to attack, but it has not provided adequate information to support those claims, despite repeated requests from Human Rights Watch, a United Nations Commission of Inquiry, and others.

International humanitarian law obligates a party to an armed conflict to investigate credible allegations of serious laws-of-war violations. Such an investigation would entail a determination as to whether the target was a valid military objective and whether the attacking force took all feasible precautions to minimize civilian casualties. NATO should make the results of its investigations public. Where NATO believes it has conducted an attack resulting in civilian casualties in accordance with the laws of war but evidence of

a military objective is in doubt, it should make public information on the target.

As required under international law, in the event of wrongdoing, NATO should provide prompt and suitable compensation to families for civilian deaths and injuries and loss of property. Where possible, NATO should also investigate incidents resulting in high civilian casualties as part of efforts to minimize harm to civilians in future campaigns.

For this report Human Rights Watch investigated eight NATO air strikes hitting residential homes in which 28 men, 24 children, and 20 women lost their lives. Dozens of other civilians were wounded.

Based on extensive field investigations throughout Libya from August 2011 to April 2012, the report looks at all sites known to Human Rights Watch in which NATO strikes killed civilians. Strikes that resulted in no civilian fatalities—though civilians were wounded or property destroyed—were not included. Altogether, NATO conducted roughly 9,700 strike sorties and dropped over 7,700 precision-guided bombs during the seven-month campaign.

To research these eight cases, Human Rights Watch visited the sites, in some cases multiple times, inspected weapons



(above) Omar Emhamid Suwaysi lost his son, Ali Omar Suwaysi, in a NATO air strike on the Imarat al-Tameen apartment complex in Sirte on September 16, 2011. The writing says “The grave of the martyr, Ali Omar Suwaysi.”

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(right) Dyab Omran, 15 months old, was killed with three other children and three women when a NATO air strike struck the Dyab family home in Sirte on September 25, 2011.

Photo courtesy of the Dyab family



debris, interviewed witnesses, examined medical reports and death certificates, reviewed satellite imagery, and collected photographs of the wounded and dead. Detailed questions were submitted to NATO and its member states who participated in the campaign, including in a meeting with senior NATO officials involved in targeting.

In two of the eight incidents, Human Rights Watch was unable to find any evidence of a valid military target. That is, in one or more visits to each of these bombing sites Human Rights Watch found no remains of weapons, military hardware, or communications equipment to suggest military



A NATO air strike hit the Dyab family home in Sirte on September 25, 2011, killing three women and four children. A military officer may have also been killed.
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(above) A NATO air strike hit the al-Morabit house in Zliten on August 4, 2011, killing Ibtessam Ali al-Barbar, 37, and her children Moatez and Mohamed.

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(right) Mustafa al-Morabit and his two children, Moatez, 3, and Mohamed, 5.

Photo courtesy of the al-Morabit family



deployment or activity at the site. At five of the sites, Human Rights Watch found only possible signs of a military presence, such as a military-style shirt or coat amidst the rubble. In the eighth incident, a person believed to be a high-ranking military commander may have been killed along with seven civilians.

In all of these incidents, separate interviews with survivors and other witnesses provided details of the situation at the time of the strike, but no indication of nearby military activity. Satellite imagery taken before the strikes at five of the sites revealed no signs of military presence that would have rendered the areas struck as lawful military targets.



(above) Farid Fathi Jfara pointing to where family members found the body of Farah Jfara, 9, killed with four relatives in a NATO air strike on August 29 or 30, 2011 in Bani Walid.

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Human Rights Watch

(right) Fadwa Fathi Jfara, 30, and Farah Jfara, 9 (far right), were killed when a NATO air strike struck their home in Bani Walid on August 29 or 30, 2011.

Photo courtesy of the Jfara family





A tail fin from a 500 pound laser-guided bomb (GBU-12) found in Majer, where NATO air strikes killed 34 civilians and wounded more than 30 on August 8, 2011.

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Human Rights Watch recognizes that places bombed could have been cleaned up by Gaddafi forces and local residents, who would have an interest in denying the military nature of a bombing site. While fighting was ongoing, the Gaddafi government did use several sites for propaganda purposes, adding “evidence” of civilian life and possibly removing military material. One incident investigated by Human Rights Watch but not included below was clearly a valid military target, and the victims were combatants. However, the incidents in the report raise sufficient questions about the lawfulness of the strikes that Human Rights Watch believes NATO should provide more information on the alleged targets or conduct an investigation into the lawfulness of the attack.

NATO told Human Rights Watch that it “did everything possible to minimize risks to civilians,” including the exclusive use of precision-guided munitions. The alliance’s strikes were on legitimate military targets, NATO said, and “no

target was approved or struck if we had any reason to believe that civilians would be at risk.”

The most serious incident in this report occurred in the rural village of Majer, south of the town of Zliten, 160 kilometers east of Tripoli, on the night of August 8, 2011, killing 34 people and wounding more than 30. NATO bombs hit two family compounds, one of them hosting dozens of displaced persons. This attack was followed by another bomb that struck outside one of the compounds as neighbors and relatives were retrieving the wounded and dead. NATO says the compounds were a “staging base and military accommodation” for Gaddafi forces but it has not provided specific information to evaluate that claim. During four visits to Majer, including one the day after the attack, Human Rights Watch found no evidence of military activity at either of the compounds. A single military-style shirt was in the rubble of one of the three houses that were struck.

Of particular concern is the second attack outside one of the compounds while people were searching for victims, which killed 18 men. At the site Human Rights Watch found remnants of GBU-12 laser-guided bombs, which have an infrared system to guide the bomb to its target. As such, the pilot may have seen people around the wreckage of the house as they were



trying to rescue survivors. If the pilot could not determine that those people were valid military targets, then all feasible steps should have been taken to cancel or suspend the attack.

In the town of Zliten on August 4, 2011 NATO ordnance struck the home of Mustafa al-Morabit, killing his wife and two of their three children. Human Rights Watch found no signs of military activity at the house one week after the attack, and al-Morabit and his neighbors said the home had served no military purpose. Al-Morabit believed the intended target was his neighbor's home, which he said Gaddafi forces had used and vacated two days before the attack. NATO said it had hit a "command and control node" but provided no details.

On June 19 a NATO bomb hit a family home in a residential neighborhood of Tripoli, killing five civilians and wounding at least eight. This is the only case in which NATO admitted a mistake, saying it missed its intended target due to a "weapons system failure which may have caused a number of civilian casualties." NATO has not explained the cause of the failure, beyond "laser guidance problems," or taken action on behalf of the victims.

On August 29 or 30 in Bani Walid, 170 kilometers southeast of Tripoli, a NATO strike hit two homes and killed five members

(above) The funeral in Majer for 34 victims of a NATO air strike on two rural compounds on August 8, 2011.

© 2012 Sidney Kwiram/Human Rights Watch

of the Jfara family—two men, two women, and a nine-year-old girl. Family members and witnesses said there was no military activity in the vicinity at the time. At the site, Human Rights Watch found remnants of a GBU-12 laser-guided bomb and a single military-style winter coat. NATO has not provided details of the strike but said that on August 29 it struck a "major command and control node which was reliant on non-traditional/informal methods to carry out that function."

On September 25, 2011, NATO struck the home in Sirte, 450 kilometers east of Tripoli, of the brother of a senior military officer, Brig. Gen. Musbah Ahmed Dyab, who some family members say was killed in the attack. Three women and four children from the family lost their lives in the strike. While General Dyab was a legitimate military target, NATO has not provided information on the intended target of the attack. NATO said it had a policy of not targeting individuals. At the site Human Rights Watch found several empty ammunition boxes for small arms, which the family said had not been there at the time of the strike.



(above) A NATO air strike on the al-Gherari house in Tripoli on June 19, 2011 killed five members of the family. NATO said the strike was due to a “weapons system failure.”

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Human Rights Watch’s findings are consistent with the reporting of others who have examined civilian deaths in Libya resulting from NATO’s air campaign, namely the Commission of Inquiry appointed by the United Nations Human Rights Council and the nongovernmental organizations Amnesty International and the Campaign for Innocent Victims in Conflict (CIVIC). The New York Times published a lengthy investigative article that included six sites with civilian deaths, all of which are covered in this report.

In its March 2012 report, the UN Commission of Inquiry documented 60 civilian deaths and 55 injuries at five sites where the commission found no evidence of military activity. The commission called on NATO to conduct an investigation to determine the number of civilian casualties and to review its procedures.

Human Rights Watch, along with the UN Commission of Inquiry and others, repeatedly sought information from NATO

about the precautions the alliance took to protect civilians and specific incidents where civilian deaths occurred. NATO was forthcoming on the former, explaining its strict target selection and review process and its exclusive use of precision-guided munitions. However, NATO has not provided sufficient information on the intended targets in individual cases to demonstrate that the strikes documented in this report were legally justified.

NATO has also not conducted field inquiries into any civilian casualties that resulted from its strikes or included civilian casualties in an internal lessons learned report. NATO says it has no mandate to conduct investigations in Libya after the conflict, but it will “cooperate fully” with efforts by the Libyan authorities to review incidents.

The Libyan government has taken initial steps by forming an inter-ministerial task force to investigate civilian deaths caused by NATO. Given that NATO played a critical role in the defeat of the Gaddafi government, however, the task force is likely to avoid serious criticism of NATO’s air campaign. As of late April, the task force had apparently not begun its work.

International humanitarian law holds a state responsible for attacks carried out by its forces or by forces acting under its instructions, directions, or control. Fifteen countries partic-



Posters outside the large el-Hamedi family farm in Sorman in early August 2011. NATO air strikes on the farm on June 20, 2011 killed eight family members and five staff. A guard walks in the background.

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ipated in the NATO air campaign, with eight of them reportedly dropping ordnance: Belgium, Canada, Denmark, France, Italy, Norway, the United Kingdom, and the United States. Any particular attack likely would have involved personnel and possible command authority from militaries beyond those of the aircraft used in the attack. To date, NATO has been unwilling to provide information on the nationality of the aircraft involved in specific operations, including the incidents in this report.

Human Rights Watch also sought information about the incidents in this report from the governments of the eight countries that dropped ordnance. Seven of them replied with an identical letter, referring questions to NATO. Italy did not respond.

NATO had a mandate from the UN Security Council to protect civilians in Libya and the relatively few civilian casualties during a seven-month campaign attests to the care

NATO took in minimizing civilian harm. However, the low number of civilian casualties does not obviate the need to provide information that would demonstrate a legitimate military target in circumstances where there have been civilian casualties and to make that information public. NATO is also obligated to investigate credible allegations of laws-of-war violations, appropriately punish those responsible, and provide compensation to victims of unlawful attacks.

At the same time, some governments that have been critical of NATO's air campaign in Libya have exaggerated claims of civilian deaths in NATO air strikes. Such claims have no basis in fact and serve to politicize the issue of civilian casualties, rather than encourage prompt and impartial investigations, and bring about changes to improve civilian protection.

RECOMMENDATIONS

TO NATO

- Conduct transparent and impartial investigations into credible allegations of laws-of-war violations during NATO's air war in Libya. Make public the findings and include recommendations for disciplinary measures or criminal prosecutions where violations are found;
- Make public information on intended military targets in air strikes in which civilians were wounded or killed;
- Conduct field investigations into air strikes in which there were high numbers of civilian casualties even where there was no evidence suggesting violations of the laws of war;
- Provide prompt and appropriate compensation to families suffering deaths, injuries, and property damage resulting from wrongful NATO strikes;
- Consider providing assistance to families in Libya that have suffered harm from NATO air strikes in accordance with NATO's "Non-Binding Guidelines for Payments in Combat-Related Cases of Civilian Casualties or Damage to Civilian Property";
- Conduct a general investigation into NATO strikes that resulted in civilian casualties with the aim of minimizing civilian casualties in future armed conflicts.
- Brief the UN Security Council, which provided the mandate for NATO's military operation in Libya through resolution 1973, on the findings of the investigation into civilian casualties caused by NATO air strikes.

TO PARTICIPATING STATES OF NATO'S LIBYA OPERATION

- Conduct transparent and impartial investigations into credible allegations of laws-of-war violations in Libya involving your national forces. Make public the findings and include recommendations for disciplinary measures or criminal prosecutions where violations are found;
- Provide prompt and appropriate compensation to families suffering deaths, injuries, and property damage resulting from wrongful strikes committed by your national forces;
- Consider providing assistance to families in Libya that have suffered harm from air strikes committed by your national forces in accordance with NATO's "Non-Binding Guidelines for Payments in Combat-Related Cases of Civilian Casualties or Damage to Civilian Property."

TO THE LIBYAN TRANSITIONAL GOVERNMENT

- Request that NATO and countries that participated in NATO's Libya operations provide detailed information about intended military targets of air strikes in which civilians died. Make that information publicly available and press for compensation where there is a finding of wrongdoing.

Methodology

Human Rights Watch began its investigations into civilian casualties from the NATO air campaign in early August 2011, when it visited western Libya with the approval of the Gaddafi government (Human Rights Watch researchers were already in eastern and western Libya in areas controlled by opposition forces). Government minders took Human Rights Watch researchers to four of the eight bombing sites documented in this report, including the village of Majer on the day after the NATO attack there. The three other sites were the al-Morabit house in Zliten, the al-Gherari house in Tripoli, and the el-Hamedi farm in Sorman. Thorough investigations were not possible at that time due to the government's control; witnesses were clearly unwilling to speak openly about Libyan military activity. Still, Human Rights Watch was able to collect basic data at that time, such as the names of victims and a general narrative of what took place. It conducted physical examinations of the four sites, looking for signs of military activity and identifying remains of NATO ordnance. In Majer, where 34 civilians died, Human Rights Watch observed the families searching for missing relatives in one of the struck homes and a group funeral for the victims.

After this initial research, Human Rights Watch visited the NATO Joint Force Command headquarters in Naples on August 15, 2011 to present its preliminary findings. Senior officers involved in targeting presented some of the organization-wide precautions they said NATO was taking to minimize civilian casualties, but they declined to provide information about specific cases.

In December 2011, after the fall of the Gaddafi government, Human Rights Watch re-visited three of the sites it had visited in August—Majer, the al-Morabit house in Zliten, and the al-Gherari house in Tripoli—speaking with witnesses, and collecting additional documentation, such as medical records, death and burial certificates, and photographs of the victims. Human Rights Watch visited Zliten a third time in February 2012, and Majer a third and fourth time in January and February 2012. The remaining sites in Bani Walid and Sirte were visited in January 2012.

Human Rights Watch submitted questions to NATO about civilian casualties on four occasions: November 2011, January 2012, February 2012 (see Appendix B) and April 2012.

Responses to those questions are presented in this report (see also Appendix C). In February 2012 Human Rights Watch submitted the same questions to the eight countries whose forces dropped ordnance in the air campaign. Seven of these countries replied with the identical response referring Human Rights Watch to NATO. Italy did not respond.

NATO also provided information to the United Nations Commission of Inquiry that looked at violations of international human rights and humanitarian law by all parties to the conflict. Some of the information provided to the commission is presented in this report.

This report is not a comprehensive investigation of all NATO strikes that affected civilians. Based on extensive field investigations between August 2011 and April 2012, it examines all known sites in which civilians were killed. The report does not include strikes in which civilians were only wounded or civilian property was damaged or destroyed.¹

Human Rights Watch reported extensively on violations during the armed conflict by Libyan government forces under Gaddafi, as well as by anti-Gaddafi forces. Reporting on human rights abuses has continued since the defeat of Gaddafi's forces and the end of major fighting in October 2011.

¹ Human Rights Watch visited two sites in which civilians were wounded in NATO strikes: the Ebsheer family home in Abu Hadi, south of Sirte, hit on September 11, 2011, wounding three women, and a government arms depot in Mizdah hit multiple times between April and July 2011. In one strike on Mizdah on March 29, 2011, secondary explosions from the depot injured a Korean doctor and his wife about five kilometers away. Human Rights Watch also confirmed two deaths and seven injuries, in six separate incidents, from explosive remnants of war at the Mizdah depot between August and December 2011. (See Human Rights Watch, "Statement on Explosive Remnants of War in Libya and the Implementation of Convention on Conventional Weapons Protocol V," April 25, 2012, <http://www.hrw.org/news/2012/04/25/statement-explosive-remnants-war-libya-and-implementation-convention-conventional-we> (accessed May 2, 2012)).

I. Background

On March 17, 2011, in response, to the Libyan government's violent crackdown of anti-government protesters, the United Nation's Security Council adopted Resolution 1973. Ten countries voted in favor, including permanent members France, the United Kingdom, and the United States. None opposed. Brazil, China, Germany, India, and Russia abstained. Resolution 1973 imposed a no-fly zone over Libya and authorized UN member states to use "all necessary measures" to protect Libyan civilians, with the exception of foreign occupation.²

On March 19, several UN member states began military action, coordinated by the United States, which focused on pushing Gaddafi forces back from the eastern city of Benghazi. On March 22, NATO began an operation to enforce an arms embargo against Libya, mostly by intercepting vessels at sea. Two days later, NATO began to enforce the no-fly zone, which banned all flights except those for humanitarian purposes.

The US military gradually scaled back its operations and, on March 31, NATO assumed command of the military campaign, named Operation Unified Protector. The operation lasted seven months, ending on October 31. The mandate of the mission was to enforce the arms embargo, impose the no-fly zone, and protect civilians from attack or threat of attack.³

According to NATO, during the seven-month campaign the alliance launched 25,944 air sorties (one mission by one plane), of which 17,939 (about 70 percent) were armed.⁴ More than 9,700 of these were strike sorties, although not all of those deployed a munition.⁵ In

² United Nations Security Council Resolution 1973, March 17, 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/268/39/PDF/N1126839.pdf?OpenElement> (accessed January 27, 2011).

³ NATO, Operation Unified Protector, Mission, http://www.jfcnaples.nato.int/Unified_Protector/Mission.aspx (accessed January 27, 2012).

⁴ Letter to Philippe Kirsch from NATO legal advisor Peter Olson, January 23, 2012, Report of the International Commission of Inquiry on Libya, Annex II, http://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_19_68_en%20_1_.pdf (April 26, 2012). See also the NATO Secretary General's Annual Report 2011, which says "over 26,000 sorties," http://www.nato.int/nato_static/assets/pdf/pdf_publications/20120125_Annual_Report_2011_en.pdf (accessed April 26, 2012).

⁵ Operation Unified Protector, Final Mission Stats, November 2, 2011, http://www.nato.int/nato_static/assets/pdf/pdf_2011_11/20111108_111107-factsheet_up_factsfigures_en.pdf (accessed April 26, 2012).

total, NATO said it used 7,642 air-to-surface weapons.⁶ These included 3,644 laser-guided bombs, 2,844 GPS-guided munitions, and 1,150 precision-guided direct fire weapons. Of these weapons, 82 percent weighed 500 pounds or less, NATO said. Just over 7 percent were between 500 and 1,000 pounds, and about 10 percent were between 1,000 and 2,000 pounds. NATO said these strikes destroyed more than 5,900 military targets, including over 400 artillery or rocket launchers and over 600 tanks or armored vehicles.

Eighteen countries (14 NATO member states and four partners) took part in the operation, 15 of them in air operations.⁷ According to the *New York Times*, warplanes from eight NATO states dropped ordnance: Belgium, Canada, Denmark, France, Italy, Norway, the United Kingdom and the United States.⁸

NATO has not provided information on the countries involved in particular strikes. The *New York Times* reported that France carried out about a third of all strike sorties, Britain 21 percent, and the United States 19 percent.⁹ Human Rights Watch has not confirmed those numbers.

⁶ In April 2012 NATO told Human Rights Watch that it “conducted 9,700 strike sorties and dropped over 7,700 precision bombs.” (E-mail communication from NATO press and media section to Human Rights Watch, April 27, 2012.)

⁷ The participating countries in Operation Unified Protector were Belgium, Bulgaria, Canada, Denmark, France, Greece, Italy, Jordan, Netherlands, Norway, Qatar, Romania, Spain, Sweden, Turkey, United Arab Emirates, United Kingdom, and the United States. The countries not participating in air operations were Bulgaria, Greece and Romania.

⁸ C.J. Chivers and Eric Schmitt, “In Strikes on Libya by NATO, an Unspoken Civilian Toll,” *New York Times*, December 17, 2011, <http://www.nytimes.com/2011/12/18/world/africa/scores-of-unintended-casualties-in-nato-war-in-libya.html?pagewanted=all> (accessed April 26, 2012).

⁹ *Ibid.*

II. Civilian Deaths

The Gaddafi Government's Position

During the conflict, the Gaddafi government tried to highlight the number of civilian deaths caused by NATO. The numbers were inflated and bombing sites were doctored for the benefit of the media.

When Human Rights Watch visited western Libya in early August 2011, just before the Gaddafi government fell, officials claimed that NATO strikes had killed 1,108 civilians and wounded 6,362. Of the wounded, they said, 717 were critically wounded and 4,537 had light wounds.¹⁰ Despite repeated requests, these officials failed to provide details, such as the place and date of the attacks or the names of the victims.

International journalists in Libya at the time noted the government's exaggerations and fabrications, including the same mourners at multiple sites, empty coffins at funerals and even the use of fake blood.¹¹ In the village of Majer, former government spokesman Musa Ibrahim said that 85 people had died, which was 51 more than the final confirmed tally.¹²

In September 2011, Human Rights Watch interviewed a former senior Gaddafi official who wished to remain anonymous while he was in detention after the fall of the Gaddafi government. He readily admitted that the government had exaggerated the numbers of NATO bombing victims for propaganda purposes, saying "I am sure they faked the numbers."¹³

In early August 2011 Human Rights Watch observed the apparent doctoring of sites for media effect. At two of the four sites inspected by Human Rights Watch that month, civilian items such as medicine, baby bottles, and children's toys appeared strategically placed atop rubble to get the attention of visitors. This raises the question whether Gaddafi forces

¹⁰ Human Rights Watch meeting with the National Libyan Committee for Human Rights, Tripoli, August 4, 2011.

¹¹ See, for example, John F. Burns, "Libya Stokes its Machine Generating Propaganda," *New York Times*, June 6, 2011, <http://www.nytimes.com/2011/06/07/world/africa/07libya.html> (April 25, 2012).

¹² "Reporters Taken to Mass Funeral in Libyan Town, Nearby Hospital," Ivan Watson, CNN, August 9, 2011, http://articles.cnn.com/2011-08-09/world/libya.zlitan_1_musa-ibrahim-pro-gadhafi-libyan-civilians?_s=PM:WORLD (January 19, 2012). See, also, Libyan government spokesman Musa Ibrahim talking at the scene in Majer: <http://www.youtube.com/watch?v=IMkDIM7hy8w> (January 19, 2012).

¹³ Human Rights Watch interview with former senior official, Tripoli, September 2011.

or sympathizers could have also cleansed the sites to remove signs of military activity. This cannot be ruled out. However, at seven of the eight sites in this report, Human Rights Watch believes that the physical evidence and witness statements, as well as satellite imagery when available, all strongly indicate the absence of military forces or equipment. At the eighth site (Dyab family home), the target may have been a military officer, although seven civilians died in the attack.

In August, Human Rights Watch also saw Gaddafi forces using civilian objects for military purposes. Human Rights Watch saw uniformed and armed Gaddafi forces in a mosque next to the port in Zliten and security forces in civilian clothes driving unmarked cars in Zliten and Tripoli. Under the laws of war, operating out of civilian areas and in civilian structures is not forbidden. But combatants must take all feasible precautions to protect the civilian population under their control against the effects of attacks.¹⁴

The presence of Gaddafi forces in homes and other civilian structures temporarily makes those structures legitimate military targets. But in seven of the eight cases documented in this report, Human Rights Watch found no evidence of military activity or the presence of military forces.

The Libyan Transitional Government's Position

Libya's transitional government and the National Transitional Council have taken initial steps to address civilian casualties by NATO. In January 2012 the government formed a task force to investigate incidents. According to Libya's ambassador to the UN, the commission will "consolidate information and data from the National Transitional Council, the Minister for Foreign Affairs, the Ministers of Defence, Justice and the Interior, and the Human Rights Council ... so that information can be gathered from sites that were targeted by NATO."¹⁵ The ambassador said the government intends to establish "a mechanism to indemnify victims with financial and moral support once we have obtained the results of the investigations," and added that "investigation results will be made public."

¹⁴ Protocol I, art. 58(c).

¹⁵ Statement to the United Nations Security Council by Libyan ambassador Abdel Rahman Shalgam, January 25, 2012.

In late January 2012, a delegation from the National Transitional Council visited the sites in Majer and Zliten, according to the families there. The delegation allegedly expressed its condolences and called the victims “martyrs.” As of April 29, however, the task force announced by the Libyan ambassador to the UN had apparently not begun its work. Its membership and work timeframe remained unknown.

NATO’s Position

NATO clearly took measures to minimize civilian casualties in its air campaign, and those measures had a positive effect: the number of civilian victims as a result of NATO air strikes in Libya was low. NATO asserted that the low figures were the result of using only precision-guided munitions, and carefully planning the time and angle of attacks.

According to NATO, its efforts went beyond the requirements of international humanitarian law. NATO spokesperson Oana Lungescu told Human Rights Watch on April 27, 2012 that “no target was approved or struck if we had any reason to believe that civilians would be at risk.”¹⁶

However, conducting military operations in accordance with international law, or even when exceeding those requirements, does not eliminate the obligation to investigate allegations of serious laws of war violations or the importance of determining why civilians lost their lives. In this regard, NATO’s response has fallen far short.

When asked about civilian casualties on November 3, 2011, NATO Secretary General Anders Fogh Rasmussen replied that “we have no confirmed civilian casualties caused by NATO.”¹⁷ Six weeks later, apparently in response to a critical article in the *New York Times*, NATO began to concede that civilians may have died in NATO attacks. “It appears that innocent civilians may have been killed or injured, despite all the care and precision,” spokesperson Lungescu said.¹⁸

¹⁶ E-mail communication from NATO press and media section to Human Rights Watch, April 27, 2012.

¹⁷ Monthly Press Briefing by NATO Secretary General Anders Fogh Rasmussen, November 3, 2011, http://www.nato.int/cps/en/natolive/opinions_80247.htm (accessed April 26, 2012).

¹⁸ C.J. Chivers and Eric Schmitt, “In Strikes on Libya by NATO, an Unspoken Civilian Toll,” *New York Times*, December 17, 2011.

In response to questions from Human Rights Watch, NATO was unwilling to confirm any civilian casualties. “Thorough assessments were done in response to allegations or other evidence suggesting a problem,” a NATO press officer told Human Rights Watch in December 2011. “Based on those investigations and information then available, we were satisfied that NATO actions were lawful, but if further credible evidence suggests otherwise we will of course take it into account.”¹⁹

Subsequent communications went a bit further but still did not acknowledge that NATO strikes had killed civilians. “No complex campaign can exclude that civilians suffer harm during its course,” NATO’s Deputy Assistant Secretary General wrote to Human Rights Watch in March 2012. “NATO deeply regrets any such harm that may have been caused by those strikes.” The official ruled out any field investigations into incidents because NATO currently “has no mandate to conduct any activities in Libya.”²⁰

NATO provided more details on its Libya operations to the UN Commission of Inquiry. It presented the steps it said it took to protect civilians, concluding that NATO’s targeting and strike methods were “as well-designed and as successfully implemented to avoid civilian casualties as was humanly and technically possible.”²¹ These methods included a rigorous targeting review process for pre-planned and dynamic targets, the exclusive use of precision-guided weapons, and delayed fusing on a great majority of the munitions to minimize collateral effects. NATO also dropped leaflets and used broadcast media to issue warnings to civilians to avoid military targets.

NATO’s responses to the UN commission also addressed six of the eight sites documented in this report, providing some details about the intended targets. Still, NATO provided no information to support its claim that these targets were legitimate military objectives. Regarding a question from the UN about releasing gun camera video from the strikes, which might shed light on the nature of the target, NATO replied that “[v]ideo footage is the

¹⁹ E-mail communication from NATO press officer Tony White to Human Rights Watch, December 2, 2011.

²⁰ Letter from Mr. Richard Froh, NATO Deputy Assistant Secretary General, to Human Rights Watch, March 1, 2012.

²¹ Letter to Philippe Kirsch from NATO legal advisor Peter Olson, January 23, 2012, Report of the International Commission of Inquiry on Libya, Annex II.

property of individual nations and is classified in order to protect important information about platform capabilities.”²²

At the same time, NATO told the UN that it was making a “further assessment” of three strikes: the August 8 strikes on the Gafez and al-Jarud compounds in Majer, the August 4 strike on the al-Morabit house in Zliten, and the June 19 strike on the al-Gherari home in Tripoli. When asked three months later about these three assessments, NATO told Human Rights Watch on April 27 that “[t]he review process has confirmed that the specific targets struck by NATO were legitimate military targets, selected in a manner consistent with the UN mandate.”²³ NATO said that individual nations were continuing to conduct assessments into some of the alleged incidents and it is “up to nations to make any conclusions public.”²⁴

Human Rights Watch’s questions to the eight states that dropped bombs during the campaign were referred by seven of those states to NATO because “the operation was conducted under NATO command.”²⁵ The eighth state, Italy, did not reply.

On May 2, 2012, NATO reiterated to Human Rights Watch that it had done everything possible to minimize civilian casualties. More information about targets could not be provided due to the protection of operational issues and intelligence sources.²⁶ NATO said it would support and “cooperate fully” with efforts by the Libyan authorities to review incidents which affected civilians.

In the meantime, NATO’s lessons learned process has apparently not included a review of civilian casualties. An internal NATO report on the Libya campaign completed on February

²² Letter to Philippe Kirsch from NATO legal advisor Peter Olson, January 23, 2012, Report of the International Commission of Inquiry on Libya, Annex II.

²³ E-mail communication from NATO press and media section to Human Rights Watch, April 27, 2012.

²⁴ E-mail communication from NATO press and media section to Human Rights Watch, May 2, 2012.

²⁵ Letters to Human Rights Watch from Peter MacKay, Canadian Minister of National Defence, March 14, 2012; Michèle Ramis, French Ministry of Defence, March 9, 2012; Vice Admiral William E. Gortney, U.S. Joint Staff, March 13, 2012; Nick Hækkerup, Danish Minister of Defence, , March 1, 2012; Roger Ingebrigtsen, Norwegian Ministry of Defence, March 12, 2012; Pieter De Crem, Belgian Minister of Defence, , March 1, 2012; and Tom McKane, UK Ministry of Defence, March 2, 2012.

²⁶ E-mail communication from NATO press and media section to Human Rights Watch, May 2, 2012.

28, 2012 by NATO's Joint Analysis and Lessons Learned Center reportedly failed to mention civilian deaths.²⁷

²⁷ The report, on file at Human Rights Watch, has an introduction and five chapters—Political Considerations, Organization/Doctrine, Assets/Capabilities, Other Issues and Food for Thought—none of which mention civilian casualties. See also “NATO Sees Flaws in Air Campaign Against Qaddafi,” by Eric Schmitt, *New York Times*, April 14, 2012, <http://www.nytimes.com/2012/04/15/world/africa/nato-sees-flaws-in-air-campaign-against-qaddafi.html?pagewanted=all> (accessed May 2, 2012).

III. Incidents of Civilian Deaths

Majer, August 8, 2011, 34 deaths

Beginning around 11:30 p.m. on August 8, 2011, during Ramadan, NATO aircraft dropped bombs on four houses in Majer, a rural village about 10 kilometers south of the town of Zliten. The first bomb hit a large, two-story house owned by Ali Hamid Gafez, a 61-year-old farmer. Gafez, his relatives and neighbors told Human Rights Watch that the house was crowded at the time with people who had fled the fighting in nearby areas, such as Dafniya, Zdow, and Naima, as well as Benghazi. A report prepared by the families of the victims said the Gafez house held 82 people on the night of the attack.²⁸ They said the strike killed 14 of these people and wounded 17.

Gafez told Human Rights Watch what happened when the bomb hit his home:

The house was full of people who fled the war. All of them were my relatives. I had three apartments on the top floor. The government didn't give me any support. I was in the house sleeping along with my brother-in-law. We heard the sound of the bombing, and the electricity went off, between 11 and 11:30. When I got outside, we started looking for the bodies.²⁹

According to the families' report, Mohamed El Raqeeq lost three of his children in the attack, Hana, Abdu Allah and Ahmed, as well as his wife Salima, his sister Mansia, and his twin children Hiam and Roham. Other victims included Salima Hamad El Raqeeq, 80, and Arwa Atiya Juweily, 2.

Some moments after the first strike, NATO bombs hit two houses in a nearby compound belonging to the al-Jarud family. One of the bombs killed three women and a baby girl of the family, relatives and witnesses said. Family members and neighbors came rushing to help. Between 10 and 20 minutes later, another bomb struck just outside the al-Jarud compound. This bomb killed 18 men and wounded 15 others who had come to help. The names and ages of the victims provided by the witnesses, attached as Appendix A, are

²⁸ Report by the Families of the Martyrs and Injured, December 20, 2011, on file at Human Rights Watch.

²⁹ Human Rights Watch interview with Ali Hamed Gafaz, Majer, August 8, 2011.

consistent with the families' report and the photographs of the victims on display at a makeshift memorial in the badly damaged Gafez house. A fourth bomb then hit a nearby house owned by Mohamed Musbah al-Jarud, which was unoccupied at the time.

The inhabited al-Jarud compound had two houses, one owned by Agil al-Jarud and the other by his son Muammar al-Jarud. Muammar told Human Rights Watch that the first strike hit his house and killed his wife Hanan al-Fargani, 30, mother Salma, 53, sister Fatima, 29, and 8-month old daughter Salma.³⁰ He said he was not in the house at the time, but rushed there when he heard the explosion and was wounded in the leg from the bomb that hit outside the compound. He spent several months in Greece, he and his neighbors said, getting medical treatment.

One of the relatives who came to help was Fathi al-Jarud, who said he lived about a ten-minute walk from the al-Jarud compound. He told Human Rights Watch:

The strike was about 11 p.m. We saw the explosion, so we came running over. We thought a checkpoint had been hit. ... We made it here by car; it took two minutes. The second strike was about 20 minutes after the first. We managed to pull Muammar out alive. We were searching for his wife when the second strike hit. I was wounded lightly in the knee.³¹

Human Rights Watch first visited the Gafez and al-Jarud homes on August 9, one day after the attack, and observed the funeral of the victims.³² Human Rights Watch visited Majer again in December 2011, January 2012 and February 2012, and altogether spoke with more than a dozen witnesses to the attacks. All of them said there was no military equipment or personnel present at any of the homes, or in the area, at the time of or prior to the attack. They said that only civilians were present in the homes that got hit.

³⁰ Human Rights Watch interview with Muammar al-Jarud, Majer, December 17, 2011.

³¹ Human Rights Watch interview with Fathi al-Jarud, Majer, December 17, 2011.

³² One mourner at the funeral told Human Rights Watch that the community had buried 35 bodies, which is close to the final tally of 34. Human Rights Watch interview, Majer, August 9, 2011.

Image 1

The Gafez family compound, far left, and al-Jarud family compounds, center and bottom right, on August 6, 2011, two days before NATO air strikes hit the compounds. The compound in the center was uninhabited. © 2011 GeoEye. Produced by UNITAR/UNOSAT



Image 2

The Gafez family compound, far left, and al-Jarud family compounds on August 9, 2011, the day after NATO air strikes on the properties killed 34 civilians. © 2011 GeoEye. Produced by UNITAR/UNOSAT



“I’m wondering why they did this, why just our houses,” said Muammar al-Jarud. “We’d accept it if we had tanks or military vehicles around, but we were completely civilians and you can’t just hit civilians.”³³

In the course of its investigation, including the day after the attack, Human Rights Watch found no evidence of military activity at either of the compounds, such as weapons, ammunition, or communications equipment that would have suggested a military target. One military-style shirt was found amidst the rubble at the large Gafez home on the day after the attack. Gafez family members said they did not know who the owner of the shirt was.

A satellite image of the Gafez and al-Jarud compounds taken two days before the strike, on August 6, reveals no signs of military activity (see Image 1). An image of the compounds taken on August 9 shows extensive damage to the homes (see Image 2). These images, taken at distinct moments on August 6 and 9, do not preclude military activity at other times. But they are consistent with the witness statements that the compounds in Majer were civilian objects and the lack of physical evidence to the contrary.

During its December 2011 visit, Human Rights Watch inspected remnants of the bombs that the families said had hit their homes, including fins from a GBU-12 laser guided bomb. These bombs use a Forward Looking Infrared (FLIR), a type of high-zoom night vision with an infrared camera and a laser designator to target the bomb, which would have allowed the pilot to guide the bombs to the target. Indeed, NATO told Human Rights Watch that it used precision-guided munitions in the strike, all of which reached their target.

NATO told Human Rights Watch that the Gafez and al-Jarud homes were legitimate military targets, but it has not provided evidence to support that claim. In response to questions from Human Rights Watch, a NATO spokesperson wrote that NATO aircraft hit a “pro-Qadhafi forces staging base and military accommodation” between 11:33 p.m. and 2:24 a.m. on August 8, and that it had “clear intelligence that the former farm buildings were being used as a staging point for pro-Qadhafi forces to conduct attacks against the people of Libya and the likelihood of civilians in the nearby vicinity was low.”³⁴ In its statement to Human Rights Watch, NATO also said it was observing the scene. “With our surveillance

³³ Human Rights Watch interview with Muammar al-Jarud, Majer, December 17, 2011.

³⁴ Communication from NATO press office to Human Rights Watch, August 15, 2011.

capabilities, we monitored this military compound very carefully before striking it,” NATO said. The statement continued: “The allegation of civilian casualties made by the Qadhafi regime was not corroborated by available factual information at the site.”

NATO provided further details to the UN Commission of Inquiry in January 2012, saying the incident was under “further assessment”:

On the basis of observation and other intelligence, it was assessed that no civilians were in the area, and none were observed at the time of the attack or of the subsequent re-strike of one of those buildings. If civilians had been identified, standard procedure was to abort the drop or, if noticed after time of release, to direct a laser-guided weapon away from the target area. The incident is under further assessment.³⁵

On April 27, 2012 NATO told Human Rights Watch that it had concluded its assessment and determined that the compounds were “legitimate military targets.”³⁶

NATO’s response to the civilian deaths in Majer leaves a number of unanswered questions. First, NATO asserts that the Gafez and al-Jarud compounds were troop staging areas, but it has provided no information demonstrating that this was the case. As noted, the only possible evidence Human Rights Watch found of military activity after extensive inspections of both compounds was a single military shirt in the rubble of the Gafuz home. The laws of war require that a target be a military objective in order to be attacked.

Second, even if there was a military objective, an attacking force must determine that the expected military gain from an attack exceeds anticipated civilian loss. NATO should be providing a more specific accounting of the intended target to demonstrate that the attack did not cause disproportionate civilian casualties.

The laws of war also obligate an attacking force to take all feasible precautions before conducting an attack to ensure that the target is a military objective and not civilian. NATO

³⁵ Letter to Philippe Kirsch from NATO legal advisor Peter Olson, January 23, 2012, Report of the International Commission of Inquiry on Libya, Annex II.

³⁶ E-mail communication from NATO press and media section to Human Rights Watch, April 27, 2012.

has not provided information making clear what steps were taken by attacking forces to ensure that a military target was at the Gafez and al-Jarud compounds.

The concerns about civilian loss of life are heightened by the second strike on the al-Jarud compound when relatives and neighbors were providing assistance after the first strike. Given the apparent use of the laser-guided GBU-12, the pilot should have been able to see people arriving at the damaged compound to help the victims, but it is not clear how the pilot would have distinguished military personnel from civilians. NATO should explain why, contrary to its standard procedure, noted above, the pilot did not “direct [the] laser-guided weapon away from the target area.”³⁷

Zliten, August 4, 2011, Three Deaths

On August 4, 2011, at around 6 a.m., a NATO bomb struck the front corner of the house of Mustafa al-Morabit, a 38-year-old teacher in the town of Zliten, collapsing it on the room where the woman and children of the family were sleeping. The blast killed al-Morabit’s wife, Ibtessam Ali al-Barbar, 37, and two of their three children, Mohamed, 5, and Moataz, 3. Al-Morabit’s mother, Fatima Umar Mansour, was wounded.

Human Rights Watch visited the site, 160 kilometers east of Tripoli, three days later, escorted by Gaddafi government guides, and spoke with Mustafa al-Morabit. He said:

Around 6:30 a.m., I heard an explosion, a terrible sound. I got up, and dust was falling all over; I couldn’t see in front of me. I was trying to reach my children and family, but I kept falling down. I reached the main road, and with the help of neighbors, we tried to lift the blocks and reach my family.

The first one we reached was my wife; we found her dead in her place. And then we got to my mother who was still alive, wounded in the left leg and right shoulder. Then we found [my son] Naji, who was alive. Mohamed, five years old, we found next to him still alive. I had no strength to continue and looked to others to save my family. They took Mohamed to the hospital, but he died before he got there; they say he suffocated from the dust. Then they

³⁷ Ibid.

found [my other son] Moataz, three years old. His brain was out of his head; I saw it. My house is demolished. My children are dead.³⁸

Medical reports from Zliten Training Hospital for the three victims provided by Mustafa al-Morabit were consistent with his account of the children's injuries. Moataz died of "head injuries" and Mohamed died from "suffocation," the reports say.³⁹

At a subsequent visit to the house on December 17, 2011 Human Rights Watch inspected weapons debris that Mustafa al-Morabit said he and others had collected from the site. The type of weapon could not be determined.

Al-Morabit and neighborhood residents initially said that no Gaddafi forces were in the area at the time of the attack. But in a subsequent interview on December 7, 2011, without the presence of a government minder, they said that the house next door had housed Gaddafi military personnel until August 2, two days before the attack. At the al-Morabit house itself, they said, they knew of no military equipment or personnel. A Human Rights Watch inspection of the house and yard on August 7 revealed no signs of military activity or material; however, evidence of a military target could potentially have been moved.

According to al-Morabit and two neighbors, interviewed separately, Libyan military personnel had used the large house next door to the al-Morabit house since late June. When the personnel moved into the house, al-Morabit said, he and his family began sleeping at his brother's house, fearing a NATO attack in the area. He did not know how many military personnel and from which forces had moved into the neighboring house.

According to al-Morabit and his neighbors, the Gaddafi personnel left the neighbor's house in early August. Considering it safe to return, al-Morabit brought his family home on August 2. His house was hit two days later. Human Rights Watch conducted a cursory inspection of the neighbor's property from the perimeter but did not enter the closed and unoccupied house. Near the front gate were two empty boxes of small arms ammunition.

³⁸ Human Rights Watch interview with Mustafa al-Morabit, Zliten, August 7, 2011.

³⁹ Medical reports on file with Human Rights Watch.



Image 3

The al-Morabit family house in Zliten on August 3, 2011, one day before a NATO strike hit the home. © 2011

GeoEye. Produced by UNITAR/UNOSAT



Image 4

The badly damaged al-Morabit family house in Zliten on August 6, 2011, two days after a NATO air strike killed Ibtessam Ali al-Barbar and her children Mohamed, 5, and Moataz, 3.

© 2011 GeoEye. Produced by UNITAR/UNOSAT

“The house next to my house was used by the military, at first secretly and then openly with cars going in and out,” al-Morabit told Human Rights Watch. “At first we stayed. Later we decided to leave because we were afraid NATO would hit the doctor’s house. When fighting reached Souk Thulata, they left ... When they left we felt safe to return. Two days later, we got hit.”

Satellite imagery taken before the strike, on August 3, shows no signs of military activity at or around the house (see Images 3). An image taken after the strike, on August 6, shows the badly damaged al-Morabit home (see Image 4).

NATO told Human Rights Watch on August 15, 2011 that it had hit a command and control node in Zliten at around 6:30 a.m. on August 4 but it had “no evidence at the moment that confirms those allegations [of civilian casualties] can be linked to our site.”⁴⁰ NATO told the UN Commission of Inquiry in January 2012 that the site was a “regime senior commander’s command and control node, located within a residential property.” NATO said “the target building and buildings immediately adjacent to it were used exclusively by senior regime commanders as an active command and control facility directing forces in the Zliten area.” A review of intelligence, NATO said, “confirms that the correct and intended building was struck, and assessment of the claimed civilian casualties at the time concluded that this was highly unlikely.” The incident is under further NATO review.⁴¹

In a subsequent letter to the UN commission, NATO said “this target would not have been struck if NATO had any evidence or other reason to believe that a strike would injure or kill civilians.”⁴²

On April 27, 2012 NATO told Human Rights Watch that it had concluded its assessment of all questioned sites and determined that they were all “legitimate military targets.”⁴³

⁴⁰ Communication from NATO press office to Human Rights Watch, August 15, 2011.

⁴¹ Letter to Philippe Kirsch from NATO legal advisor Peter Olson, January 23, 2012, Report of the International Commission of Inquiry on Libya, Annex II.

⁴² Ibid.

⁴³ E-mail communication from NATO press and media section to Human Rights Watch, April 27, 2012.

Even if the al-Morabit house had been used for military purposes, the laws of war require that all feasible precautions be taken to ensure that the target is a military objective at the time of attack and that the attack be cancelled if that is not the case. NATO's response did not demonstrate that the house was a military objective at the time of the attack.

Those killed were:

Ibtessam Ali al-Barbar, 37

Mohamed al-Morabit, 5

Moataz al-Morabit, 3

Souk al-Juma, Tripoli, June 19, 2011, Five Deaths

At around 1:15 a.m. on June 19, 2011, a NATO air strike hit the three-story home of the al-Gherari family, in a residential neighborhood of Souk al-Juma, one of Tripoli's larger districts. The attack killed five people, according to witnesses and family members interviewed by Human Rights Watch, who provided photographs of the victims, as well as one death certificate and three burial permissions. At least eight people were also wounded, the family said.

Human Rights Watch visited the site in August and December of 2011 and did not see any evidence of military activity such as weapons, ammunition, or communications equipment which might have indicated the building was a legitimate military target, although such evidence could have been removed. The family and neighbors all said that no Gaddafi forces were operating from the area at the time of the attack.

Satellite imagery acquired on June 7 and 10 revealed no signs of military activity at the home or in the immediate area (see Image 5). An image from June 22 shows the damaged building (see Image 6).

Image 5

The al-Gherari family home in the Souk al-Juma neighborhood of Tripoli on June 10, 2011, nine days before a NATO air strike. © 2011 DigitalGlobe. Produced by UNITAR/UNOSAT



Image 6

The badly damaged al-Gherari family home in Tripoli on August 22, 2011. A NATO air strike on June 19 killed five members of the family. © 2011 DigitalGlobe. Produced by UNITAR/UNOSAT



A family member, Mohamed al-Gherari, told Human Rights Watch about the attack:

I was sleeping here until I heard a kind of whistle, and then I heard the bomb explode. I thought it was somewhere else but the blocks were falling all around. I can't believe a bomb fell here because there's no military, no headquarters.⁴⁴

One of the wounded was al-Gherari's brother Ammar, a 33-year-old guard for an electricity station. He said:

I was asleep. I heard people saying "take him, take him," and after that I remember nothing. I didn't know I was wounded. I went to the Tripoli Central Hospital. I was in a coma for about two days, and then I went to the eye hospital. I've had surgery on my jaw.⁴⁵

After the attack, the Gaddafi government rushed journalists to the scene. When they arrived, they saw one body in an open ambulance and another body being pulled from the home. One journalist noted "no indications of any military facility in the area."⁴⁶ Later at a hospital, the same journalist saw the bodies of the two victims, plus a third adult, a small child, and a baby.

NATO publicly acknowledged that the strike was apparently a mistake, saying it had missed its intended target, a military missile site, possibly due to a "weapons system failure, which may have caused a number of civilian casualties."⁴⁷ NATO elaborated in its response to the UN Commission of Inquiry in January 2012, saying it had dropped two precision-guided weapons on June 19 to strike the Tarabulus SA-2 Support Facility, an active military storage and support site. The second of the two weapons, NATO said, "appears to have malfunctioned due to laser guidance problems" and NATO "was not able

⁴⁴ Human Rights Watch interview with Mohamed al-Gherari, Tripoli, August 6, 2011.

⁴⁵ Human Rights Watch interview with Ammar al-Gherari, Tripoli, August 6, 2011.

⁴⁶ "NATO Admits Missile Hit a Civilian Home in Tripoli," by David D. Kirkpatrick, New York Times, June 19, 2011, <http://www.nytimes.com/2011/06/20/world/middleeast/20libya.html> (accessed April 26, 2012).

⁴⁷ NATO press statement, "NATO Acknowledges Civilian Casualties in Tripoli Strike," June 19, 2011, http://www.nato.int/cps/en/SID-Ao1D83F3-4oB2E9E3/natolive/news_75639.htm (accessed January 19, 2012).

to determine where it in fact landed.” Upon review, NATO concluded that “it was possible that the errant weapon had caused such casualties.”⁴⁸

In December 2011, the al-Gherari family told Human Rights Watch that it had received threats from neighbors and others who believe that NATO targeted the house because the family was storing some sort of military equipment for Gaddafi forces. One Tripoli resident who does not know the family, for example, told Human Rights Watch that NATO targeted the building because Muammar Gaddafi was sleeping there.

Human Rights Watch obtained copies of the death certificate for seven-month-old Jomana Abdallah Nimr Shihab, which listed the date of death as June 19, 2011 and the cause of death as “burns sustained from shrapnel.” The al-Gherari family also provided copies of the official burial permissions for Jomana’s father, Abdullah Shihab, Faraj al-Gherari and Karima al-Gherari. The causes of death were “burns from explosive shrapnel” for Abdullah Shihab, “air strike and falling debris” for Faraj al-Gherari, and “fractures” and “burns” for Karima al-Gherari.⁴⁹

Those killed were:

Karima Ali Musbah al-Gherari, 30

Faraj Ali Musbah al-Gherari, 47

Khaled Abdallah, 2 years

Abdullah Nimr Shihab, 43 (from Syria)

Jomana Abdallah Nimr Shihab, 7 months

Sorman, June 20, 2011, 13 Deaths

In the early morning of June 20, 2011, NATO air strikes hit the large, walled farm of a former member of Gaddafi’s Revolutionary Council, Maj. Gen. el-Khweldi el-Hamedi, in the town of Sorman 70 kilometers west of Tripoli. The strikes apparently killed eight family members and five staff—in total four men, four women and five children. Family members and staff

⁴⁸ Letter to Philippe Kirsch from NATO legal advisor Peter Olson, January 23, 2012, Report of the International Commission of Inquiry on Libya, Annex II.

⁴⁹ Death certificate and burial permissions on file with Human Rights Watch.

told Human Rights Watch that el-Khweldi el-Hamedi had retired from military and political life and was not at the farm at the time of the attack. One family member said that NATO had also struck el-Khweldi el-Hamedi's office in Tripoli, showing Human Rights Watch a photograph of a large damaged building. Human Rights Watch did not inspect that site. NATO strikes also destroyed a post office and an adjacent building next to a large communications tower just outside the farm.

Human Rights Watch visited the el-Hamedi farm on August 11, 2011, under the supervision of a Gaddafi government minder. In three large villas that were hit, Human Rights Watch found no evidence of military activity, although such evidence could have been removed. At one of the destroyed villas, Human Rights Watch found remnants of a munition apparently dropped by NATO, but the type of weapon could not be determined. Human Rights Watch also inspected a large tent on the farm's western side that was hit. Inside were a few military-style overcoats; the family did not know to whom they belonged. Human Rights Watch did not examine all areas on the expansive farm, which included gardens, a swimming pool, and a small zoo.

One of el-Hamedi's sons, Khaled el-Hamedi, whose villa was hit, told Human Rights Watch that the farm was a "civilian place." The family had about 20 guards, he said, but there were "no signs of military movement, no cars, no tanks."⁵⁰

During the visit, Human Rights Watch saw at least a dozen armed guards inside the compound, and more armed guards at the front gate. Staff and family members at the farm said guards were needed to protect the large property at a time when law and order had broken down.

Residents in nearby Zawiya interviewed after the conflict had a different view, claiming that el-Khweldi el-Hamedi and his son Khaled had served as commanders for pro-Gaddafi forces in western Libya. Human Rights Watch was unable to confirm that claim. The transitional Libyan government has issued an arrest warrant for Khaled and el-Khweldi el-Hamedi and Interpol has issued a red alert, but it is unclear if they are wanted for crimes related to the armed conflict.⁵¹

⁵⁰ Human Rights Watch interview with Khaled el-Hamedi, Tripoli, August 9, 2011.

⁵¹ See Interpol's red alerts for the two men at http://www.interpol.int/Wanted-Persons/%28wanted_id%29/2011-54244 and http://www.interpol.int/Wanted-Persons/%28wanted_id%29/2011-57213 (April 26, 2012).

Image 7

The farm of Libyan
Maj. Gen. El-Khweldi
el-Hamedi in
Sorman on May 27,
2011. © 2011
DigitalGlobe.
Produced by
UNITAR/UNOSAT



Image 8

The farm of General
el-Hamedi in
Sorman on July 15,
2011, three weeks
after NATO air
strikes hit the
compound, killing 13
civilians. El-Hamedi
was not at the farm
at the time. © 2011
GeoEye. Produced
by UNITAR/UNOSAT



Satellite imagery of the el-Hamedi farm from May 27, 2011, three weeks before the attack, revealed no signs of military activity (see Image 7). In the vicinity of the farm there was no evident activity beyond a few light trucks and other vehicles. Imagery taken on July 15, 2011 shows the damaged or destroyed structures on the farm, as well as the destroyed post office and adjacent building next to the communications tower across the street (see Image 8).

On the day of the attack, NATO said in a media statement that the compound was “a command and control node which was directly involved in coordinating systematic attacks on the Libyan people.”⁵² It provided no information to support that claim. NATO later provided more information to the UN Commission of Inquiry, but still no details, saying the compound held “a number of command and control buildings as well as an ammunition storage facility.” The compound was protected by checkpoints, guards, and patrol vehicles forming several rings of security around the facility, NATO said, and aerial video surveillance had identified no civilians in the area.⁵³ In a subsequent letter to the UN commission, NATO said that it had not targeted the ammunition storage facility because of its proximity to a mosque and school. NATO also said that without “reliable neutral observers” on the ground, it “cannot make a definitive statement with respect to the reports of civilian deaths.”⁵⁴

The Gaddafi government used the incident for propaganda purposes, posting photographs of the killed children in Tripoli’s main hotels, and showing images of the attack frequently on state television. During Human Rights Watch’s visit to Libya in early August 2011, just before Muammar Gaddafi’s fall, Khaled el-Hamedi provided the organization with photographs of the damaged farm and the killed relatives, along with a lengthy video paying tribute to the victims. El-Hamedi subsequently filed a civil lawsuit against NATO in Belgium. The trial began in October 2011 and is scheduled to resume in Brussels on September 17, 2012. According to the family’s lawyer, the family is seeking 10,000 euros per victim.⁵⁵

⁵² NATO press statement, “NATO Strikes Military Command and Control Node,” June 20, 2011, http://www.nato.int/cps/en/natolive/news_75647.htm (March 29, 2012).

⁵³ Letter to Philippe Kirsch from NATO legal advisor Peter Olson, January 23, 2012, Report of the International Commission of Inquiry on Libya, Annex II.

⁵⁴ *Ibid.*

⁵⁵ Human Rights Watch telephone interview with Ghislain Dubois, April 2, 2012.

Those killed were:

Safa Ahmed Mahmoud

Khalida Khaled el-Hamedi, age 4

Khweldi Khaled el-Hamedi, age 3

Salam Mohamed Nouri el-Hamedi, age 6

Najia Belqasem el-Hamedi

Mohamed M'Hamed el Hamedi

Amnah Essam Jomaa, age 8

Aimra Essam Jomaa, age 8 months

Imad Abu Aoueingila Trabelsi (guard)

Abdullah al Nabi (guard)

Aisha Al-Cleih (from Morocco, housekeeper)

Bushra Yali (from Morocco, housekeeper)

Bashir Izhaq Ali (from Sudan, cook)

Bani Walid, August 29/30, 2011, Five Deaths

During the night of August 29 or the early morning of August 30, 2011, NATO aircraft struck two adjacent homes belonging to Fathi Abdulsalam Jfara and his son Farid Fathi Jfara in the town of Bani Walid, 170 kilometers southeast of Tripoli. The attack killed five members of the family—two men, two woman and one girl—and wounded another girl.

Human Rights Watch obtained copies of the medical reports for all five victims issued by Bani Walid General Hospital, which listed the date of death as August 30. The causes of death were a variety of traumatic injuries, including a fractured skull and internal bleeding. Human Rights Watch also obtained copies of the five death certificates, which put the date of death for each person as August 30 and the cause of death as “NATO strike.”⁵⁶

On January 23, 2012, Human Rights Watch interviewed three family members who witnessed the attack or its immediate aftermath as bodies were retrieved, as well as four neighbors, one of whom went to help the wounded. All of these people said there had been no military activity at the Jfara homes or in the area before the attack. The family had

⁵⁶ Medical reports and death certificates on file with Human Rights Watch.

no relations to the Gaddafi government or military, they said. NATO told the UN Commission of Inquiry that the site was a “major command and control node, which was reliant on non-traditional/informal methods to carry out that function.”⁵⁷

Farid Fathi Jfara said the attack took place around 3:30 a.m., while he was smoking a cigarette at the front gate and the rest of the family was in the house or on the front porch. He told Human Rights Watch:

A few seconds before, the family was sitting and chatting together. And then it went quiet. I started running away from the area. People expected they would strike the whole neighborhood; children, women, everyone started evacuating the area. I was crying and asking people for help, “My family is dead! My family is dead!”⁵⁸

According to Farid Jfara and other witnesses, the electricity was out in the area, so neighbors brought cars with headlights to search for the wounded and dead. He said:

We first found three bodies: my father, my mother and brother Fadel. Their bodies flew 25 meters from the porch to the outside. We didn’t see them immediately. We were looking under the wreckage. And they found my little sister Farah lying by my house. Our homes are seven meters apart. Some of her limbs had flown off and her organs had flown out too

Someone heard a sound of my sister Fairuz—a faint, high-pitch scream from under the rubble. I was traumatized by what happened, so I was crying by the main door, but I heard someone shooting into the air and crying, “She is alive! She is alive!” so I tried to get to her. They stopped me and kept me away.

⁵⁷ Letter to Philippe Kirsch from NATO legal advisor Peter Olson, February 15, 2012, Report of the International Commission of Inquiry on Libya, Annex II.

⁵⁸ Human Rights Watch interview with Farid Fathi Jfara, Bani Walid, January 23, 2012.

The wounded girl, Fairuz Fathi Jfara, 15, suffered head wounds and is recovering from difficulties with her speech and hearing, family members said.⁵⁹

Farid Fathi Jfara's brother Faiz, 19, said he was sitting with a friend at a shop about 500 meters from his home when the bombs struck. He thought the airport, which is two to three kilometers away, had been hit, he said, so he and his friend went to check. On the way he stopped at his house and was shocked to see that his home had been struck. "I didn't believe it. I screamed. I couldn't believe it," he said. "And then I heard Fairuz crying. I was traumatized, and people inside kept me from going closer to her."⁶⁰

Farid and Faiz's uncle, Ali Abdulsalam Jfara, 50, said he heard the explosion around 3:30 a.m., saw smoke and went running towards his brother's house. He explained:

When I entered the house, I found Hajj Fathi first. I was the first one to discover the body. I saw Fathi first, even though Afiya was closer, but she was covered with wreckage. And then Fadel, but he too was covered in the rubble. I recognized him by his body because the only thing left was the back of his head and his chin, the rest of his face was gone. His body must have hit the wall and dropped down. His legs were crossed and broken. When I turned him over, I couldn't see his face because it was all gone. I couldn't recognize anything.⁶¹

Human Rights Watch interviewed four neighbors, three of whom said the attack took place at 8 p.m. on August 29. All of them said they lived in a residential neighborhood that had not seen military activity.

Human Rights Watch visited the site on January 23, 2012. One of the two Jfara homes was completely flattened and the other had only a few walls standing. The remnants of ordnance at the site appeared to be from a GBU-12 laser guided bomb.

⁵⁹ A video of rescue efforts at the Jfara house, including the retrieval of Fairuz Jfara, is available at http://youtube.com/watch?v=QxN_HVe5fjk (April 25, 2012).

⁶⁰ Human Rights Watch interview with Faiz Fathi Jfara, Bani Walid, January 23, 2012.

⁶¹ Human Rights Watch interview with Ali Abdulsalam Jfara, Bani Walid, January 23, 2012.



Image 9
Two houses in the Jfara family compound in Bani Walid on May 22, 2011, with a cluster of light trucks visible on the road and one in the Jfara compound. © 2011 DigitalGlobe. Produced by UNITAR/UNOSAT



Image 10
Two destroyed houses in the Jfara family compound in Bani Walid on September 4, 2011. NATO air strikes on August 29 or 30 killed five members of the family. © 2011 DigitalGlobe. Produced by UNITAR/UNOSAT

Human Rights Watch also found a used Type 63 rocket body in the yard and a winter military coat next to blankets and shoes atop the rubble. Family members said the rocket apparently landed there during the fighting in Bani Walid in September or October, after the family had left the property. This 107mm rocket was commonly used by pro- and anti-Gaddafi forces during the conflict. The family said they did not recognize the coat or know how it got there because they could not account for what happened after they left. Other Bani Walid residents told Human Rights Watch that fighting between opposition and Gaddafi forces took place in the area after the NATO strike on the Jfara homes.

Satellite imagery taken on May 22, 2011 reveals no signs of military activity at the Jfara homes. More than an estimated 1,000 light trucks and possible light armored vehicles are visible that day in several parts of Bani Walid, including one group on a road 125 meters northeast of the Jfara compound (see Image 9). One light truck is visible inside the compound on that day. Imagery from September 4, after the strikes, shows the two damaged Jfara homes and little activity in the area (see Image 10).

Those killed were:

Fathi Abdulsalam Jfara, 55

Afiya Ali Al-Ghazzali Mohamed, 51

Fadwa Fathi Abdulsalam Jfara, 30

Fadel Fathi Abdulsalam Jfara, 23

Farah Fathi Abdulsalam Jfara, 9

Sirte, September 25, 2011, Seven Deaths

On September 25, around 4:30 a.m., during heavy fighting in the town of Sirte, 450 kilometers east of Tripoli, NATO aircraft twice struck the home of Salem Dyab in District 3. A possible target was the owner's brother, Brig. Gen. Musbah Ahmed Dyab, who may have been there at the time.⁶² Some family members told Human Rights Watch that the strike killed General Dyab, 53. That remains unconfirmed, but seven civilian members of the family did apparently die in the strike. Human Rights Watch obtained copies of death

⁶² NATO said publicly during and after the conflict that as a matter of policy it did not target individuals. See, for instance, NATO spokesperson briefing on Libya, August 23, 2011, http://www.nato.int/cps/en/natolive/opinions_77362.htm (accessed April 26, 2012).

certificates for three women and four children, the youngest of whom was 15 months old. Four civilian family members were wounded, the family said.

Residents of Sirte told Human Rights Watch that General Dyab was a senior military commander whose role increased after the fall of Tripoli in August 2011. He reportedly was commander of the Jeraf military base outside of Sirte and head of the Al-Shahid Muftah Spaya Brigade, but this could not be confirmed. If true, Dyab was a legitimate military target. By staying at his family's home, if he did that, Dyab was violating international humanitarian law by placing civilians at unnecessary risk.

Human Rights Watch visited the Dyab house on February 7, 2012, and spoke with three family members who were present during the strike, plus two neighbors and the father of one of the killed children. Most witnesses said there were two strikes, with a delay in between; the length of the delay is disputed, some said up to 10 minutes.

Three-quarters of the house was flattened, and the rest was heavily damaged. The basement was still intact. A few remnants of NATO munitions were found in the rubble, but the type of weapon could not be determined. On the premises, Human Rights Watch also found several empty ammunition boxes for small arms. Family members said the house had not been used for any military purpose and no weapons or other military equipment were there prior to the attack. The ammunition boxes were placed there after the family left, they said.

According to family members, at least 13 members of the extended family were staying at the home on the day of the attack, after another home belonging to the family in western Sirte was damaged in fighting. The family was also hosting guests in the basement to receive condolences after the September 12 death of a relative, Muhammad Khalifullah Zaroug, 24, who was allegedly killed in a NATO air strike on a checkpoint 50 kilometers west of Sirte. All of the family members and neighbors said there was heavy fighting between Gaddafi and opposition forces in Sirte on the day of the attack.

Rabiha Dyab Omran, the niece of General Musbah, was sleeping in the house next door during the first strike. She said she had not been able to leave the house for the previous 10 days because of the fighting. She told Human Rights Watch:

We were sleeping with our clothes on, even our shoes, because we expected to evacuate the area any time. Two days before the strike, NATO hit Ibn Khaldoun school behind the house. There was dust and smoke all over. We had a difficult time breathing. We had a generator and turned it on at the time of the *maghreb* prayer until 2 a.m. When the fuel finished at 2 a.m., we would switch it off. Suddenly I heard the shock and some things fell off the roof. I heard my mother say, “This is my family’s house” and I said no, “It is far away.” I remember the explosion and I saw the house flattened. The dust was everywhere.⁶³

Rahiba’s mother, Anaya Dyab, was also next door at the time. Her mother, brother, sister, and grandson were all killed in the strike. She told Human Rights Watch:

When people came to rescue and take the dead bodies, they couldn’t do it because aircraft kept flying. There was smoke and dust and people were crying, and we could still hear the aircraft. When we tried to escape, we tried to avoid the house that was struck. We just left the place and the aircraft came and struck again on the same house. It was 10 minutes between the two missiles. I was still there. People were telling us to leave fast before the aircraft came back. After we got out, they struck the second time. It was a terrible day. My mother lay under the wreckage until 8 p.m. because of [the aircraft overhead]. The whole street was evacuated because of what flew from the strike.⁶⁴

Human Rights Watch obtained copies of death certificates for two of the family members, Hanan Dyab, 29, and her son Dyab Omran, 15 months, from the Sirte morgue on February 5, 2012. The morgue records keeper said the family had brought at least seven bodies but opposition forces stole the records on October 9, and only two of the family members had returned to redo the books.⁶⁵ The Dyab family subsequently gave Human Rights Watch copies of seven death certificates that were prepared in February 2012. All of the death

⁶³ Human Rights Watch interview with Rabiha Dyab Omran, Sirte, February 7, 2012.

⁶⁴ Human Rights Watch interview with Anaya Dyab, Sirte, February 7, 2012.

⁶⁵ Human Rights Watch interviews with Site morgue record keeper, Sirte, February 5, 2012.

certificates list the date of death as September 25, 2011 and the cause of death as either “air strike” or “NATO air strike.”⁶⁶

NATO has not provided information as to the intended target of the attack. As noted, General Dyab was apparently a legitimate military target but NATO maintained both during and after the conflict that it did not target specific individuals.⁶⁷ Whether General Dyab died or not remains unknown. NATO should clarify why the anticipated loss of civilian life from the attack was not excessive compared to the attack’s expected military gain.

Civilians killed were:

1. Marjuha Salem Al-Zaroug Khalifa, 71, (mother of Gen. Dyab)
2. Intisar Ahmed Dyab Omar, 33 (sister of Gen. Dyab)
3. Hanan Majid Ahmed Dyab, 29
4. Heba Musbah Dyab, 11, (daughter of Gen. Dyab)
5. Ahmed Ali Ahmed Dyab Omar, 8
6. Ghufraan Dyab Ahmed Dyab, 2
7. Dyab Omran Dyab Omran, 1 year, 3 months

Sirte, September 16, 2011, Two Deaths

On September 16, 2011, starting around 7 p.m., NATO aircraft repeatedly struck a large seven-story apartment complex called Imarat al-Tameen in downtown Sirte. The strikes killed Ayesha Abdeljalil Banur Bishir, 40, a nurse from Wushka, who was five-months pregnant, and Ali Omar Emhamid Suwaysi, 27, a truck driver from the Gaddatfa tribe in Sirte.

At the time of the attack, most of the nearly 100 families who lived in the complex had fled due to the fighting. A few families remained, and apparently so did some men to protect the building and family properties. Some of the men who guarded the building entrances were armed.

⁶⁶ Death certificates on file with Human Rights Watch.

⁶⁷ NATO told the UN Commission of Inquiry that: “[no] civilians, and no specific individual, civilian or military, were ever intentionally targeted.” (Letter to Philippe Kirsch from NATO legal advisor Peter Olson, January 23, 2012, Report of the International Commission of Inquiry on Libya, Annex II.)

The area saw intense fighting prior to the strike. A few days earlier, residents said, Gaddafi forces just north of the complex had clashed with members of the Safrouni family, which supported opposition forces. Following this, pro-Gaddafi armed men allegedly tried to position snipers on the roof of the complex, but it is not clear if they succeeded. A local resident told Human Rights Watch, “Volunteers [fighters] tried to occupy the building the day the clashes happened with the Safrouni family; we kicked them out. There is another complex on the water, which is high, and the volunteers used that one instead.”⁶⁸

Mahmood Zaroog Sulaymani, who had stayed in his apartment at the complex with his family, told Human Rights Watch that the first strike on the building hit his apartment on the fifth floor shortly after 7 p.m. while the family was eating dinner.⁶⁹ The strike killed his wife Ayesha Bishir, and wounded Mahmood, requiring him to get medical treatment in Jordan. One of Mahmood’s two young daughters, 4-year-old Tahani Mahmood Sulaymani, received shrapnel wounds in several parts of her body. Mahmood said:

My family was in the kitchen together having dinner. The missile entered from behind the kitchen. All I can remember is that I flew into the air then I fell on my back. And it was dark. There was dust everywhere. I had been in the kitchen but found myself in the opposite room. I started screaming, “Tahani, Rawasi, Ayesha!” Tahani answered the call first. She was crying, “Baba, baba” [“papa, papa”]. I was trying to follow the sound and look to find her. When I reached her, she was folded over a chair on her belly. I grabbed her. I tried to clean the ground with my foot, and I put her down. And I went back to search for [my wife] Ayesha and Rawasi. I kept calling them both and eventually Rawasi answered. Rawasi was under something metal. She was doubled over with metal and wood debris on her back. So I pushed away the debris and took her back to the room next to Tahani. And then I went back again to find Ayesha. I couldn’t find her.

I didn’t realize at that point it was NATO. I thought maybe it was shelling. But right about then, I started to hear the aircraft noise. When I realized that, I rushed to grab the two girls and ran out. I went down to the ground floor

⁶⁸ Human Rights Watch interview with Mahmood Zaroog Sulaymani, Sirte, February 6, 2012.

⁶⁹ Human Rights Watch interview with Mahmood Zaroog Sulaymani, Sirte, February 6, 2012.

and I fell over with the girls. Some people went in with flashlights. I called them: “Come here!” They came to me running. While we were trying to escape, I gave one of my daughters to one of the men. He grabbed Tahani, and another guy was trying to help me with Rawasi. We were trying to get out of the building, and the next strike happened. It was maybe seven minutes [after the first strike]. We stood for a few moments to figure out where it was, but it was away from us.

Until that moment, I didn’t realize that I was injured. When I put the girls inside the ambulances, I saw my hand. When I was trying to go back into the building, there was a third missile. It was about six to seven minutes after the second. At that point they took me to the hospital. I stayed at the hospital until midnight, but then I left and went back to the complex. I took a flashlight and went back to the flat to search for my wife. I spent about an hour looking. Eventually I found her outside the kitchen. She was covered with wreckage. I tried to take her out, but I found her arm had been cut off, her side had opened, and most of her internal organs had slipped out. I tried to get her out, but I couldn’t.⁷⁰

Two flights down from Mahmood Sulaymani’s apartment lived Ali Omar Suwaysi with his family. His father, Omar Emhamid Suwaysi, told Human Rights Watch that Ali occasionally guarded the building with a weapon but he wasn’t doing that at the time of the strike. Ali’s body was not excavated from the apartment until the beginning of 2012 due to extensive damage to the building and the need for heavy equipment.⁷¹

Human Rights Watch obtained copies of the death certificates of both Ayesha Bishir and Ali Suwaysi. The date of death for Ali Suwaysi is listed as September 16, the day of the attack. The date of death for Ayesha Bishir is listed as September 17, which is consistent with her husband’s claim that he retrieved her body the following day.⁷²

⁷⁰ Human Rights Watch interview with Mahmood Zaroog Sulaymani, Sirte, February 6, 2012.

⁷¹ Human Rights Watch interview with Omar Emhamid Suwaysi, Sirte, February 6, 2012.

⁷² Death certificates on file with Human Rights Watch.

On February 6, 2012, Human Rights Watch visited the Imarat al-Tameen apartment complex, gaining entry through the pile of dirt and sand used by the bulldozers to excavate Ali Omar Suwaysi. The large complex had suffered significant damage and was uninhabitable. Residents from the area said that up to 12 bombs launched between the night of September 16 and the morning of September 17, 2011 had hit the building, though that number remains unconfirmed. Some ordnance from the NATO strikes had already been removed, residents said, but some remained.

Human Rights Watch inspected the roof where some local residents had alleged snipers were positioned. On the roof were more than a dozen spent rifle cartridges and remnants of a JDAM (satellite guided bomb) of an unknown model, which NATO apparently dropped on the building. It is unknown whether the rifle cartridges were there prior to the NATO strikes. Human Rights Watch also found a few military uniforms discarded in a passageway on the north side of the complex. There were no other signs of military equipment or activity on the premises.

The presence of snipers on the roof of a building would make that building a valid military target. However, any attack on such a building would have to take into account whether destruction of the building would cause harm to civilians disproportionate to the expected military advantage.

Those killed were:

Ayesha Abdeljalil Banur Bishir, 40 (five months pregnant)

Ali Omar Emhamid Suwaysi, 27

Gurdabiya, September 23, 2011, Three Deaths

On September 23, 2011, around 4 p.m., NATO struck a new house on a farm belonging to the Gidwar family in Gurdabiya, about 20 kilometers east of Sirte. More than a dozen members of the extended family had congregated there after their homes in central Sirte were shelled in fighting, family members said. The strike killed three people: an elderly man and two girls, aged 8 and 10. Three children and a woman were wounded, including a four-year-old who reportedly lost an eye and a 15-year-old who lost his left leg below the knee.

Human Rights Watch visited the house on February 6, 2012 and found no evidence of military activity except one green uniform loosely packed in the rubble and two 14.5 mm spent cartridges on the west side of the house. A family member said he did not know how the uniform or cartridges got there. Other material might have been removed prior to the visit. The strike grazed the northeast corner of the house, causing a crater just outside the building. Most of the house was standing but the floor and kitchen were damaged. Inside the house, Human Rights Watch found remnants of a GBU-12 laser guided bomb, suggesting that is what NATO used.

A neighbor said the farm belonged to a family member named Salem Ahmed Salem Salem Omar, a colonel in the Libyan army who was not present at the time of the attack. One witness said there was fighting in the area at the time as opposition fighters took up a position at the Gurdabiya Monument, about one kilometer to the east, and Gaddafi forces took up positions west of the house. The family said there was no fighting on the day of the NATO strike.

According to two witnesses, the two girls who were killed, Sajida and Esra, were sitting outside with 15-year-old Abdulhamid at the time of the strike. The elderly man who died, Omar Salem Omar Gidwar, 67, a businessman in Sirte, was in the bedroom.⁷³ Human Rights Watch obtained copies of death reports for all three people.

Abdulhamid was hospitalized for two months for his left leg, which Human Rights Watch saw was amputated below the knee. He was given a prosthetic and walks with a slight limp. He recalled the moment the missile hit the house:

I was sitting with my nieces just outside the house on the porch steps... .
My sister Afaf stood up outside and came towards us. She said there was a loud sound and shelling or a strike. She heard a missile coming towards us. I didn't see anything. [The girls] had been singing for 15 minutes, and then the strike happened. After the strike, my nieces were thrown away from me. One was on my right side and one was in front of me. The smoke was all

⁷³ Human Rights Watch interviews with Eftayma Omar Gidwar and Abdulhamid Omar Gidwar, Gurdabiya, February 6, 2012.

over the place. There was dust and smoke. I felt suffocated. I couldn't breathe easily. I fainted. I can't remember much after that.⁷⁴

NATO did not provide any information about this strike to the UN Commission of Inquiry or Human Rights Watch.

Those killed were:

Sajida Salem Omar Gidwar, 8

Esra Salem Omar Gidwar, 10

Omar Salem Omar Gidwar, 67

⁷⁴ Human Rights Watch interview with Abdelhamid Gidwar, Gurdabiya, February 6, 2012.

IV. International Legal standards

The armed conflict in Libya fell within the purview of international humanitarian law, also known as the laws of war. International humanitarian law imposes upon all parties to the conflict, in this case Libyan armed forces loyal to Muammar Gaddafi, opposition forces and NATO, limits on permissible means and methods of warfare, and requires them to respect and protect civilians and captured combatants. It is applicable to all situations of armed conflict, without regard to whether the conflict itself is legal or illegal under international law (i.e., whether a given party is an aggressor or a defender), and whether those fighting are regular armies or non-state armed groups. Individuals who willfully commit serious violations of international humanitarian law can be prosecuted for war crimes before national or international courts.

The fighting in Libya between Gaddafi forces and NATO was considered an international armed conflict—that is, a war between two or more states.⁷⁵ Applicable law includes the Geneva Conventions of 1949 and, for Libya and most participating NATO states, the First Additional Protocol of 1977 to the Geneva Conventions (Protocol I).⁷⁶ While the United States is not a party to Protocol I, it considers many of the rules on the methods and means of warfare found in the protocol to be reflective of customary international law.⁷⁷ Customary international humanitarian law is binding on all parties to the conflict.

The fundamental tenets of international humanitarian law are "civilian immunity" and "distinction." Parties to a conflict are required to distinguish at all times between combatants and civilians, and to direct attacks only against combatants and other military objectives. Deliberate attacks on civilians and civilian objects are strictly prohibited.⁷⁸ Also

⁷⁵ The fighting between Gaddafi forces and opposition forces would fall under the rules for non-international armed conflicts. The laws of war for the methods and means of armed conflict for both international and non-international armed conflicts are largely the same.

⁷⁶ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977, 1125 U.N.T.S. 3, entered into force December 7, 1978.

⁷⁷ Michael J. Matheson, Remarks on the United States Position on the Relation of Customary International Law to the 1977 Protocols Additional to the 1949 Geneva Conventions, reprinted in "The Sixth Annual American Red-Cross Washington College of Law Conference on International Humanitarian Law: A Workshop on Customary International Law and the 1977 Protocols Additional to the 1949 Geneva Conventions," *American University Journal of International Law and Policy*, vol. 2, no. 2, Fall 1987, pp. 419-27.

⁷⁸ Protocol I, arts. 48, 51(2), and 52(2).

prohibited are indiscriminate attacks, which are attacks that do not or cannot make a distinction between military objectives and civilians and civilian objects.⁷⁹

Military objectives include "those objects which by their nature, location, or purpose make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage."⁸⁰ This includes soldiers and their weaponry, but is not limited to that. Communications equipment being used for military purposes would be military objectives and thus subject to attack. A civilian structure or residence may not be attacked except and for only such time it is being used for military purposes.⁸¹

Civilians are protected from attack unless and for such time as they take a direct or active part in the hostilities. For example, civilians loading ammunition during a firefight, or actively serving as spotters for artillery, may be attacked. However, civilians who for example share a dwelling with members of belligerent forces or who remain in a combat zone are not lawful targets of attack, though they may become unintended victims of lawful attacks (so-called collateral damage).

In the conduct of military operations, warring parties must take constant care to spare the civilian population and civilian objects from the effects of hostilities, and are required to take precautionary measures with a view to avoiding, and in any event minimizing, incidental loss of civilian life, injury to civilians, and damage to civilian objects. These precautions include:

- Doing everything feasible to verify that the objects to be attacked are military objectives and not civilians or civilian objects;⁸²
- Taking all feasible precautions in the choice of means and methods of warfare to minimize loss of civilian life;⁸³

⁷⁹ Protocol I, art. 51(4).

⁸⁰ Protocol I, art. 52(2).

⁸¹ See ICRC, Customary International Humanitarian Law, rule 146.

⁸² Ibid., art. 57(2)(a). In its authoritative Commentary on Protocol I, the International Committee of the Red Cross explains that the requirement to take all "feasible" precautions means, among other things, that the person launching an attack is required to take the steps needed to identify the target as a legitimate military objective "in good time to spare the population as far as possible." ICRC, Commentary on the Additional Protocols, pp. 681-82.

⁸³ Ibid.

- Doing everything feasible to assess whether the attack will cause loss of civilians and civilian objects disproportionate to the direct and concrete military advantage anticipated;⁸⁴
- Doing everything feasible to cancel or suspend an attack if it becomes apparent that a target is not a military objective or would result in disproportionate civilian loss;⁸⁵
- When circumstances permit, giving effective warning of attacks that may affect the civilian population.⁸⁶

International humanitarian law does not prohibit fighting in urban or residential areas, although the presence of civilians places greater obligations on warring parties to take steps to minimize harm to civilians. These include: avoiding locating military objectives within or near densely populated areas; endeavoring to remove the civilian population from the vicinity of military objectives; and not deliberately seeking to prevent attacks on one's forces by mingling with civilians or using them as “human shields.”⁸⁷ However, violations by one party to a conflict do not excuse violations by the other side.

States not only have an obligation to abide by international humanitarian law, they must also use their influence, to the degree possible, to stop all laws-of-war violations.⁸⁸ They are responsible not only for violations by their own armed forces, but for those committed by forces acting under its instructions, directions, or control.⁸⁹

States are obligated under international law to investigate allegations of serious violations of the laws of war by members of their armed forces. Where war crimes have occurred, states should prosecute those responsible as appropriate.⁹⁰ States must also make every

⁸⁴ Ibid., art. 57(2)(a).

⁸⁵ Ibid., art. 57(2)(b).

⁸⁶ Ibid., art. 57(2)(c).

⁸⁷ Ibid., arts. 57, 58.

⁸⁸ State parties to the Geneva Conventions undertake to “ensure respect for the present Convention.” Common article 1 to the 1949 Geneva Conventions; see also Protocol I, art. 1(1).

⁸⁹ See, e.g., Protocol I, art. 91; ICRC, Customary International Humanitarian Law, rule 149.

⁹⁰ See ICRC, Customary International Humanitarian Law, rule 158, citing the 1949 Geneva Conventions and other treaties; see also Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles on the Right to a Remedy and Reparations), adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005, art. 4 (“In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to

effort to cooperate as much as possible with each other to facilitate the investigation and prosecution of war crimes.⁹¹ A state that is responsible for violations of the laws of war is obligated to make full reparation for the loss or injury caused. This includes compensation for individuals.⁹²

States should consider conducting thorough investigations, wherever feasible, following attacks resulting in high numbers of civilian casualties, even if they have determined that there was no violation of international humanitarian law. By so doing, parties to a conflict will better be able to determine why civilians died and how to implement appropriate changes to mitigate civilian casualties in future operations.

The eight incidents documented in this report raise questions as to whether the attacking forces acted fully in accordance with their obligations under the laws of war to exercise "constant care to spare the civilian population" and take "all feasible precautions" to minimize loss of civilian life. This obligation requires that combatants do everything feasible to verify that targets are military objectives, and not civilians; that the means and methods of warfare are chosen to minimize civilian loss; and that the expected civilian loss is not excessive in relation to the concrete and direct military advantage expected. Attacks that do not meet these requirements must be cancelled or suspended.

The fact that civilians die or are injured in an air strike does not necessarily mean the air strike violated the laws of war, so long as the attacker undertook the precautions required by the laws of war. But beyond the human tragedy, the loss of civilian life—regardless of whether they were the result of lawful or unlawful conduct—should always be a cause for concern by a military force, as this can damage an armed forces' reputation and the goodwill it seeks from the population.

prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him. Moreover, in these cases, States should, in accordance with international law, cooperate with one another and assist international judicial organs competent in the investigation and prosecution of these violations.”).

⁹¹See ICRC, Customary International Humanitarian Law, rule 161.

⁹² See ICRC, Customary International Humanitarian Law, rule 150; see also Basic Principles on the Right to a Remedy and Reparations, parts VII-IX.

NATO and the International Criminal Court

On February 26, 2011, the UN Security Council adopted Resolution 1970 by a vote of 15-0 referring the situation in Libya to the International Criminal Court (ICC).⁹³ The resolution states that nationals from a country other than Libya that is not party to the ICC Statute shall not be subject to ICC jurisdiction for all alleged acts arising out of operations in Libya established or authorized by the Security Council.⁹⁴

Of the 18 countries that took part in Operation Unified Protector, all are parties to the ICC Statute except Qatar, Turkey, Ukraine, the United Arab Emirates, and the United States. From these, only the United States is known to have dropped ordnance in the air campaign. As noted above, all states remain obligated under international law to investigate credible allegations of laws-of-war violations.

The other seven countries that took part in the air campaign with strike sorties, Belgium, Canada, Denmark, France, Italy, Norway, and the United Kingdom, could potentially be the subject of an ICC investigation if credible evidence emerges that their military personnel perpetrated war crimes “in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.”⁹⁵ For a conviction under the ICC statute for the incidents described in this report, there would need to be a showing of “intentionally directing attacks” against civilians or civilian objects.⁹⁶

The exemption from ICC jurisdiction in Security Council Resolution 1970 runs counter to core international legal principles of jurisdiction, including territoriality (i.e. sovereign states can prosecute criminal offenses that are committed within their borders). In addition, the exemption, by limiting jurisdiction over nationals of non-ICC states accused of war crimes in Libya to the “exclusive jurisdiction” of their own country, undercuts the ability of domestic courts in third countries to prosecute such nationals under the principle of universal jurisdiction. Similar language had been included in the Security Council's

⁹³ Under the Rome Statute, the ICC's founding treaty, the Security Council can refer a situation in any country to the ICC prosecutor if it determines the situation to be a threat to the maintenance of international peace and security.

⁹⁴ United Nations Security Council Resolution 1970, adopted February 26, 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/245/58/PDF/N1124558.pdf?OpenElement> (accessed April 26, 2012).

⁹⁵ Rome Statute, art. 8(1).

⁹⁶ Rome Statute, art. 8(2).

referral of the situation in Darfur in 2005 to the ICC.⁹⁷ This approach by the Security Council risks obstructing justice for the most serious crimes and suggests a double-standard that undermines international justice efforts.

⁹⁷ UN Security Council Resolution 1593 (2005), paragraph 6..

Acknowledgements

This report was researched and written by Fred Abrahams, special advisor at Human Rights Watch, and Sidney Kwiram, consultant at Human Rights Watch. The research in Libya was assisted by Wajdi Bargig, Brahim Elansari and Tom Hill. The report was edited by Sarah Leah Whitson, Middle East and North Africa director; James Ross, legal and policy director; and Tom Porteous, deputy program director.

Human Rights Watch thanks the many Libyans who provided information for this report, most of them victims and witnesses of NATO attacks in which civilians were wounded and killed. UNOSAT assisted in adapting portions of their report to the United Nations High Commissioner for Human Rights.

Human Rights Watch also thanks our supporters in Japan who helped make research in Libya and other parts of the Middle East and North Africa possible.

Appendix A: Civilian deaths in Majer, August 8, 2011

1	Mosbah Salim El Jahsh	male
2	Moatouq Ali Sharaf El Deen	male
3	Ali Salim El Jahsh	male
4	Mostafa Ali Akdeesh	male
5	Khalifa Mohamed Mansour Bin Ramadan	female
6	Jumaa Ali El Hami	male
7	Mostafa Ibrahim Absaat	male
8	Ali Salama Abdullah El Hadami	male
9	Fathi Omar Absaat	male
10	Attia Ali Absaat	male
11	Ali Maftah Mohamed El Jahsh	male
12	Fathi Abdel Salam El Taweel	male
13	Salem Omar Salem Waram	male
14	Khaled Mubarak El Jaaroud	male
15	Attia Mohamed Al Jarud	male
16	Attia Ali Al Jarud	male
17	Ibrahim Mansour Al Jarud	male
18	Arhouma Fathi Arhouma Adreneesh	male
19	Ahmed Mohamed El Raqeeq	male child
20	Abdullah Mohamed El Raqeeq	male child
21	Abdul Muhimen Fathi El Jeroushi	male child
22	Hanan El Ferjani Mohamed Dazah	female
23	Salma Muammar Aqeel Al Jarud	female child
24	Salma Mohamed Abu Hosseina Al Jarud	female
25	Fatma Aqeel El Jaaroud	female

26	Salima Mohamed Hamed	female
27	Saaled Salim Sultan	male
28	Hanaa Mohamed El Raqeeq	female child
29	Arwa Attia Juweily	female child
30	Hanan Ali Hamed	female
31	Salima Ahmed El Raqeeq	female
32	Mansia Khalifa Hiblo	female
33	Riham Ali El Raqeeq	female child
34	Hiyam Ali El Raqeeq	female child

Appendix B: Human Rights Watch Letter to NATO Secretary General

HUMAN RIGHTS WATCH

Avenue des Gaulois, 7
1040 Brussels, Belgium
Tel: + 32 (2) 732-2009
Fax: + 32 (2) 732-0471



H U M A N
R I G H T S
W A T C H

www.hrw.org

NATO Secretary General
Anders Fogh Rasmussen
NATO Headquarters
Brussels, Belgium

February 22, 2012

Dear Secretary General Rasmussen,

We are writing to request information for a report that Human Rights Watch is preparing on NATO's military campaign in Libya. The focus of our research is on civilian casualties apparently caused by NATO air strikes between March and October 2011.

Human Rights Watch has conducted extensive investigations on the ground, and documented nine cases in which apparently 72 civilians died. We shared our main findings with NATO headquarters in Naples in August, and were briefed on the measures NATO took to minimize civilian casualties. Follow-up information from NATO's press office has provided more information, but many questions remain.

Human Rights Watch has extensively documented violations of the laws of war by Gaddafi forces and opposition fighters. We believe it is also important for NATO to be transparent about military operations that caused civilian casualties—as NATO increasingly has been in Afghanistan. This transparency would be consistent with NATO's mandate in Libya to

protect civilians. And it would help ensure that the lessons of the operation are learned to strengthen efforts to minimize civilian deaths in the future.

To help us understand NATO's approach to civilian casualties in the campaign, we would appreciate receiving answers to the general questions below, which we are also posing to the states that participated in the air campaign. We are also providing questions on the specific sites that Human Rights Watch has investigated in which civilians apparently died. Information you can provide about these strikes would be appreciated.

Information received by March 1, 2012 can be incorporated into our report. Should your staff wish to discuss any of these matters with us by telephone or e-mail, we would be pleased to do so at any time.

Sincerely,



Lotte Leicht
Human Rights Watch, EU Director
Tel: +32-2-737-1482
leichtl@hrw.org



Fred Abrahams
Special Advisor
Tel: +1-212-216-1281
abrahaf@hrw.org

HUMAN RIGHTS WATCH QUESTIONS ON THE NATO CAMPAIGN IN LIBYA

General Questions

1. How many sorties did NATO forces fly during the campaign?
2. How many of these sorties dropped ordnance?
3. How many weapons did NATO employ in those strikes?
4. What was the designation of those weapons?
5. What is the breakdown of strike sorties by participating states?
6. Were all targets provided through the Combined Air Operations Center (CAOC) or did participating states also do targeting?
7. Could participating states reject a target given by the CAOC?
8. What measures did NATO take to minimize civilian casualties?
9. What percent of weapons employed by NATO were delay fused so they would explode inside targets or underground?
10. Did NATO forces use any canon fire and, if yes, against what targets and what class of targets?
11. How did NATO do collateral damage estimates?
12. Was there a specific number for anticipated civilian casualties in an air strike beyond which the strike would be cancelled? What was that number?
13. What review process did NATO employ after reports of a possible civilian casualty?
14. Has NATO launched any investigations into reported civilian casualties by its forces?
15. If yes, which cases are being investigated and by whom? What are the results?

Case Questions

1. On August 8, 2011 at around 11:30 p.m. local time air strikes hit two compounds in Majer, about 10 kilometers south of Zliten, killing about 16 people. Shortly thereafter another strike hit, killing an additional 18 people who had arrived at the scene. Coordinates for the struck compounds are 32°22'28.67"N, 14°34'29.49"E (Gafuz family) and (32°22'25.56"N, 14°34'43.08"E (Jarud family).
 - a. Which participating state was involved in this strike?
 - b. Who selected the target?
 - c. What was the intended target?
 - d. What weapons were employed?
 - e. What information provided the basis for carrying out this strike?
 - f. What measures were taken to minimize civilian casualties?

- g. On what basis was a second strike carried out?
 - h. Has an investigation been launched into the strike. If yes, by whom and with what results?
 - i. Will you release the gun camera video of the strike?
2. On August 4, 2011 at around 6 a.m. an air strike hit the home of Mustafa al-Morabit in Zliten, killing his wife and two of his children. Neighbors said that the intended target may have been a neighboring house, which had been occupied by Gaddafi forces, but had been vacated two days prior to the strike. Coordinates: 32°28'22.23"N, 14°29'21.64"E.
- a. Which participating state was involved in this strike?
 - b. Who selected the target?
 - c. What was the intended target?
 - d. What weapons were employed?
 - e. What information provided the basis for carrying out this strike?
 - f. What measures were taken to minimize civilian casualties?
 - g. Has an investigation been launched into the strike. If yes, by whom and with what results?
 - h. Will you release the gun camera video of the strike?
3. On June 19, 2011 at around 1:15 a.m., an air strike hit the three-story home of the al-Gharari family in a residential neighborhood of Souk al-Juma, killing five people. NATO conceded a mistake and publicly announced a “weapons system failure.” Coordinates: 32° 52' 53.97"N, 13° 17' 30.56"E.
- a. Which participating state was involved in this strike?
 - b. Who selected the target?
 - c. What was the intended target?
 - d. What weapons were employed?
 - e. What information provided the basis for carrying out this strike?
 - f. What measures were taken to minimize civilian casualties?
 - g. What was the “weapons system failure”?
 - h. Has an investigation been launched into the strike. If yes, by whom and with what results?
 - i. Will you release the gun camera video of the strike?

4. On June 20, 2011, air strikes hit the large, walled farm of the el-Hamedi family, headed by a member of Gaddafi's Revolutionary Council member, Maj. Gen. el-Khweldi el-Hamedi in Sorman. The strike apparently killed eight family members and five staff, including four women and five children. Coordinates 32°45'22.70"N, 12°31'33.01"E.
 - a. Which participating state was involved in this strike?
 - b. Who selected the target?
 - c. What was the intended target?
 - d. What weapons were employed?
 - e. What information provided the basis for carrying out this strike?
 - f. What measures were taken to minimize civilian casualties?
 - g. Has an investigation been launched into the strike. If yes, by whom and with what results?
 - h. Will you release the gun camera video of the strike?

5. On the night of September 16, 2011, starting around 7 p.m., a series of air strikes hit the large seven-story Imarat al-Tameen apartment building in Sirte. Many of the apartments were abandoned but one man and one woman were killed. Coordinates: 31°12'23"N 16°34'57"E.
 - a. Which participating state was involved in this strike?
 - b. Who selected the target?
 - c. What was the intended target?
 - d. What weapons were employed?
 - e. What information provided the basis for carrying out this strike?
 - f. What measures were taken to minimize civilian casualties?
 - g. Has an investigation been launched into the strike. If yes, by whom and with what results?
 - h. Will you release the gun camera video of the strike?

6. On September 25, 2011, at around 4:30 a.m., air strikes hit the home of Brig. Gen. Musbah Dyab, in Sirte, apparently killing two combatants (including Brig. Gen. Dyab) and seven civilians, including three women and four children. Coordinates: 31°12'20"N, 16°35'39"E.
 - a. Which participating state was involved in this strike?
 - b. Who selected the target?

- c. What was the intended target?
 - d. What weapons were employed?
 - e. What information provided the basis for carrying out this strike?
 - f. What measures were taken to minimize civilian casualties?
 - g. Has an investigation been launched into the strike. If yes, by whom and with what results?
 - h. Will you release the gun camera video of the strike?
7. On September 23, 2011, at around 4 p.m., a single air strike hit the Gidwar family home in al-Gurdabiya, about 20 kilometers southeast of Sirte, killing one man and two girls, and wounding four or five. Coordinates: 31°6'15"N 16°43'1"E.
- a. Which participating state was involved in this strike?
 - b. Who selected the target?
 - a. What was the intended target?
 - b. What weapons were employed?
 - c. What information provided the basis for carrying out this strike?
 - d. What measures were taken to minimize civilian casualties?
 - e. Has an investigation been launched into the strike. If yes, by whom and with what results?
 - f. Will you release the gun camera video of the strike?
8. On September 11, 2011 at midday, multiple air strikes hit a compound belonging to the Ebsheer family in a quasi-rural area near Sirte, wounding three women. Coordinates: 31°4'10"N, 16°41'42"E.
- a. Which participating state was involved in this strike?
 - b. Who selected the target?
 - c. What was the intended target?
 - d. What weapons were employed?
 - e. What information provided the basis for carrying out this strike?
 - f. What measures were taken to minimize civilian casualties?
 - g. Has an investigation been launched into the strike. If yes, by whom and with what results?
 - h. Will you release the gun camera video of the strike?

9. On the evening of August 29 or early morning of August 30, 2011, air strikes hit two houses owned by the Jfara family, in Bani Walid killing five members of the family, including a nine-year-old girl. A 15-year-old girl was seriously wounded.

Coordinates: 31°44'18"N, 13°59'45"E.

- a. Which participating state was involved in this strike?
- b. Who selected the target?
- c. What was the intended target?
- d. What weapons were employed?
- e. What information provided the basis for carrying out this strike?
- f. What measures were taken to minimize civilian casualties?
- g. Has an investigation been launched into the strike. If yes, by whom and with what results?
- h. Will you release the gun camera video of the strike?

Appendix C: NATO Response to Human Rights Watch

19-FEB-1996 04:51

P. 01

Office of the Deputy Assistant Secretary General
OPS Division IS
B-1110, Brussels, Belgium.
Phone: +32.2.707.40.31
Fax: +32.2.707.47.68
Email: leroy.marie-claude@hq.nato.int

Headquarters NATO

Fax

To: Claire IVERS, EU Advocate
Human Rights Watch

From: Richard FROH
Deputy Assistant Secretary General
Operations / Operations Division

Fax: 02/ 732 04 71

Page: 1 + 2

Phone: 02/ 732 20 09

Date: 1 March 2012

Re:

CC:

Dear Madam Ivers,

Please, find here attached the letter from Richard Froh replying to your letter dated 22 February last, on behalf of the Secretary General Fogh Rasmussen.

Best regards,



Marie-Claude Leroy
Assistant to DASG/OPS

+ 32 2 707 40 30



01 March, 2012

OPS(DASG-OPS)(2011)0006

Dear Mrs Leicht,
Dear Mr. Abrahams,

On behalf of the Secretary General, I would like to thank you for your letter of 22 February requesting information regarding the Operation Unified Protector air campaign in Libya led by the North Atlantic Treaty Organization (NATO). I understand that similar letters were sent to a number of individual nations. Since OUP was a NATO-led joint operation, it is appropriate that questions raised about operations be answered by NATO.

The 28 UN member States making up the North Atlantic Alliance authorized Operation Unified Protector (OUP) as a contribution to implementing their mandate under United Nations Security Council Resolution 1973. They were joined in this effort by five partner nations. The OUP targeting policy was designed and implemented with the Security Council mandate to "protect civilians and civilian-populated areas under threat of attack" firmly at its core. If either those designating or approving the target or the pilot undertaking the mission had any evidence to believe that civilians would be injured or killed by a strike, the target was not struck. As explicitly directed by the North Atlantic Council, no civilians, and no specific individual, civilian or military, were ever intentionally targeted in that operation.

The conduct of OUP was highly successful, both overall in protecting the civilian population of Libya and in the implementation of an operational approach which minimized harm to civilians. No complex campaign can exclude that civilians suffer harm during its course. NATO deeply regrets any such harm that may have been caused by those strikes.

NATO did not have observers on the ground during OUP. The operation was terminated on 31 October 2011, and NATO has no mandate to conduct any activities in Libya. A wide range of parties have gathered and may continue to gather information relating to NATO's operation, and that information will be given due consideration in reviewing the conduct of OUP. We appreciate your drawing our attention to the nine incidents referenced in your letter.

North Atlantic Treaty Organisation – Organisation du Traité de l'Atlantique Nord
Boulevard Léopold III - B-1110 Bruxelles - Belgique
Tel.: +32 2 707 40 31 – Fax : +32 2 707 47 68 – froh.richard@hq.nato.int

As you may be aware, the International Commission of Inquiry on Libya, a body mandated by the United Nations Human Rights Council, will issue its report on or before 9 March. The Commission has raised questions similar to those posed by Human Rights Watch. NATO has provided detailed comments to the Commission, which we understand will be published in full as part of that report. We encourage you to consider these comments when drafting your own report.

I trust that you will find these comments of assistance.

Sincerely,



Richard Froh

Lotte Leicht
Human Rights Watch, EU Director

Fred Abrahams
Special Advisor

Human Rights Watch

Avenue des Gaulois 7
1040 Bruxelles

Fax: 02/ 732 04 71

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North Atlantic Treaty Organisation – Organisation du Traité de l'Atlantique Nord
Boulevard Léopold III - B-1110 Bruxelles - Belgique
Tel.: +32 2 707 40 31 – Fax : +32 2 707 47 68 – froh.richard@hq.nato.int

TOTAL P.03

Appendix D: NATO Policy on Civilian Casualties in Afghanistan

August 6, 2010

In an effort to find a common approach to deal with the tragedy of civilian casualties, NATO nations have agreed on a set of guidelines which have now been promulgated to the Chain of Command. These guidelines reflect the efforts NATO/ISAF is making to reduce the impact of the conflict on the people of Afghanistan. The centre of gravity of NATO's mission remains the Afghan people, and ISAF does everything within its power to avoid harming civilians. When combat-related civilian casualties or damage to civilian property occur, NATO/ ISAF considers that easing civilian suffering is of tremendous importance. In Afghanistan, the pain of losing a family member can also have financial implications, which could be eased through payments. Afghans have made it clear that payments to the families of civilian casualties is a culturally-appropriate response to combat-related civilian death or damage to private property. For this reason, NATO nations have agreed on the following set of non-binding policy guidelines for when they deal with cases of civilian combat-related casualties.

1. Promptly acknowledge combat-related cases of civilian casualties or damage to civilian property.
2. Continue to fully implement the ISAF standard operating procedures for investigating possible cases of civilian casualties, or damage to civilian property, and endeavour to provide the necessary information to the ISAF civilian casualties tracking cell.
3. Proactively offer assistance for civilian casualty cases or damages to civilian property, in order to mitigate human suffering to the extent possible. Examples of assistance could include ex-gratia payments or in-kind assistance, such as medical treatment, the replacement of animals or crops, and the like.
4. Offers of such assistance, where appropriate, should be discussed with, and coordinated through, village elders or alternative tribal structures, as well as district-level government authorities, whenever possible. Assistance should also,

- where possible, be coordinated with other responsible civilian actors on the ground.
5. Offering and providing such assistance should take into account the best way to limit any further security risk to affected civilians and ISAF/PRT personnel.
 6. Local customs and norms vary across Afghanistan and should be fully taken into account when determining the appropriate response to a particular incident, including for potential ex-gratia payments.
 7. Personnel working to address cases of civilian casualties or damage to civilian property should be accessible, particularly, subject to security considerations, in conflict-affected areas, and local communities made fully aware of the investigation and payment process.
 8. The system by which payments are determined and made should be as simple, prompt and transparent as possible and involve the affected civilians at all points feasible.
 9. Payments are made and in-kind assistance is provided without reference to the question of legal liability.

Unacknowledged Deaths

Civilian Casualties in NATO's Air Campaign in Libya

This report documents civilian casualties in the air campaign by the North Atlantic Treaty Organization (NATO) in Libya in 2011. NATO says it took extensive measures to minimize civilian harm, and those measures seem to have had a positive effect: the number of civilian deaths in Libya from NATO strikes was low given the extent of the bombing and duration of the military campaign. Nevertheless, NATO air strikes killed at least 72 civilians, one-third of them children under age 18. To date, NATO has failed to acknowledge these casualties or to examine how and why they occurred.



Relatives and neighbors search for survivors in the rubble of the Gafez family home in Majer on August 9, 2011, one day after NATO strikes on this and another compound killed 34 people and wounded more than 30.

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