

International Day in Support of Victims of Torture

Torture seeks to annihilate the victim's personality and denies the inherent dignity of the human being. The United Nations has condemned torture from the outset as one of the vilest acts perpetrated by human beings on their fellow human beings.ⁱ

Tortureⁱⁱ is a crime under international law. According to all relevant instruments, it is absolutely prohibited and cannot be justified under any circumstances. This prohibition forms part of customary international law, which means that it is binding on every member of the international community, regardless of whether a State has ratified international treaties in which torture is expressly prohibited. The systematic or widespread practice of torture constitutes a crime against humanityⁱⁱⁱ.

On 12 December 1997, by resolution 52/149, the UN General Assembly^{iv} proclaimed 26 June the United Nations International Day in Support of Victims of Torture, with a view to the total eradication of torture and the effective functioning of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Although Libya has acceded^v to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and a law^{vi} was passed criminalizing torture, but because of the proliferation of arms and armed militias, torture is widespread in prisons and detention centers throughout Libya. In prisons and detention centers, in the west supervised by agencies of the Government of National Accord (GNA), the internationally recognized government of Libya, and also in facilities in the east supervised by agencies of the "Interim Government" in al-Bayda, recognized only by the House of Parliament based in Tobruk.

Local^{vii} and international organizations have documented torture in detention centers, most recently in the report^{viii} of the United Nations High Commissioner for Human Rights before the regular session (43) of the Human Rights Council, which stated^{ix} that "*UNSMIL/OHCHR continued to receive credible reports of arbitrary or unlawful detention, torture, enforced disappearances, overcrowded cells lacking sanitation and safe drinking water, medical neglect, and the denial of visits from families*" in detention facilities under the control of the Ministry of Interior of the GNA. As for prisons and detention centers in areas subject to the so-called "Libyan National Army", UNSMIL/OHCHR were unable to visit prisons under the control of the Ministry of Justice

and the Judicial Police in the east^x, due to "*bureaucratic obstacles and lack of cooperation from the authorities*" there.

The report of the UN Human Rights Commission, presented before the Fortieth (40) Regular Session^{xi} of the Human Rights Council, noted^{xii} that "*arbitrary detention, unlawful deprivation of liberty, enforced disappearances and torture and other ill-treatment remained systematic across the country*", and of the more common forms of torture "*included beatings, cigarette burns, electrocution, death threats, denial of medical treatment, suspension in stress positions and confinement in small, suffocating spaces*"^{xiii}.

Among methods of torture is that some detainees are subjected to the detention of their relatives. In the context of the report on the rights of the child, the High Commissioner's report documented the case^{xiv} of the detention, by the "Special Deterrent Force" of the GNA's Ministry of the Interior, of "*3 children under five years of age after their parents were arrested in Zliten on February 3, 2018, and the relatives and lawyer of the detained children were not allowed to communicate with them*". Human Rights Solidarity followed this case, the three children were released on October 1, 2019, but their parents are still in detention.

During the fourteen months of attack on Tripoli, incidents of torture and extrajudicial killings of prisoners in armed confrontations and of kidnapping of civilians were documented. The cases that were monitored, including torture and murder of prisoners, and mutilation and desecration of corpses, were committed by forces loyal to retired Major General Khalifa Hifter^{xv}. Documented violations, which were committed by the GNA forces, included punching and slapping, verbal insults, photographing prisoners^{xvi}, and forcing some of them to chant slogans in support of the GNA or opposing Haftar.

Migrants and refugees are still subjected to horrific patterns of torture and arbitrary detention^{xvii}. The High Commissioner's reported^{xviii} before the Human Rights Council that "*migrants and refugees in Libya continued to be routinely subjected to arbitrary detention, torture, including sexual violence, abduction for ransom, extortion, forced labour and unlawful killings*", and among the perpetrators of these violations are "*government officials and members of armed groups and smugglers ...*", and "*migrant women and girls continue to be disproportionately affected by rape and other forms of sexual violence*". UNSMIL/OHCHR continued to collect accounts^{xix} from migrant women and girls stating that "*smugglers, traffickers, members of armed groups and detaining authorities had tortured and sexually abused them during travel through Libya and at migrant detention centres*". The UNSMIL/OHCHR report^{xx} added that "*Guards in prisons and detention centres continued to sexually abuse Libyan and*

foreign women inmates". UNSMIL/OHCHR received "alarming reports of sexual violence in prisons and detention centres against women, men and boys, including allegations of sexual violence and rape at Mitiga prison by the Special Deterrence Force".

Most of the violations are not investigated or the perpetrators are not held accountable, due to the weakness of law enforcement in most regions of Libya, and in some areas, they are not functioning at all. Hence, the victims and their relatives have no hope of justice or reparations in Libya.

But the lack or absence of accountability inside Libya does not mean that the perpetrators cannot be held accountable. The Convention against Torture gives torture victims the opportunity to prosecute the perpetrators in any country that has joined the Convention. In accordance with Article 5 of the Convention, each State Party shall take the necessary measures to establish its jurisdiction over torture crimes in cases where the alleged perpetrator is present in any territory under its jurisdiction. The number of states parties to the agreement is 170 countries around the world^{xxi}.

The UN Human Rights Council has Special Procedures^{xxii} to monitor the implementation of international human rights conventions and to document any violations. Among these special mechanisms is the "Special Rapporteur^{xxiii} on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment".

Human Rights Solidarity (HRS), as part of its work on documenting human rights violations in Libya, collects communications from victims or their relatives, translate submit the communication to the competent Special Procedure. In order to facilitate the process for Libyan organizations and victims, HRS has prepared a brief guide containing a definition of the mandate of the "Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", how to submit a communication to the Special Rapporteur, and the model communication approved by the Office of the Special Rapporteur. A copy of the guide is attached to this statement.

The Human Rights Council, at the conclusion of the 43rd Regular Session, adopted a resolution^{xxiv} requesting the United Nations High Commissioner for Human Rights to "*immediately establish and dispatch a factfinding mission to Libya ... establish the facts and circumstances of the situation of human rights throughout Libya, and to collect and review relevant information, to document alleged violations and abuses of international human rights law and international humanitarian law by all parties in Libya since the beginning of 2016, including any gendered dimensions of such violations and abuses, and to preserve evidence with a view to ensuring that perpetrators of violations or abuses of international human rights law and international humanitarian law are held accountable*".

HRS calls on the Libyan authorities to allow the Fact-Finding Mission and its members unimpeded access to all Libyan territory and facilitate their work, and allow the mission to visit sites, meet and speak freely and in a framework of privacy, when they request this, with those who wish to meet or speak with the mission, whether victims, relatives of victims, activists, or Libyan civil organizations. HRS urges the victims, relatives of victims, or their representatives, activists and Libyan civil organizations, to contact the mission, once established, to document violations.

HRS also calls on victims and human rights organizations to document torture crimes, by preparing and submitting communications to the Special Rapporteur on torture, as well as all other violations to the relative Special Procedures. The UN Special Procedures, experts and working groups, address the Libyan authorities and request from them responses. Based on the authorities' interaction with the Procedures, or not, and based on the available data, they issue their legal opinion. These Special Procedures provide a way to document violations for accountability.

Human Rights Solidarity Tripoli - Libya

ⁱ United Nations: "[International Day in Support of Victims of Torture, 26 June](#)".

ⁱⁱ [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), Article (1) Paragraph (1): "For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions". Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984, entry into force 26 June 1987, in accordance with article 27.

ⁱⁱⁱ [Rome Statute of the International Criminal Court \(Statute\)](#), adopted in Rome on July 17, 1998, Article (7) Paragraph (f).

^{iv} United Nations General Assembly: Resolution 149/52 "[United Nations International Day in Support of Victims of Torture](#)", December 12, 1997.

^v Libya [acceded](#) to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on May 16, 1989.

^{vi} The General National Congress enacted Law No. 10 of 2013 "On the Criminalization of Torture, Forced Disappearance and Discrimination", on April 14, 2013, the Official Gazette, [Second Year, Issue No. 7](#), May 28, 2013, page 431. English translation of the law is at this ([link](#)).

vii Human Rights Solidarity documented dozens of cases in which the bodies of victims were found dumped on the side of streets and garbage dumps, and showed signs of torture, some of them were killed under torture and others were killed extrajudicially, often with gunshot wounds to the head: ["Crimes of kidnapping, torture and extrajudicial executions in eastern Libya"](#), February 13, 2015; ["The Government of National Salvation must stop Violations in Tripoli"](#), November 15, 2015; ["Al-Bayda Security Directorate: Killed while in Detention"](#), December 9, 2015; ["Extrajudicial killings continue in Benghazi: kidnapping and killing of a 16-year-old young man"](#), December 13, 2015; ["Human Rights Solidarity condemns the killing of released prisoners from al-Ruwaimi Prison \(Tripoli\) and considers it an extrajudicial killing"](#), June 13, 2016; ["Torture and executions of migrants by militias loyal to Khalifa Haftar"](#), July 15, 2016; ["Extrajudicial killings by 'Special Forces' loyal to Haftar in Benghazi"](#), July 15, 2016; ["War crime: Fourteen victims of extra-judicially killings"](#), August 1, 2016; ["New crime in a series of extrajudicial killings"](#), 13 October, 2016; ["The Office of General Attorney must investigate the extrajudicial killings and publish the results of the investigations"](#), February 7, 2017; ["Extrajudicial killings continue"](#), March 5, 2017; ["Libya: Statement on the crime of extrajudicial execution of thirty-six citizens in al-Abyar area"](#), October 30, 2017; ["Statement on crimes extrajudicial killings in the city of Benghazi"](#), January 31, 2018; ["Libya: Statement on the crime of extrajudicial killing of three citizens in the city of Derna"](#), February 2, 2018.

viii Report by the UN High Commissioner for Human Rights before the Human Rights Council, Regular Session (43): ["Situation of human rights in Libya, and the effectiveness of technical assistance and capacity-building measures received by the Government of Libya"](#), January 23, 2020.

ix Report by the UN HCHR before the HRC43, Paragraph (57). During the period under review "an estimated 8,813 individuals were held in 28 official prisons under the authority of the Ministry of Justice, of whom an estimated 60 per cent were in pretrial detention. In total, 278 women were detained, including 184 non-Libyans, and 109 children were held in prisons in the custody of the Judicial Police", Paragraph (56).

x Report by the UN HCHR before the HRC43, Paragraph (62). Human Rights Solidarity received certificates and reports of grave violations suffered by prisoners and detainees in al-Kuweifiya and Buhdaima Military Police prisons in Benghazi and Gernada Prison south of al-Bayda city, where they are subjected to torture and some cases of sexual assault, especially in Gernada and the Internal Security section in al-Kuweifiya prison.

xi Report by the UN High Commissioner for Human Rights before the Human Rights Council, Regular Session (40): ["Situation of human rights in Libya, including the implementation of technical assistance and capacity-building and efforts to prevent and ensure accountability for violations and abuses of human rights"](#), February 4, 2019.

xii Report by the UN HCHR before the HRC40, Paragraph (59).

xiii For more details on the patterns of torture in detention centers in Libya, see the report of the United Nations High Commissioner for Human Rights in cooperation with the United Nations Support Mission in Libya ["Abuse Behind Bars: Arbitrary and unlawful detention in Libya"](#), April 2018.

xiv Report by the UN HCHR before the HRC40, Paragraph (36).

xv April 22, 2019: the body of Hussein Shtaiba, from the pro GNA Gharyan Protection Force, and the body of Faruq Qazm, were found days after they appeared captured in a video recording with a member of the Haftar forces. Shtaiba and Qazm were found among nine others executed and buried by pro Haftar forces in a desert in the Jendouba area. April 30, 2019: the pro GNA 166th Battalion found the body of Abdulsalam Abu Dabbous, a member of the Anti-Terrorism force, inside the morgue of Suibaiya Hospital, few days after an audio recording was circulated of Abu Dabbous appealing to his friends to secure his release from captivity. He was captured by members of "Ajdabiya Operations Room", a pro Haftar militia led by a Fawzi Al-Mansouri, the commander of Ain Zara front. May 2, 2019: the body of Walid el-Zwaik was delivered to al-Zawiya Teaching Hospital, with two more unidentified bodies. The three bodies bore signs of torture. The Al-Zwaik family said that companions of their son told them that he was wounded and captured by Haftar's forces and was subsequently murdered. These and other

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منظمة التضامن لحقوق الانسان مسجلة كمنظمة محلية غير حكومية في ليبيا تحت رقم قيد (20160327-01-589)

incidents are documented in the article by the New Al-Arabi newspaper "[Violations by the Haftar militia ... abuse of prisoners and corpses from Benghazi to Tripoli](#)", May 12, 2019.

^{xvi} The most notable incident of verbal and physical torture carried out by forces loyal to the Government of National Accord, is the degrading and inhumane treatment of Major General Amer el-Jugum, who was captured by GNA forces on December 7, 2019, when his plane was shot down west of Tripoli. The first moments of the capture of el-Jugum ([video](#)) did not show any injuries on his face, but later ([video](#)) his face appeared bruised and the left eyelid swollen, indicating that he was punched on the face, as he was photographed in his underwear while being insulted ([photos](#)).

^{xvii} December 2018, OHCHR/UNSMIL published a detailed report of the horrific violations and attacks against migrants and refugees in detention centers of the "Anti-Illegal Immigration Agency", the report titled "[Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya](#)", December 20, 2018. The report concluded that migrants held in detention centers "systematically subjected to "starvation and severe beatings, burned with hot metal objects, electrocuted and subjected to other forms of ill-treatment with the aim of extorting money from their families through a complex system of money transfers" and added "the overwhelming majority of women and older teenage girls interviewed by UNSMIL reported being gang raped by smugglers or traffickers ... torture, ill-treatment, forced labour, and rape by the guards".

^{xviii} Report by the UN HCHR before the HRC43, Paragraph (36).

^{xix} Report by the UN HCHR before the HRC43, Paragraph (30).

^{xx} Report by the UN HCHR before the HRC43, Paragraph (31).

^{xxi} United Nations Treaty Collection, status of the "[Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)", as at 25th June 2020.

^{xxii} [The Special Procedures of the Human Rights Council](#): are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The system of Special Procedures is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social. As of 1 August 2017, there are 44 thematic and 12 country mandates.

^{xxiii} Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ([link](#)).

^{xxiv} Human Rights Council, 43rd Regular Session: Resolution (A/HRC/43/L.40) "[Technical assistance and capacity-building to improve human rights in Libya](#)", June 22, 2020.