

International Day of the Victims of Enforced Disappearances

"Impunity compounds the suffering and anguish. Under international human rights law, families and societies have a right to know the truth about what happened."
UN General Secretary¹

Today, Sunday 30th August, is the International Day of the Victims of Enforced Disappearances², adopted by General Assembly of the United Nations in 2010.

Enforced disappearance is considered "a grave and flagrant violation of human rights and fundamental freedoms"³, it "places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families⁴. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life."⁵

This day comes while the victims of enforced disappearances in Libya and their loved ones and families living between hope and despair; hope that the disappeared return and despair because of the longevity of their disappearance and lack of any information about their fate, and of the authorities' lack of concern over their suffering, which is an ongoing violation of human rights of both the disappeared and their families⁶.

Crimes of enforced disappearances are increasing⁷ due to the insecurity and the failure of the official authorities to take practical steps to put an end to these crimes. In Libya, in many cases when people are subjected to arbitrary detention, they are held in complete isolation of the external world, incommunicado detention, without any contact with their families for months or longer, amounting to enforced disappearance. July 2019, forces affiliated with the Government of National Accord (GNA) detained Abdelnaser al-MAGTOUF (62 years) and two of his cousins accusing them of supporting forces loyal to Khalifa Haftar in their attack on Tripoli. The three disappeared for several days before their families learned that they were being held by the Special Deterrence Force (SDF) in Mitiga Prison. Their families were allowed a visit in Early September, and they are still in detention⁸.

On June 27, 2017, Adnan S. ABUSHHIWA (25 years) was kidnapped from the intensive care unit⁹ of al-Fateh clinic in the Souq al-Jumma'a District. The group, which turned out to be the SDF, detained him at Mitiga Prison, where he remained for 18 months

forcibly disappeared before they allowed him to contact his father. Adnan was released after 25 months of arbitrary detention in solitary confinement without being charged or brought before the prosecution. Dr. Mohamed Arjili GHOMA (50 years) was kidnapped by gunmen in the Souk al-Jumma'a district on June 8, 2016, and he remained forcibly disappeared before the SDF admitted that he was detained at Mitiga Prison, and his family was able to visit him only after 3 months of knowing where he was being held. Dr. Mohamed suffers from leukemia and remains in detention without trial¹⁰.

There was also an increase in the number of cases of arbitrary arrest and detention, kidnappings and enforced disappearances of officials, activists, and journalists during the attack on the capital, Tripoli, from early April 2019 to the end of May 2020. The United Nations Support Mission in Libya (UNSMIL) documented seven cases related to arbitrary detention or kidnapping of officials in eastern and western Libya¹¹.

Human rights reports documented the kidnapping and disappearance of nine civilians from an-Nawfaliyah, west of the city of Ajdabiya, after their homes were raided at dawn on Monday, December 2, 2019, by gunmen affiliated with Haftar's Internal Security Agency, according to testimonies by their relatives. The fate of the nine is still unknown to this day¹². Lawyer Adnan Fadhlallah al-U'RAFI (46 years) was kidnapped by gunmen in a military vehicle in the Bu Dzeira area, east of Benghazi, on February 29, 2020, and he is still missing¹³.

As was reported last year¹⁴ by Human Rights Solidarity (HRS), in a grave development, women were becoming direct victims of the crime of enforced disappearances. HRS documented for the first time, since it started monitoring human rights situation in Libya over two decades ago¹⁵, and the crimes of enforced disappearance of women continue to occur in Libya.

On October 14, 2019, the 68-year-old "Magbula al-Hassi" was kidnapped from her home in a suburb of Benghazi. Al-Hassi is a licensed alternative medicine professional, specializes in alternative medicine, herbal medicine. Her son was reported her kidnapping, accusing a unit from Haftar's Special Forces Unit, known as al-Saega (Thunderbolt) of the kidnapping¹⁶. Despite the condemnation of her kidnapping and the demand for her release by al-Hassa tribe, her fate is still unknown¹⁷. The fate of the three Sudanese women who were kidnapped in Benghazi in October 2019 is still unknown, and neither the perpetrators nor the results of the investigation into these incidents have been revealed by the security services¹⁸ and the official authorities controlling the city of Benghazi, affiliated with the "Interim Government"¹⁹. The fate of Representative Siham Serqewa, member of the House of Representatives, is still unknown since she was kidnapped from her home in Benghazi on July 17, 2019²⁰, for no apparent reason other than expressing her opinion peacefully. Mrs. Siham Serqewa

was kidnapped few hours after her participation in a discussion on a video channel, in which she expressed her opposition to the attack against the city of Tripoli²¹.

In the city of Derna, militias loyal to Haftar abducted Ms. Hind Abdul-Aziz al-NAA'S on February 13, 2020, because published a photo²² on Facebook. The photo was of a handwritten statement on paper "Volcano of Rage is victorious, Derna"²³. There was no news of the fate of Ms. al-NAA'S for a while, but recently there were news that she was referred to the Military Prosecution in the city of Benghazi. The fate of five women from two families in the district of "Shiha al-Gharbiya", who were abducted by armed militias loyal to retired Major General Haftar in May 2019, is still unknown²⁴.

Some perpetrators of these crimes invoke the exceptional circumstances, political instability, and the state of war, which is prevailing in Libya, but the International Convention for the Protection of All Persons from Enforced Disappearance²⁵ states in Article 1 (para. 2), "*No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.*"

HRS calls on all parties to the conflict in Libya not to use Enforced Disappearance as a tool of war and demand the immediate and unconditional release of the abductees and remind all these parties that enforced disappearance is a crime against humanity²⁶, as defined in the Rome Statute of the International Criminal Court²⁷, and that there is no statute of limitation for such crimes.

Article 6 (paragraph 1/a) of the International Convention for the Protection of All Persons from Enforced Disappearance²⁸ holds criminally responsible "*Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;*" and the second paragraph of the same article states that "*No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance.*". And the Libyan Penal Code criminalizes Enforced Disappearance²⁹ and is punishable by imprisonment in accordance with Law No. (10) of 2013 "On the Criminalization of Torture, Forced Disappearance and Discrimination".

HRS calls on the Libyan authorities, namely the Government of National Accord and its agencies;

- to take all necessary measures to end this phenomenon, and remind the GNA that in accordance with Libyan and international laws; every person deprived of liberty must be held in an officially designated place for detention and to be brought before a court without any delays,

- to sign the International Convention for the Protection of All Persons from Enforced Disappearance to promote human rights, and
- to renew the invitation³⁰ to the Working Group on Enforced or Involuntary Disappearances to visit Libya as soon as possible.

Human Rights Solidarity Tripoli - Libya

¹ United Nations: "[Secretary General's Message for 2020](#)".

² United Nations: "[International Day of the Victims of Enforced Disappearances 30 August](#)".

³ UN General Assembly Resolution (133/47): "[Declaration on the Protection of All Persons from Enforced Disappearances](#)", article 1 / paragraph 1, 12th February 1993.

⁴ An example of the torment of victims of enforced disappearances, the criminal kidnapping and killing of the children of al-Sharshari family from the city of Sorman. On April 7th, 2018, the remains of the children were found nearly 30 months after they were kidnapped by a gang of criminals on December 2nd, 2015. The family of three children [Dhahab Riadh al-Sharshari (date of birth 9th April 2004), Abdelhamid Riadh al-Sharshari (27th May 2007) and Mohammed Riadh al-Sharshari (15th February 2009)] suffered for 30 months on the hope that their innocent children were alive and would return, only to discover that the criminal gang killed them few weeks after their abduction. Human Rights Solidarity: "[Statement of Solidarity on finding the remains of the sons al-Sharshari](#)", 7th April 2018, Arabic.

⁵ UN General Assembly Resolution (133/47), article 1 / paragraph 2.

⁶ The tragedy of the victims of enforced disappearances has been around in Libya for four decades. The fate of the hundreds of victims of enforced disappearances by the Gaddafi regime; like Jaballah Hamed Matar, Dr. Amru el-Nami, Ezzat el-Mugarief and the hundreds of victims of the massacre of Abu Saleem prison, is still unknown. Also unknown is the fate of the elected member of Benghazi Municipality Council, Mr. Essam Ghiryani; the Head of Benghazi Criminal Investigation Department, Lieutenant Colonel Abdul Salam el-Mahdawi; political activist Abdul Moez Bannon; the General Secretary of Libyan Scholars Association, Dr. Nader al-Omrani, Wael al-Maliki, disappeared near his home in 2014 when he was 17 years old, and the hundreds of other victims of enforced disappearances since the fall of the Gaddafi regime in 2011.

⁷ In [2017 HRS documented 332 new cases](#) of enforced disappearances, in [2018 documented 247 new cases](#), in [2019 documented 344 new cases](#), and in the [first six months of 2020 documented 45 new cases](#), joining the hundreds of cases of victims who had disappeared in previous years. Amnesty International: "[Libya: 'Vanished off the face of the earth' - Abducted civilians in Libya](#)", 5th August 2015. Amnesty quoted the Libyan Red Crescent Society "at least 378 people out of 626 cases of enforced disappearance recorded by the Red Crescent are still unknown at that time since they were arrested at various times since 2011."

⁸ Cairo Institute for Human Rights Studies: "[Libya: A complete failure to implement UPR recommendations since 2015](#)", April 2, 2020.

⁹ Adnan survived an assassination attempt on his life the day before he was abducted. He was standing in front of his family home in Qasr Ben Gheshir, when an unidentified gunman shot at him several bullets from a passing car, he was hit in both legs and fracturing his legs.

¹⁰ Human Rights Solidarity: "[It is time for the GNA to define its Position vis-à-vis the Gross Violations of Human Rights at Mitiga Prison](#)", August 12, 2020.

¹¹ United Nations Support Mission in Libya: "[Report of the Secretary-General to the Security Council on political, security and economic developments in Libya](#)", August 29, 2019.

¹² The Libyan Crime Monitoring Organization: "Nine civilians were kidnapped from the Nawfaliyah area", December 4, 2019. The names of the victims are: Al-Ghazali Masoud FADEL, Ibrahim Aqila al-BOUCHIBI, Murad Mustafa al-NA'AS, Muhammad Aqilah al-BOUSHEIBI, Hamed Faraj BOUCHWAISHA, Abubaker Emmaraja' al-QASSI, Ali Awadh BONFILA, Suleiman Saeed ABDEL HAFEEZ, Masoud MUFTAH, all of them belong to the Magharba tribe.

¹³ The Libyan Crime Monitoring Organization: "[A lawyer was kidnapped in Benghazi by Haftar's forces](#)", March 2, 2020.

¹⁴ Human Rights Solidarity: "[For the first time, in Two Decades, we have documented the enforced disappearance of women in Libya](#)", August 30, 2019.

¹⁵ Human Rights Solidarity has been monitoring and reporting on human rights practices in Libya since it was founded on 10th December 1999 in Geneva Switzerland.

¹⁶ Al-Araby al-Jadeed: "[Kidnapping of women is increasing in eastern Libya](#)", November 5, 2019.

¹⁷ Libya al-Ahrar Channel: "[Al-Hassa tribe condemns the kidnapping of Mrs. "Maqbula al-Hassi" in Benghazi](#)", November 6, 2019.

¹⁸ Major Tariq al-KHARRAZ, Director of the Security Information Office at the Ministry of the Interior of the Interim Government, defended, in a telephone interview on one of the Libyan channels, the Thunderbolt officer Mahmoud al-Werfalli, and accused the murdered victims of practicing magic, sorcery and acts of vice, as he claimed. A video of Major Tariq al-KHARRAZ's interview on the Libya Channel on November 12, 2019, is available at ([link](#)). The head of the Sudanese Community in Benghazi, Muhammad al-MARIOUD, revealed that the group that kidnapped and assassinated two Sudanese women in Benghazi is "organized and systematic and has a list of names of those who claim that they practice acts of sorcery and vice". He indicated that it might be a quasi-governmental body, but the investigations, evidence and clues are still in the monitoring stage. "Al-Quds Al-Arabi Newspaper: "[Systematic kidnappings and murders of Sudanese women in Benghazi](#)", October 11, 2019.

¹⁹ Bawabat al-Wasat: "[From Sergewa to Maqbula ... the kidnapping ghost haunts its victims ... and the perpetrator is still unknown!](#)", November 2, 2019.

²⁰ Benghazi, in the early hours of July 17th, 2019, masked gunmen dressed in military uniforms stormed the house of Ms. Siham Sergewa, a member of the House of Representatives. The assailants abducted Ms. Sergewa, shot her husband, and wounded him in the leg and severely beaten her 16-year-old son. Though no one has yet claimed responsibility of the abduction, nor has the perpetrators been definitively identified, testimonies from some witnesses indicate that the attackers are linked to the so-called "Libyan National Army", led by retired Major General Khalifa Haftar. Despite international appeals and demands for the release and safe return of Ms. Sergewa, her fate remains unknown. United Nations Support Mission in Libya: "[UNSMIL DEPLORES ENFORCED DISAPPEARANCE OF ELECTED HOR MEMBER MS. SERGEWA, CALLING FOR HER IMMEDIATE RELEASE](#)", 18th July 2019. European Union: "[Joint statement calling for the immediate release of Libyan MP Siham Sergiwa](#)", 7th August 2019. United Nations Support Mission in Libya: "[UNSMIL STATEMENT ON THE CONTINUED ENFORCED DISAPPEARANCE OF HOUSE OF REPRESENTATIVE MEMBER SIHAM SERGAWA](#)", 7th August 2019.

²¹ On Tuesday evening, 16th July 2019, Ms. Siham Sergewa participated in a telephone call-in a program on "al- Hadath TV", pro Haftar TV station. The following link is to the segment is of Ms. Sergewa's comments on the war on Tripoli ([link](#)), published July 16, 2019, Arabic.

²² The photo was taken by Ms. al-NAA's at a gas station in Derna. According to available information, the militias identified Ms. al-NAA's through recording from surveillance camera at the gas station.

²³ "Volcano of Rage" is the name of the GNA military operation to counter Haftar's attack on Tripoli at then.

²⁴ The Libya Observer: "[Haftar's forces kidnap women in Derna, eastern Libya](#)", 27th May 2019. The report states that 3 women from al-BAHARI family and three women from BIN KHAYAL (a woman and 97

two daughters) were kidnapped. However, HRS has verified, from other sources, that indeed 3 female members of al-BAHBAH family, and 2 women from BEN KHAYAL family: Ms. Najia al-KAWASH, her daughter Saleema BEN KHAYAL and Saleema's 4 children.

²⁵ Office of the United Nations High Commissioner for Human Rights: "[International Convention for the Protection of All Persons from Enforced Disappearance](#)".

²⁶ The preamble of the United Nations General Assembly Resolution (133/47): "Considering that enforced disappearance undermines the deepest values of any society committed to respect for the rule of law, human rights and fundamental freedoms, and that the systematic practice of such acts is of the nature of a crime against humanity".

²⁷ [Rome Statute of the International Criminal Court](#), article 7 "Crimes against Humanity", paragraph 1 (i).

²⁸ Office of the United Nations High Commissioner for Human Rights: "[International Convention for the Protection of All Persons from Enforced Disappearance](#)", 20th December 2006.

²⁹ Law No. (10) of 2013 "[On the Criminalization of Torture, Forced Disappearance and Discrimination](#)", General National Congress, 14th April 2013. Article (1) "Forced Disappearance", Paragraph (1) "Whoever kidnaps or detains a human being or deprives the same of any of his personal freedoms, whether by force, threats or deceit, shall be punished with imprisonment."

³⁰ The Libyan Government, the Transitional Government of PM Abdel Raheem el-Kib, invited the UN Special Procedures, the Working Groups, Special Rapporteurs & Experts, to visit Libya. PM el-Kib made the open invitation in his speech at the 19th regular session of the Human Rights Council, 27th February to 23rd March 2012.