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**International Day of the Victims of Enforced Disappearances**

# “*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.*” [[1]](#endnote-1)

Today, Monday 30th August, is the International Day of the Victims of Enforced Disappearances[[2]](#endnote-2), adopted by General Assembly of the United Nations in 2010.

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 families[[3]](#endnote-3). Crimes of enforced disappearances are increasing[[4]](#endnote-4) 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.

The successive governments, since the fall of the previous regime in August 2011, failed to fulfil their primary duty and responsibility towards the citizens, the responsibility to protect, and innocent citizens and expats paid and continue to pay the price. Since June of last year, after the withdrawal of militias loyal to the renegade Maj Gen Khalifa Haftar from the city of Tarhouna, the mass graves in the fields surrounding Tarhouna, have been revealing the extent of the grave violations committed by al-Kaniyat militia. According to a statement[[5]](#endnote-5) by the head of the General Authority for Searching and Identification of Missing Persons[[6]](#endnote-6), as of August 17, 2021, 183 corpses had been exhumed[[7]](#endnote-7) from an unidentified graves in the city of Tarhouna, and that 40 bodies had been identified. And according to the Tarhouna Victims Association[[8]](#endnote-8), the number of reports of missing persons, victims of enforced disappearance, is more than 215.

From January 1, 2020, to June 30, 2021, Human Rights Solidarity (HRS) has documented 144 cases of enforced disappearance in various cities and regions of Libya.

In Tripoli, March 18, 2021, the body of Mohamed Abdel Hakim Bayala was handed over to his family[[9]](#endnote-9). The “Stability Support Agency”, commanded by Abdul Ghani (Ghneiwa) el-Kikli, is accused of the kidnapping, and killing of Bayala. The body bore signs of violent torture and was kept for a while in a refrigerator, which suggests that the victim was killed quite some time before his body was handed over to the family.

In Benghazi, on August 9, 2021, the family of Abdul Aziz Salem Bashasha al-Aujali was informed that his body was in the mortuary at al-Jalaa Hospital. Abdel Aziz was kidnapped on November 1, 2020, by an armed group of masked men in cars bearing the emblem of a military battalion. He was kidnapped from the shop he owned in the Shebna District, Benghazi.

On the evening of Thursday, June 3, 2021, Mansour Mohamed Atti al-Moghrabi was kidnapped by individuals driving three cars in downtown Ajdabiya, near the offices of the Libyan Red Crescent Society[[10]](#endnote-10). Mansour al-Moghrabi, 34 years old, is a human rights defender, a journalist, and head of the Red Crescent Committee and of the Civil Society Commission in Ajdabiya. Just before his enforced disappearance, Mansour al-Moghrabi organized a conference on May 31 in Ajdabiya to raise awareness and mobilize citizens to participate in the upcoming elections on 24 December 2021.

Enforced disappearance is considered "a grave and flagrant violation of human rights and fundamental freedoms"[[11]](#endnote-11), it "places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families[[12]](#endnote-12). 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."[[13]](#endnote-13)

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 Disappearance[[14]](#endnote-14) 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 humanity[[15]](#endnote-15), as defined in the Rome Statute of the International Criminal Court[[16]](#endnote-16), 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 Disappearance[[17]](#endnote-17) 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 Disappearance[[18]](#endnote-18) 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 Unity 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 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.
* to sign the International Convention for the Protection of All Persons from Enforced Disappearance to promote human rights, and
* to renew the invitation[[19]](#endnote-19) to the Working Group on Enforced or Involuntary Disappearances to visit Libya as soon as possible.

**Human Rights Solidarity**

**Tripoli - Libya**

1. Office of the United Nations High Commissioner for Human Rights: "[International Convention for the Protection of All Persons from Enforced Disappearance](http://www.ohchr.org/EN/ProfessionalInterest/Pages/IntConventionEnforcedDisappearance.aspx)", December 20, 2006. [↑](#endnote-ref-1)
2. United Nations: “[International Day of the Victims of Enforced Disappearances 30 August](https://www.un.org/en/events/disappearancesday/)”. [↑](#endnote-ref-2)
3. 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. [↑](#endnote-ref-3)
4. In [2017 HRS documented 332 new cases](https://www.facebook.com/LHumanRightsSolidarity/posts/2164317396918412) of enforced disappearances, in [2018 documented 247 new cases](https://hrsly.com/ar/%D8%AC%D8%B1%D8%A7%D8%A6%D9%85-%D8%A7%D9%84%D8%AE%D8%B7%D9%81-%D9%88%D8%A7%D9%84%D8%A7%D8%BA%D8%AA%D9%8A%D8%A7%D9%84%D8%A7%D8%AA-%D9%81%D9%8A-%D9%84%D9%8A%D8%A8%D9%8A%D8%A7-%D8%AE%D9%84%D8%A7%D9%84-4/), in [2019 documented 344 new cases](https://hrsly.com/?p=3841), and in the [first six months of 2020 documented 45 new cases](https://hrsly.com/?p=5042), 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](https://www.amnesty.org/en/documents/mde19/2178/2015/en/)", 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." [↑](#endnote-ref-4)
5. Libya Alahrar TV Channel: “[as-Siwi: A database has been set up for the cases of Tarhouna, and the number of exhumed bodies has reached 183](https://libyaalahrar.tv/2021/08/17/%D8%A7%D9%84%D8%B3%D9%8A%D9%88%D9%8A-%D8%AA%D9%85-%D9%88%D8%B6%D8%B9-%D9%82%D8%A7%D8%B9%D8%AF%D8%A9-%D8%A8%D9%8A%D8%A7%D9%86%D8%A7%D8%AA-%D9%84%D8%A3%D9%87%D8%A7%D9%84%D9%8A-%D8%AA%D8%B1%D9%87%D9%88/)”, August 17, 2021. [↑](#endnote-ref-5)
6. According to Dr. Kamal as-Siwi, head of the General Authority for Searching and Identification of Missing Persons, the authority’s database contains more than 6000 missing persons, including those reported missing in the “Chad war” and “Uganda war” in the Eighties of the last century, in addition to those missing since February 17, 2011. [↑](#endnote-ref-6)
7. The excavation work and the exhumation of the bodies are still going on in the fields around Tarhouna. Since the statements of the head of the General Authority for the Search and Identification of the Missing Persons on August 17, 2021, new graves were found in the “5 km Farming Project”; a body was exhumed on August 22 ([link](https://www.facebook.com/Dahaiatarhuna/posts/370929854737425?__cft__%5b0%5d=AZWWgCZcmO_Rf9t0whXL2HoPZxnujdbevZVcUhdZ--po8oYp_f4zI8-H_zaQdmXJH1uoo7wmLMEtbkH1JY85chrppSnZ0SjbxNczQDYkg8wH_RZZQuOVhdslOQt_h7B57oYR73M7-GZgmVRAeolCRRmN&__tn__=%2CO%2CP-R)) and another was exhumed on August 26 ([link](https://www.facebook.com/Dahaiatarhuna/posts/373237181173359?__cft__%5b0%5d=AZVsR8hmMVFvq_WRjLZ2jadTTAaQnmg6ngezsr6lcBil7c_pSrHdAQ45ekxBWZ8-QXt264HSmg4TrHlh-QpybXxFNg5UeYQNHf_OKpxYNtLuMNF1D9TpKa82J3lA9LqtzJTJfo3087rxOve_DiblgJdm&__tn__=%2CO%2CP-R)) [↑](#endnote-ref-7)
8. Tarhouna Victims Association is none-governmental organization ([account on Facebook](https://www.facebook.com/Dahaiatarhuna/)). According to a source in the organization, 53 of the victims registered in its database have been identified after their bodies were exhumed from an unidentified graves. [↑](#endnote-ref-8)
9. Tajoura Protection Force: “[The killing of the young man "Mohamed Abdel Hakim Bayala" by "Ghneiwa el-Kikli", head of the so-called stability security agency](https://www.facebook.com/tajoura2020/posts/2103270499809902/)”, March 18, 2021. The “Stability Support Agency” is a new security apparatus created by Mr. Fayez el-Serraj, the ex-Chairman of the Presidential Council. The victim was kidnapped from his home, along with his uncle Abdel Mone’m Bayala, on January 20, 2021. Abdel-Ghani "Ghneiwa" al-Kikli was accused of the crime, because he had a dispute with the victim’s brother. No official statement was issued regarding the kidnapping and killing of Mohammad Bayala, and no investigation into the crime was announced. [↑](#endnote-ref-9)
10. Frontline Defenders Organization: “[The kidnapping of a human rights defender raises concerns and threatens the credibility of scheduled elections](https://www.frontlinedefenders.org/en/statement-report/kidnapping-human-rights-defender-raises-concerns-and-threatens-credibility)”, June 21, 2021. [↑](#endnote-ref-10)
11. UN General Assembly Resolution (133/47): "[Declaration on the Protection of All Persons from Enforced Disappearances](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/47/133)", article 1 / paragraph 1, 12th February 1993. [↑](#endnote-ref-11)
12. 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](https://www.facebook.com/LHumanRightsSolidarity/posts/2189408441075974)”, 7th April 2018, Arabic. [↑](#endnote-ref-12)
13. UN General Assembly Resolution (133/47), article 1 / paragraph 2. [↑](#endnote-ref-13)
14. Office of the United Nations High Commissioner for Human Rights: "[International Convention for the Protection of All Persons from Enforced Disappearance](http://www.ohchr.org/EN/ProfessionalInterest/Pages/IntConventionEnforcedDisappearance.aspx)". [↑](#endnote-ref-14)
15. 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". [↑](#endnote-ref-15)
16. [Rome Statute of the International Criminal Court](http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalCriminalCourt.aspx), article 7 "Crimes against Humanity", paragraph 1 (i). [↑](#endnote-ref-16)
17. Office of the United Nations High Commissioner for Human Rights: "[International Convention for the Protection of All Persons from Enforced Disappearance](http://www.ohchr.org/EN/ProfessionalInterest/Pages/IntConventionEnforcedDisappearance.aspx)", 20th December 2006. [↑](#endnote-ref-17)
18. Law No. (10) of 2013 “[On the Criminalization of Torture, Forced Disappearance and Discrimination](https://security-legislation.ly/node/31741)”, 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.” [↑](#endnote-ref-18)
19. 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. [↑](#endnote-ref-19)